

WSR 18-22-006
PERMANENT RULES
DEPARTMENT OF ECOLOGY

[Order 16-09—Filed October 25, 2018, 9:50 a.m., effective November 25, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: **1. Rule chapters(s) or section(s) and short description:** Ecology is amending two rules:

- Air quality fee rule, chapter 173-455 WAC consolidates most of the air quality related fees into one chapter. This makes it easier for the regulated community to find which fees they may need to pay.
- General regulations for air pollution sources, chapter 173-400 WAC establishes the regulatory framework to ensure healthy air quality in Washington, and that we meet federal air quality standards.

2. What are we doing to/in the rule? Ecology proposes to amend chapters 173-455 and 173-400 WAC to:

- Revise the registration program structure, including requiring all sources that are subject to WAC 173-400-100 and are not required to obtain an air operating permit under RCW 70.94.161 to register.
- Increase fees to more fully cover the costs of the air quality source registration program as authorized by RCW 70.94.151.
- Revise the fee process to create an equitable distribution of fees across all registered sources, and establish a process to revise fees without going through rule making.
- Align chapters 173-400 and 173-455 WAC.
- Match hourly rate charge in WAC 173-455-050, 173-455-100(2) and 173-455-130 with the current ecology hourly billing rate (currently \$95).
- Identify and, where appropriate, make needed edits in chapters 173-455 and 173-400 WAC to increase clarity and readability.

The proposed revisions to chapters 173-455 and 173-400 WAC will:

- Require all sources that are subject to WAC 173-400-100 and are not required to obtain an air operating permit under RCW 70.94.161 to register.
- Revise the existing annual fee structure for the registration program to establish:
 - a. Six registration tiers.
 - b. An annual fee for each source based on its tier assignment.
 - c. Registration tiers based on total emissions of PM₁₀, VOC, CO, NO_x and SO₂, that ecology will assign by August 1 of the year before the new fee schedule goes into effect, with a sixty day period to appeal an assignment.
 - d. Cap on the fees for tier 6 (synthetic minor source).
- Phase in the new fee structure in 2019, 2020, and 2021.
- Remove registration fee amounts from the rule in 2022 and beyond, and establish a process for determining annual fees outside of rule making:
 - a. Set fees annually or biennially based on a budget.

- b. Post a draft budget and tier fee schedule on our web site by August 1 of the year before the new fee schedule goes into effect.
 - c. Hold a sixty day public comment period on the draft fee schedule.
 - d. Finalize and post the final budget and fee schedule by December 1 of the year before the new fee schedule goes into effect.
- Update the hourly rate charge in WAC 173-455-050, 173-455-100(2) and 173-455-130 to match current ecology billing rates.
 - Edit chapters 173-455 and 173-400 WAC to improve clarity and readability.

3. Why are we doing this rule making?

- The existing registration program structure exempts small sources of air pollution from the registration program. Under this rule making, we are requiring all sources that are subject to WAC 173-400-100 and are not required to obtain an air operating permit under RCW 70.94.161 to register. Lack of registration hampers and complicates the program because it fails to collect fees from an estimated one hundred forty-eight sources. The remaining three hundred eighty-seven sources currently registered in the program are currently covering about half of the administrative costs for ecology to regulate all five hundred thirty-five sources. Other taxpayer funded sources are currently funding the rest of the administrative costs.
- Existing registration program fees fund approximately fifty percent of the estimated cost of operating the program. The rule making will enable ecology to more fully cover program costs as authorized by RCW 70.94.151.
- The current fee process for the registration program does not equitably distribute fees across all registered sources. The rule making will increase fairness.
- Establishing a process to determine fees outside of rule making simplifies the process and allows us to recover our costs through more frequent, more predictable, and smaller fee increases.

4. What are we trying to accomplish? Ecology is proposing to amend chapters 173-455 and 173-400 WAC to:

- Align fees with costs of the air quality source registration program as authorized by RCW 70.94.151.
- Revise the registration program fee process to create an equitable distribution of fees across all registered sources.
- Align chapters 173-400 and 173-455 WAC.

5. Other background information: As part of this rule-making process ecology evaluated strategies for efficiencies, both current and future, in the registration program, such as:

- Identifying database management needs.
- Better tracking of staff hours.
- Prioritizing staff time.
- Electronic device uses during site visits.
- Combining site visits to reduce travel.
- Reducing reporting requirements for some sources.

Citation of Rules Affected by this Order: New WAC 173-455-039; and amending WAC 173-400-060, 173-400-100, 173-400-101, 173-400-102, 173-400-103, 173-400-104, 173-400-105, 173-455-036, 173-455-040, 173-455-050, 173-455-100, and 173-455-130.

Statutory Authority for Adoption: Chapter 70.94 RCW, RCW 70.94.151, 70.94.153, and 70.94.892.

Adopted under notice filed as WSR 18-13-109 on June 20, 2018.

Changes Other than Editing from Proposed to Adopted Version: Chapters 173-400 and 173-455 WAC - throughout the rules.

We clarified the intent of the requirements throughout the two rules and addressed stakeholder confusion between the terms "must," "shall" and "may." We identified, with the help of stakeholders, areas of confusion and replaced "shall" with "must" where appropriate. To see the specific changes, please refer to the concise explanatory statement (CES).

WAC 173-400-101 Registration issuance.

- (2), ecology no longer uses the form referenced in this chapter and we revised the language to reflect the current process.

WAC 173-400-102 Scope of registration and reporting requirements.

- (2), clarified who is subject to WAC 173-400-100 and needs to register.
- (4), deleted section to avoid confusion with WAC 173-400-103.

WAC 173-400-103 Emission estimates.

- (2)(d)(iii)(A), adjusted date to be in line with the web posting.
- (2)(d)(iii)(B), changed the timeframe to review an emissions inventory from sixty to ninety days to align the process.

WAC 173-400-105 Records, monitoring and reporting.

- (1), changed the date from April 1 to April 15. This was an oversight. One hundred five days after the end of the year is April 15, not April 1. Added language to clarify that if April 15 falls on a weekend, the deadline to file shall be the next business day.
- (7)(a), added a note to clarify valid data criteria for continuous emissions monitors.
- (7)(f)(iii), added a note to clarify valid data criteria for continuous emissions monitors.

WAC 173-455-036 Fee increases.

- (1), changed language to include a mechanism to update any of the nonregistration fees listed in the section.

WAC 173-455-039 Source registration tiers.

- (3)(d), changed the date to better align the process with current practices.

WAC 173-455-040 Source registration fees.

- (7)(b), clarified the intent that ecology can assess late fees after the ninety day payment period. Also clarified that late fees can be assessed [on the] ninety-first day after the receipt of ecology's billing statement.

A final cost-benefit analysis is available by contacting Jean-Paul Huys, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6827, email jean-paul.huys@ecy.wa.gov, web site <https://fortress.wa.gov/ecy/publications/SummaryPages/1802034.html>. People with speech disability may call TTY 877-833-6341. People with impaired hearing may call Washington relay service 711.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 12, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 25, 2018.

Polly Zehm
for Maia D. Bellon
Director

AMENDATORY SECTION (Amending WSR 16-12-099, filed 5/31/16, effective 7/1/16)

WAC 173-400-060 Emission standards for general process units. General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or allow the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. Test methods (~~((in effect on the date in WAC 173-400-025)))~~ from 40 C.F.R. Parts 51, 60, 61, and 63 (in effect on the date in WAC 173-400-025) and any other approved test procedures in ecology's "*Source Test Manual - Procedures For Compliance Testing*" as of September 20, 2004, (~~will~~) must be used to determine compliance.

AMENDATORY SECTION (Amending WSR 16-12-099, filed 5/31/16, effective 7/1/16)

WAC 173-400-100 Source classifications. (1) **Source classification list.** In counties without a local air pollution control authority, or for sources under the jurisdiction of ecology, the owner or operator of each source within the following source categories (~~(shall)~~) must register the source with ecology:

(a) Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;

(b) Agricultural drying and dehydrating operations;

(c) Any category of stationary source that includes an emissions unit subject to a new source performance standard (NSPS) under 40 C.F.R. Part 60 (in effect on the date in

WAC 173-400-025), other than subpart AAA (Standards of Performance for New Residential Wood Heaters);

(d) Any stationary source((s)) that includes an emissions unit subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 C.F.R. Part 61 (in effect on the date in WAC 173-400-025), other than:

(i) Subpart M (National Emission Standard for Asbestos); or

(ii) Sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 C.F.R. Part 61, subparts H and/or I, and that are not subject to any other part of 40 C.F.R. Parts 61, 62, or 63, or any other parts of this section((§)).

(e) Any source, or emissions unit subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories ~~((Maximum Achievable Control Technology (MACT) standard))~~ under 40 C.F.R. Part 63 (in effect on the date in WAC 173-400-025) that is not subject to chapter 173-401 WAC;

(f) Any source, stationary source or emission unit with an emission rate of one or more pollutants equal to or greater than an "emission threshold" defined in WAC 173-400-030;

(g) Asphalt and asphalt products production facilities;

(h) Brick and clay manufacturing plants, including tiles and ceramics;

(i) Casting facilities and foundries, ferrous and nonferrous;

(j) Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1st and October 1st, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;

(k) Chemical manufacturing plants;

(l) Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;

(m) Concrete product manufacturers and ready mix and premix concrete plants;

(n) Crematoria or animal carcass incinerators;

(o) Dry cleaning plants;

(p) Materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;

(q) Flexible vinyl and urethane coating and printing operations;

(r) Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;

(s) Hay cubers and pelletizers;

(t) Hazardous waste treatment and disposal facilities;

(u) Ink manufacturers;

(v) Insulation fiber manufacturers;

(w) Landfills, active and inactive, including covers, gas collections systems or flares;

(x) Metal plating and anodizing operations;

(y) Metallic and nonmetallic mineral processing plants, including rock crushing plants;

(z) Mills such as lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;

(aa) Mineralogical processing plants;

(bb) Other metallurgical processing plants;

(cc) Paper manufacturers;

(dd) Petroleum refineries;

(ee) Petroleum product blending operations;

(ff) Plastics and fiberglass product fabrication facilities;

(gg) Rendering plants;

(hh) Soil and groundwater remediation projects;

(ii) Surface coating manufacturers;

(jj) Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;

(kk) Synthetic fiber production facilities;

(ll) Synthetic organic chemical manufacturing industries;

(mm) Tire recapping facilities;

(nn) Wastewater treatment plants;

(oo) Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of Federal Clean Air Act.

(2) **Equipment classification list.** In counties without a local authority, the owner or operator of the following equipment ~~((shall))~~ must register the source with ecology:

(a) Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;

(b) Boilers, all gas fired boilers above 10 million British thermal units per hour input;

(c) Chemical concentration evaporators;

(d) Degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;

(e) Ethylene oxide (ETO) sterilizers;

(f) Flares utilized to combust any gaseous material;

(g) Fuel burning equipment with a heat input of more than 1 million Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;

(h) Incinerators designed for a capacity of one hundred pounds per hour or more;

(i) Ovens, burn-out and heat-treat;

(j) Stationary internal combustion engines and turbines rated at five hundred horsepower or more;

(k) Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;

(l) Vapor collection systems within commercial or industrial facilities;

(m) Waste oil burners above 0.5 mm Btu heat output;

(n) Woodwaste incinerators;

(o) Commercial and industrial solid waste incineration units subject to WAC 173-400-050(4);

(p) Small municipal waste combustion units subject to WAC 173-400-050(5).

AMENDATORY SECTION (Amending WSR 11-06-060, filed 3/1/11, effective 4/1/11)

WAC 173-400-101 Registration issuance. (1) General. Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required ~~((shall))~~ **must** register the source emission unit with the permitting authority. The owner or operator ~~((shall))~~ **must** make reports containing information ~~((as may be))~~ required by the permitting authority concerning location, size and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(2) Registration ~~((form))~~. Sources must provide registration information ~~((shall be provided on forms supplied))~~ in a manner and time prescribed by the permitting authority and ~~((shall be completed and returned))~~ **must provide the required information** within the time specified ~~((on the form))~~ **by the permitting authority.** Sources **must list each emission unit ~~((s))~~ within the facility ~~((shall be listed))~~ separately unless the permitting authority determines that the facility may combine certain emission units ~~((may be combined))~~ into process streams for purposes of registration and reporting.**

(3) Signatory responsibility. The owner, operator, or their designated management representative ~~((shall))~~ **must** sign the registration form for each source. The owner or operator of the source ~~((shall be))~~ **is** responsible for notifying the permitting authority of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

(4) Operational and maintenance plan. Owners or operators of registered sources within ecology's jurisdiction ~~((shall))~~ **must** maintain an operation and maintenance plan for process and control equipment. The plan ~~((shall))~~ **must** reflect good industrial practice and ~~((shall))~~ **must** include a record of performance and periodic inspections of process and control equipment. In most instances, a manufacturer's operations manual or an equipment operation schedule may be considered a sufficient operation and maintenance plan. The source owner or operator must review and update the plan ~~((shall be reviewed and updated by the source owner or operator))~~ at least annually. **The source owner or operator must make a copy of the plan ~~((shall be made))~~ available to ecology upon request.**

(5) Report of closure. The owner or operator must file a report of closure ~~((shall be filed))~~ with the permitting authority within ninety days after operations producing emissions permanently cease at any applicable source under this section.

(6) Report of change of ownership. A new owner or operator ~~((shall))~~ **must** report to the permitting authority within ninety days of any change of ownership or change in operator.

(7) Operating permit program source exemption. Permit program sources, as defined in RCW 70.94.030(18), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.

AMENDATORY SECTION (Amending WSR 11-06-060, filed 3/1/11, effective 4/1/11)

WAC 173-400-102 Scope of registration and reporting requirements. ~~(((1) Administrative options. A source in a listed source category that is located in a county without an active local authority will be addressed in one of several ways:~~

~~(a) The source will be required to register and report once each year. The criteria for identifying these sources are listed in subsection (2) of this section.~~

~~(b) The source will be required to register and report once every three years. The criteria for identifying these sources are listed in subsection (3) of this section.~~

~~(c) The source will be exempted from registration program requirements. The criteria for identifying these sources are listed in subsection (4) of this section.~~

~~(2) Sources requiring annual registration and inspections.~~ An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once each year:

~~(a) The source emits one or more air pollutants at rates greater than the "emission threshold" rates defined in WAC 173-400-030;~~

~~(b) Annual registration and reporting is necessary to comply with federal reporting requirements or emission standards; or~~

~~(c) Annual registration and reporting is required in a reasonably available control technology determination for the source category; or~~

~~(d) The director of ecology determines that the source poses a potential threat to human health and the environment.~~

~~(3) Sources requiring periodic registration and inspections.~~ An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once every three years:

~~(a) The source emits one or more air pollutants at rates greater than the emission rates listed in subsection (5) of this section and all air pollutants at rates less than the "emission threshold" rates defined in WAC 173-400-030; or~~

~~(b) More than de minimis amounts of one or more toxic air pollutants listed in WAC 173-460-150.~~

~~(4) Sources exempt from registration program requirements.~~ Any source included in a listed source category that is located in a county without an active local air authority is not required to register if:

~~(a) The source emits pollutants below emission rates specified in subsection (5) of this section; and~~

~~(b) The source or emission unit does not emit more than de minimis amounts of toxic air pollutants specified in WAC 173-460-150.~~

~~(5) Criteria for defining exempt sources.~~ The following emission rates will be used to identify listed sources that are exempt from registration program requirements:

Pollutant	Tons/Year
Carbon Monoxide	5.0
Lead	0.005
Nitrogen oxides	2.0

Pollutant	Tons/Year
PM-10	0.75
PM-2.5	0.5
Total suspended particulates	1.25
Sulfur dioxide	2.0
Volatile organic compounds (VOC)	2.0)

(1) Applicability. This section applies to sources subject to WAC 173-400-100 located in a county without a local air pollution control authority.

(2) A source that is subject to WAC 173-400-100, but not subject to new source review under WAC 173-400-110(5) must register with ecology.

(3) Emissions inventory report.

(a) An owner or operator must submit an emissions inventory report in a manner specified by ecology:

(i) Annually when mandated by an order of approval or a regulatory order; or

(ii) Upon request from ecology.

(b) An emissions inventory report must include the information required by ecology, an order of approval, or regulatory order:

(i) Emission sources;

(ii) Types and amounts of raw materials and fuels used;

(iii) Types, amounts and concentrations of air contaminants emitted;

(iv) Data on emission units and control devices;

(v) Data on emission points;

(vi) Other information related to the registration program as requested by ecology.

AMENDATORY SECTION (Amending WSR 95-07-126, filed 3/22/95, effective 4/22/95)

WAC 173-400-103 Emission estimates. ~~((1) Procedure for estimating emissions. In counties without an active local air pollution control authority, registration may include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. Registration may also include a flowchart of plant processes, operational parameters, and specifications of air pollution control equipment. The emissions estimate shall be based upon actual test data or, in the absence of such data, upon procedures acceptable to ecology. Any emission data submitted to ecology shall be verifiable using currently accepted engineering criteria. The following procedures may be used to estimate emissions from individual sources or emissions units:~~

~~(a) Source-specific testing data;~~

~~(b) Mass balance calculations;~~

~~(c) A published, verifiable emission factor that is applicable to the source;~~

~~(d) Other engineering calculations; or~~

~~(e) Other procedures to estimate emissions that are acceptable to ecology.~~

(2) Owner or operator review. Ecology will provide the owner or operator of the source an opportunity to review any emission estimates prepared by ecology. An owner or operator may submit additional information and any justification

for not using the methods listed above. This information will be evaluated by ecology to determine whether it is based on currently accepted engineering criteria. If none of the above methods are available or applicable to the source, an appropriate method will be established and approved by ecology on a case-by-case basis.)) (1) This section applies to a source subject to WAC 173-400-100 located in a county without a local air pollution control authority.

(2) Procedure for estimating emissions from a source.

(a) An emissions inventory report may include:

(i) An estimate of actual emissions taking into account equipment;

(ii) Operating conditions;

(iii) Air pollution control measures;

(iv) A flowchart of plant processes;

(v) Operational parameters; and

(vi) Specifications of air pollution control equipment.

(b) An owner or operator must base the emissions estimate on actual test data or, in the absence of test data, on procedures acceptable to ecology.

(c) Emission data submitted to ecology must be verifiable using currently accepted engineering criteria. Sources may use the following procedures to estimate emissions from individual sources or emissions units:

(i) Source-specific testing data;

(ii) Mass balance calculations;

(iii) A published, verifiable emission factor applicable to the source;

(iv) Other engineering calculations; or

(v) Other procedures to estimate emissions acceptable to ecology.

(3) Owner or operator review.

(a) By August 1st of each year, ecology must provide the owner or operator of the source an opportunity to review emission estimates prepared by ecology.

(b) An owner or operator may submit additional information and justification for not using the procedures in subsection (2) of this subsection.

(i) The owner or operator may propose a source-specific appropriate method.

(ii) Ecology must evaluate the information provided to determine whether the owner or operator based it on currently accepted engineering criteria.

(iii) If none of these methods are available or applicable to the source, ecology must establish and approve an appropriate method on a case-by-case basis.

(c) When estimating emissions, ecology must consider updates and revisions made to a source's operations during a calendar year to apply to emissions occurring during the entire calendar year.

(d) Emissions inventory review process.

(i) Ecology must:

(A) Notify each source of their draft emissions inventory by August 1st of each year in connection with notice on the draft tier placement in WAC 173-455-039;

(B) Distribute the notice by electronic means or by means of the United States postal service if ecology does not have an electronic means for the source or the source requests postal service notification.

(ii) Comment deadlines. An owner or operator must provide comments to ecology by:

(A) September 30th to change a tier placement or an emissions inventory determined by WAC 173-455-039 for an upcoming year; or

(B) October 1st or later to update a future emissions inventory.

(iii) Ecology must evaluate the request and make a final determination by:

(A) January 1st if a request was sent by September 30th of that year; or

(B) Within ninety days of receiving a request submitted under (ii)(B) of this subsection.

AMENDATORY SECTION (Amending WSR 11-06-060, filed 3/1/11, effective 4/1/11)

WAC 173-400-104 Registration fees. See chapter 173-455 WAC for ecology's (~~(registration)~~) fee schedule for 2019, 2020, 2021, and ecology's process for establishing registration fees for 2022 and beyond.

AMENDATORY SECTION (Amending WSR 16-12-099, filed 5/31/16, effective 7/1/16)

WAC 173-400-105 Records, monitoring, and reporting. The owner or operator of a source (~~(shall)~~) must upon notification by (~~(the director of)~~) ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

(1) **Emission inventory.** The (~~(owner(s) or operator(s))~~) owner and operator of (any) an air contaminant source (~~(shall)~~) must submit an inventory of emissions from the source each year. The inventory (~~(will)~~) must include stack and fugitive emissions of particulate matter, PM-10, PM-2.5, sulfur dioxide, oxides of nitrogen, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, ammonia, and other contaminants. (~~(The format)~~) Sources must provide registration information in a manner prescribed by the permitting authority for the submittal of these inventories (~~(will be specified by the permitting authority or ecology)~~). When (~~(submittal of)~~) the permitting authority requests emission inventory information (~~(is requested)~~) for a calendar year, the owner or operator must submit the emissions inventory (~~(shall be submitted)~~) no later than (~~(one hundred five days)~~) April 15th after the end of the calendar year for which the emissions inventory was requested. If April 15th falls on a weekend, then the deadline to file shall be the next business day. The (~~(owner(s) or operator(s) shall)~~) owner and operator must maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards. The owner or operator may base emission estimates used in the inventory (~~(may be based)~~) on the most recent published EPA emission factors for a source category, or other information available to the (~~(owner(s) or operator(s))~~) owner and operator, whichever is the better estimate.

(2) **Monitoring.** Ecology (~~(shall)~~) must conduct a continuous surveillance program to monitor the quality of the

ambient atmosphere as to concentrations and movements of air contaminants. As a part of this program, the director of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

(3) **Investigation of conditions.** Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from ecology or an authority (~~(shall)~~) must have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(4) **Source testing.** To demonstrate compliance, (~~(ecology or)~~) the permitting authority may conduct or require that the owner or operator of a source conduct a test (~~(be conducted of the source)~~) using approved test methods from 40 C.F.R. Parts 51, 60, 61 (~~(and)~~), 62, 63, 75 and 1065, as applicable (in effect on the date in WAC 173-400-025) or procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, as of September 20, 2004, on file at ecology. The permitting authority may require the operator of a source (~~(may be required)~~) to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. (~~(Ecology shall be allowed)~~) The source owner or operator must allow the permitting authority to obtain a sample from any emissions unit. The permitting authority shall give the operator of the source (~~(shall be given)~~) an opportunity to observe the sampling and to obtain a sample at the same time.

(5) **Continuous monitoring and recording.** Owners and operators of the following categories of sources (~~(shall)~~) must install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to ecology or the authority by the owner(s) or operator(s).

(b) **Sulfuric acid plants.** Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is (~~(utilized)~~) used primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries. Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of (e) of this subsection do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by (d) of this subsection ~~((shall))~~ must be subject to approval by ecology.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this subsection ~~((shall))~~ must demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 C.F.R. Part 51, Appendix P, Sections 3, 4 and 5 (in effect on the date in WAC 173-400-025).

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology determines that continuous monitoring is not a reasonable requirement, the permitting authority will establish alternative monitoring and reporting procedures ~~((will be established))~~ on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(g) Exemptions. This subsection (5) does not apply to any emission unit which is:

(i) Required to continuously monitor emissions due to a standard or requirement contained in 40 C.F.R. Parts 60, 61, 62, 63, or 75 (all in effect on the date in WAC 173-400-025) or a permitting authority's adoption by reference of ~~((such))~~ the federal standards. Emission units and sources subject to those standards ~~((shall))~~ must comply with the data collection requirements that apply to those standards.

(ii) Not subject to an applicable emission standard.

(6) No person shall make any false material statement, representation or certification in any form, notice or report required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

(7) Continuous emission monitoring system operating requirements. All continuous emission monitoring systems (CEMS) required by 40 C.F.R. Parts 60, 61, 62, 63, or 75 (all in effect on the date in WAC 173-400-025), or a permitting authority's adoption of those federal standards must meet the continuous emission monitoring systems (CEMS) performance specifications and data recovery requirements imposed by those standards. All CEMS required under an order, PSD permit, or regulation issued by a permitting authority and not subject to CEMS performance specifications and data recovery requirements imposed by 40 C.F.R. Parts 60, 61, 62, 63, or 75 must follow the continuous emission monitoring rule of the permitting authority, or if the permitting authority does not have a continuous emission monitoring rule, must meet the following requirements:

(a) The owner or operator ~~((shall))~~ must recover valid hourly monitoring data for at least ~~((95))~~ ninety-five percent of the hours that the equipment (required to be monitored) is

operated during each calendar month except for periods of monitoring system downtime, provided that the owner or operator demonstrated that the downtime was not a result of inadequate design, operation, or maintenance, or any other ~~((reasonable))~~ reasonably preventable condition, and the source conducts any necessary repairs to the monitoring system ~~((are conducted))~~ in a timely manner.

Note: This means that a continuous emissions monitor (CEM) must provide valid data for all but thirty-six hours for each month (ninety-five percent standard).

(b) The owner or operator ~~((shall))~~ must install a continuous emission monitoring system that meets the performance specification in 40 C.F.R. Part 60, Appendix B in effect at the time of its installation, and ~~((shall))~~ must operate this monitoring system in accordance with the quality assurance procedures in Appendix F of 40 C.F.R. Part 60 (in effect on the date in WAC 173-400-025), and EPA's "Recommended Quality Assurance Procedures for Opacity Continuous Monitoring Systems" (EPA) 340/1-86-010.

(c) An owner or operator must reduce monitoring data commencing on the clock hour and containing at least forty-five minutes of monitoring data ~~((must be reduced))~~ to one hour averages. An owner or operator must reduce monitoring data for opacity ~~((is to be reduced to))~~ six minute block averages unless otherwise specified in the order of approval or permit. An owner or operator must include all monitoring data ~~((will be included))~~ in these averages except for data collected during calibration drift tests and cylinder gas audits, and for data collected subsequent to a failed quality assurance test or audit. After a failed quality assurance test or audit, a source must collect no valid data ~~((is collected))~~ until the monitoring system passes a quality assurance test or audit.

(d) An owner or operator must maintain continuous operation of all continuous monitoring systems except for instances of system breakdowns, repairs, calibration checks, and zero and span adjustments required under ~~((subsection))~~ (a) of this ~~((section, all continuous monitoring systems shall be in continuous operation))~~ subsection.

(i) Continuous monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing for each successive ten second period and one cycle of data recording for each successive six minute period.

(ii) Continuous monitoring systems for measuring emissions other than opacity ~~((shall))~~ must complete a minimum of one cycle of sampling, analyzing, and recording for each successive fifteen minute period.

(e) The owner or operator ~~((shall))~~ must retain all monitoring data averages for at least five years, including copies of all reports submitted to the permitting authority and records of all repairs, adjustments, and maintenance performed on the monitoring system.

(f) The owner or operator ~~((shall))~~ must submit a monthly report (or other frequency as directed by terms of an order, air operating permit or regulation) to the permitting authority within thirty days after the end of the month (or other specified reporting period) in which the owner or operator recorded the data ~~((were recorded))~~. The owner or operator may combine the report required by this section ~~((may be combined))~~ with any excess emission report required by WAC 173-400-108. This report ~~((shall))~~ must include:

(i) The number of hours that the monitored emission unit operated each month and the number of valid hours of monitoring data that the monitoring system recovered each month;

(ii) The date, time period, and cause of each failure to meet the data recovery requirements of (a) of this subsection and any actions taken to ensure adequate collection of such data;

(iii) The date, time period, and cause of each failure to recover valid hourly monitoring data for at least ~~((90))~~ ninety percent of the hours that the equipment (required to be monitored) was operated each day;

Note: A continuous emissions monitor (CEM) must provide valid data for all but two hours per day (ninety percent standard).

(iv) The results of all cylinder gas audits conducted during the month; and

(v) A certification of truth, accuracy, and completeness signed by an authorized representative of the owner or operator.

(8) No person shall render inaccurate any monitoring device or method required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending WSR 12-24-051, filed 11/30/12, effective 12/31/12)

WAC 173-455-036 Fee increases. (1) Ecology ~~((must follow the processes in subsections (2) and (3) of this section for increasing any of the following fees:~~

~~((a) Air contaminant source registration fees in WAC 173-455-040;~~

~~((b)) may adjust fees for the registration program based on the cost of administering the registration program consistent with RCW 70.94.151(2), and WAC 173-455-039 and 173-455-040.~~

(2) Ecology may propose fee increases based on a workload analysis for increasing any of the following fees:

(a) Carbon dioxide mitigation program fees in WAC 173-455-050;

~~((e))~~ (b) Weather modification fees in WAC 173-455-070;

~~((d))~~ (c) Control technology fees in WAC 173-455-100;

~~((e))~~ (d) New source review fees in WAC 173-455-120;

~~((f))~~ (e) Air pollution standards variance fee in WAC 173-455-130; and

~~((g))~~ (f) Nonroad engine permit fee in WAC 173-455-140.

~~((2) Ecology may propose fee increases in even-numbered years for each year in the upcoming biennium. A workload analysis must support the fee increase. Prior to making any changes, ecology will post the new fees on the agency web site no later than November 30th of the year preceding the date on which the new fees will take place. If directed by RCW 43.135.055, fee increases will only occur after the legislature authorizes the increase.~~

~~((3) Ecology may adjust fees by the fiscal growth factor calculated under chapter 43.135 RCW as follows:~~

$$\text{New fee} = \text{Existing fee} \times (1 + \text{FGF})$$

~~Where FGF means the annual fiscal growth factor calculated under chapter 43.135 RCW (expressed as a decimal))~~

NEW SECTION

WAC 173-455-039 Source registration tiers. (1) A source loses its registration status when a registration fee has not been paid.

(2) Source registration tiers. For the purpose of assessing registration fees, ecology must assign sources required to register with ecology to one of six tiers based on emissions in Table 1 in (b) of this subsection.

(a) Ecology must use the following emissions inventory for each source:

(i) Emissions in an inventory include particulate matter 10 (PM₁₀), volatile organic compound (VOC), carbon monoxide (CO), nitrogen oxide (NOx) and sulfur dioxide (SO₂).

(ii) If emissions information is unavailable, ecology will use the enforceable emissions limitations for the source and/or will estimate emissions using the source's maximum capacities and production rates.

(b) Ecology must assign a source to a tier based on Table 1.

**Table 1
Tiers for Registration Sources**

Tier	Annual Emissions
1	Source with annual emissions less than the tons per year in Tier 2.
2	Source with annual emissions between 0.01 and less than or equal to 10 tons per year.
3	Source with annual emissions greater than 10 and less than or equal to 20 tons per year.
4	Source with annual emissions greater than 20 and less than or equal to 70 tons per year.
5	Source with annual emissions greater than 70 tons per year.
6	Synthetic minor source (as defined in WAC 173-400-030) that emits or has the potential to emit at or above 80 percent of the threshold for a major source (as defined in WAC 173-401-200).

(3) Notice of tier placement.

(a) Draft tier placement. Ecology must notify a source of its draft tier placement by August 1st of the year before a new fee goes into effect, or every other year if ecology proposes a biennial budget.

(b) Ecology must provide electronic notice or notice by the United States postal service if ecology does not have an electronic address for a source or the source requests postal notice.

(c) Ecology must provide a sixty day comment period.

(d) Final tier assignment. Ecology must notify the source of the final tier placement by January 1st of the year when the new fee schedule goes into effect.

(4) Requesting reassignment to a different tier.

(a) A source may submit a request to ecology by September 30th for tier reassignment for the upcoming year if they believe they were assigned to the wrong tier. To request reassignment, the source must provide information sufficient to support a reassignment.

(b) By December 1st of each year or biennially if ecology proposes a two-year budget as provided by WAC 173-455-040 (4)(a)(iii), ecology must notify the source of the final tier determination.

AMENDATORY SECTION (Amending WSR 12-24-051, filed 11/30/12, effective 12/31/12)

WAC 173-455-040 ((Air contaminant)) Source registration fees. ((1) Ecology will charge a yearly registration fee to cover the cost of implementing the registration program.

(2) Ecology will determine fee eligibility based on the most current emissions inventory information available for each source.

(3) A registration program source that shut down during the previous year and is not operating in the current year is not subject to a fee for the current calendar year.

~~(4) Periodic registration program source eligibility and fees are determined as follows:~~

~~(a) A source is a periodic registration program source if all of these statements are true:~~

~~(i) A source is included on the source classification list in WAC 173-400-100(1) or the equipment classification list in WAC 173-400-100(2);~~

~~(ii) The source emits at least one pollutant in Table 173-455-040 (4)(c) within the rates in the table; and~~

~~(iii) The source does not emit any pollutant at a rate higher than those in Table 173-455-040 (4)(c).~~

~~(b) The registration fee category and fee for periodic registration program source are determined as follows:~~

~~(i) Ecology will determine whether the periodic source is in the small, medium, or large category based on the source's most current emissions inventory information.~~

~~(ii) Ecology will determine whether the source's category based on the emission rate of the air contaminant that falls in the category with the highest fee.~~

~~(c) A periodic registration program source must pay the applicable yearly registration fee on Table 173-455-040 (4)(c).~~

**Table 173-455-040 (4)(c)
Periodic Registration Fee Table**

Yearly periodic registration fee	\$450	\$700	\$1,000
Category	Small Periodic Source	Medium Periodic Source	Large Periodic Source
Air Contaminant	Emission Rates		
	Tons per year	Tons per year	Tons per year
Carbon monoxide	5 to <15	15 to <30	30 to <100
Lead	0.005 to <0.3	0.3 to <0.45	0.45 to <0.6
Nitrogen oxides	2.0 to <5	5 to <14	14 to <40
Particulate matter (TSP or total suspended particulates)	1.25 to <6	6 to <12	12 to <25
Particulate matter ₁₀	0.75 to <3.5	3.5 to <7	7 to <15
Particulate matter _{2.5}	0.5 to <2	2 to <5	5 to <10
Sulfur dioxide	2.0 to <5	5 to <14	14 to <40
Volatile organic compounds	2.0 to <5	5 to <14	14 to <40
Toxic air pollutant	> de minimis emissions*	—	—

* "De minimis emissions" means trivial levels of toxic air emissions that do not pose a threat to human health or the environment. WAC 173-460-150 contains the de minimis emission rate of a toxic air pollutant in pounds per averaging period (year, 24-hour, 1-hour).

~~(5) Annual registration program source fees are determined as follows:~~

~~(a) Ecology will determine the annual registration fee based on the most current emissions inventory information.~~

~~(b) A source that is included on the source classification list in WAC 173-400-100(1) or the equipment classification list in WAC 173-400-100(2) is an annual registration program source if it meets any of the following criteria:~~

~~(i) The source emits one or more air pollutants in Table 173-455-040 (5)(b) at rates greater than those in the table; or~~

**Table 173-455-040 (5)(b)
Annual Registration Emission Rate Table**

Air Pollutant	Emission Rate
Carbon monoxide	100 tons per year
Lead	0.6 tons per year
Fluorides	3 tons per year
Nitrogen oxides	40 tons per year
Particulate matter	25 tons per year

Air Pollutant	Emission Rate
Particulate matter ₁₀	15 tons per year
Particulate matter _{2.5}	10 tons per year
Reduced sulfur compounds (including H ₂ S)	10 tons per year
Sulfur dioxide	40 tons per year
Sulfuric acid mist	7 tons per year
Total reduced sulfur (including H ₂ S)	10 tons per year

(ii) Annual registration and reporting is necessary to comply with federal reporting requirements or emission standards; or

(iii) Annual registration and reporting is required in a reasonably available control technology determination for the source category; or

(iv) The director of ecology determines that the source poses a potential threat to human health and the environment.

(e) Annual registration program sources must pay a yearly registration fee comprised of the following three components:

Annual Registration Fee Components

Component	Fee Rate
Flat fee	\$1,057 per year
Complexity	\$469 per complexity rating point
Emissions	\$16 per ton

(i) Flat fee component. Each source must pay the flat fee component plus the other fees.

(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed by ecology to review and inspect the source. The source's complexity rating is multiplied by the complexity fee rate to determine the complexity portion of the yearly registration fee.

(iii) Emissions component. Billable emissions (in tons per year) include nitrogen oxides, sulfur dioxide, particulate matter (except total suspended particulate), and volatile organic compounds. The source's billable emissions are multiplied by the emissions fee rate to determine the emissions portion of the yearly registration fee.

~~(6))~~ (1) Registration fee. Each source required to register with ecology must pay an annual fee based on the source registration tier to which it is assigned in WAC 173-455-039.

(2) Source closure. A source that closes or shuts down temporarily must pay its registration fee to maintain active registration status.

(3) Registration fee schedule for years 2019, 2020, 2021.

(a) Table 2 lists annual registration fees for 2019, 2020, and 2021.

**Table 2
Registration Fee Schedule for 2019 Through 2021**

Tier	Fee 2019	Fee 2020	Fee 2021
<u>1</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>

Tier	Fee 2019	Fee 2020	Fee 2021
<u>2</u>	<u>\$400</u>	<u>\$575</u>	<u>\$700</u>
<u>3</u>	<u>\$700</u>	<u>\$1,000</u>	<u>\$1,300</u>
<u>4</u>	<u>\$1,100</u>	<u>\$1,300</u>	<u>\$1,500</u>
<u>5</u>	<u>\$5,000</u>	<u>\$5,500</u>	<u>\$7,000</u>
<u>6</u>	<u>\$7,000</u>	<u>\$7,500</u>	<u>\$8,000</u>

(b) The registration fee for mint distilleries is \$200 for 2019, 2020, and 2021. For 2022 and beyond, the registration fee for mint distilleries will be assessed according to their total emissions.

(4) Registration fee schedule for year 2022 and beyond.

(a) Fee schedule:

(i) Starting in 2022, ecology must prepare an annual budget that reflects the cost of the program;

(ii) Ecology must base the budget on the program costs for the previous twelve-month period consistent with RCW 70.94.151(2);

(iii) Ecology may choose to establish fees to cover registration program costs for a two-year period;

(iv) Ecology must compare the revenue from the previous year, or the previous two-year period if appropriate, to the upcoming draft budget. If increases of registration fees are necessary, ecology must evenly distribute the increased program cost as a percentage of the increased costs across all sources subject to the program.

(b) Public notice. Ecology must:

(i) Post the draft budget and draft registration fee schedule on ecology's web site by August 1st of the year before the fee schedule goes into effect.

(ii) Provide a sixty-day public comment period on the draft budget and draft fee schedule.

(iii) Post the final budget and fee schedule on ecology's web site by December 1st of the year before the fee schedule goes into effect.

(5) Registration fees for gasoline dispensing facilities. Gasoline dispensing facilities subject to chapter 173-491 WAC must pay a yearly registration fee of one hundred thirty dollars for each storage tank dispensing gasoline.

~~((7))~~ (6) Fee reductions for economic hardship. If a small business owner (~~who is subject to a periodic registration program fee under subsection (4) of this section or a gasoline dispensing facility subject to subsection (6) of this section~~), as defined in RCW 19.85.020(3), thinks the registration fee results in an extreme economic hardship, the small business owner may request a fee reduction. The small business owner or operator must provide sufficient evidence to support a claim of an extreme hardship. Ecology may reduce the registration fee (~~may be reduced~~) by no more than fifty percent.

~~((8))~~ (7) Fee payments.

(a) The owner or operator of a source subject to fees in this section must pay those fees within (~~thirty~~) ninety days of receipt of ecology's billing statement.

(b) (~~A late fee of sixty-eight dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received within the thirty-day period.~~) Ecology may assess a late fee equal to three times the amount of the original fee owed against sources knowingly under-reporting emissions.

or failing to pay registration fees by the ninety-first day after the receipt of ecology's billing statement. Failure to pay all or part of a registration fee may result in an enforcement action.

(c) ~~((A source))~~ The owner or operator may request to pay an ecology fee on a payment plan. Ecology will not apply a late fee ((will not apply)) for fees paid by a payment plan ~~((as long as the following))~~ if a source meets two conditions ~~((are met))~~:

(i) The ~~((source))~~ owner or operator requests a payment plan within thirty days of the receipt of ecology's billing statement.

(ii) The ~~((source))~~ owner or operator pays the fee on time as outlined in the payment plan.

~~((9) Additional registration fee for fossil-fueled electric generating facilities-))~~ (8) Fossil-fueled electric generating facilities must pay registration fees required in this section in addition to carbon dioxide mitigation program fees required in WAC 173-455-050 if the facility is not subject to chapter 173-401 WAC.

AMENDATORY SECTION (Amending WSR 07-11-018, filed 5/3/07, effective 6/3/07)

WAC 173-455-050 Carbon dioxide mitigation program fees. (1) **Statutory authorization.** RCW 70.94.892 authorizes ~~((the department))~~ ecology to determine, assess, and collect fees sufficient to cover costs to review and approve or deny the carbon dioxide mitigation plan components of an order of approval for a facility. The order of approval ~~((will))~~ must specify the costs necessary to monitor the source's conformance ((related)) to the carbon dioxide mitigation plan.

(2) **Fees.** ~~The table in this subsection lists the fees for the carbon dioxide mitigation program ((are described in this section and listed in the table below. The fees listed)). These fees are added to the fees established in WAC 173-455-120, when the carbon dioxide mitigation plan requirements are triggered.~~

Activity	Fee
a. Application review	\$(65.00) 95.00/hr. ¹ not to exceed \$500.00
b. Mitigation plan approval	
i. Payment to third party	\$100.00 ²
ii. Purchase of CO ₂ credits	\$(65.00) 95.00/hr. ³
iii. Direct investment	\$(65.00) 95.00/hr. ⁴
c. Routine compliance monitoring	
i. Payment to third party	\$100.00 ⁵ annually until full amount paid
ii. Purchase of CO ₂ credits	\$(65.00) 95.00/hr. ⁶
iii. Applicant controlled project	\$(65.00) 95.00/hr. ⁶

¹ Estimated using an EE3 per hour rate with a cap.

² Small fee primarily to check math and that the source is using an EFSEC approved qualified organization.

³ Estimated EE3 per hour rate to check that the credits purchased will be verifiable and from a reputable trading or marketing organization.

⁴ Estimated using an EE3 per hour rate.

⁵ Same as rationale for ² above.

⁶ Verify and confirm credits with the trading or marketing organization.

(3) The department or authority may use RCW 70.94.-085 to structure a cost-reimbursement agreement with the applicant.

AMENDATORY SECTION (Amending WSR 12-24-051, filed 11/30/12, effective 12/31/12)

WAC 173-455-100 ((Control technology fees-)) Fees related to reasonably available control technology (RACT). (1) General. Ecology may assess and collect a fee as authorized in RCW 70.94.153 or 70.94.154 and described in subsections (2) through (5) of this section.

(2) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.

(a) Notice of construction application. Review and approval of notice of construction application for replacement or substantial alteration of control technology - Ninety-five dollars per hour.

(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - Ninety-five dollars per hour.

(3) Fee schedule for source-specific determinations where ecology performs RACT analysis and determination ~~((are performed by ecology))~~.

(a) Basic RACT analysis and determination fee:

(i) Low complexity (the analysis addresses one type of emission unit) - One thousand five hundred dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - Seven thousand five hundred dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - Fifteen thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, ecology will require a fee ~~((will be required))~~ for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - Two thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, ecology will require the following fees ~~((will be required))~~ as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - One thousand dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, indi-

vidually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - Two thousand dollars.

~~((3))~~ (4) Fee schedule for source-specific determinations where the source performs the RACT analysis (~~is performed by the source~~) and ecology conducts review and issues a determination (~~conducted by ecology~~).

(a) Basic RACT review and determination fees:

(i) Low complexity (the analysis addresses one type of emission unit) - One thousand dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - Five thousand dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - Ten thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, ecology will require a fee (~~will be required~~) for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - One thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, ecology will require the following fees (~~will be required~~) as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - Five hundred dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - One thousand dollars.

~~((4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.~~

~~(a) Notice of construction application. Review and approval of notice of construction application (NOCA) for replacement or substantial alteration of control technology - Three hundred fifty dollars.~~

~~(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - Five hundred dollars.~~

(5) Fee schedule for categorical RACT determinations. Ecology shall assess fees for categorical RACT determinations (for categories with more than three sources) (~~shall be assessed~~) as shown below. Ecology shall base the fees described in (a) of this subsection (~~shall be based~~) on the most complex source within a category. When determining complexity level for the most complex source in the category, the emission rate or number of types of emission units that results in the highest complexity level will determine the fee for the source category. Except as provided in (b) and (d) of this subsection, ecology will determine fees for individual sources in the category (~~will be determined~~) by dividing the total source category fee by the number of sources within the category.

(a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):

(i) Low complexity source category (average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - Twenty-five thousand dollars;

(ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than twenty tons per year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units) - Fifty thousand dollars; or

(iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - One hundred thousand dollars.

(b) If ecology is evaluating an emission unit (~~is being evaluated~~) for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.

(c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.

(d) Ecology may approve alternate methods for allocating the fee among sources within the source category.

(6) Small business fee reduction. Ecology may reduce the RACT analysis and determination fee identified in subsections (2) through (5) of this section (~~may be reduced~~) for a small business.

(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW ((43.31.025)) 19.85.020.

(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the business meets the conditions of (a) of this subsection (~~have been met. The application must be signed~~). One of the following must sign the application:

(i) ~~((By))~~ An authorized corporate officer in the case of a corporation;

(ii) ~~((By))~~ An authorized partner in the case of a limited or general partnership; or

(iii) ~~((By))~~ The proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible for a small business fee reduction under (a) of this subsection, ecology shall reduce the RACT analysis and determination fee (~~shall be reduced~~) to the greater of:

(i) Fifty percent of the RACT analysis and determination fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include:

- (i) Annual sales;
- (ii) Labor force size;
- (iii) Market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and
- (iv) Average annual profits.

In no case will ecology reduce a RACT analysis and determination fee (~~(be reduced)~~) to an amount below one hundred dollars.

(7) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.

(8) Fee payments. A source shall pay fees specified in subsection (4)(a) of this section (~~(shall be paid at the time)~~) when the source submits a notice of construction application (~~(s is submitted to the department)~~) to ecology. Sources shall pay other fees specified in subsections (2) through (7) of this section (~~(shall be paid)~~) no later than thirty days after receipt of an ecology billing statement. For fees specified in subsection (5) of this section, ecology will mail a billing statement for one-half of the payment from each source (~~(will be mailed)~~) when the source category rule-making effort is commenced as noted by publication of the CR-101 form in the *Washington State Register*. Ecology will mail a billing statement for the second half of the payment (~~(will be mailed)~~) when the proposed rule is published in the *Washington State Register*. (~~(No)~~) Ecology will not issue an order of approval or other action approving or identifying a source to be at RACT (~~(will be issued by the department)~~) until the source has paid all fees (~~(have been paid by the source)~~). A source shall make all fees collected under this regulation (~~(shall be made)~~) payable to the Washington department of ecology.

(9) Dedicated account. Ecology shall deposit all control technology fees (~~(collected by the department)~~) it collects from air operating permit program sources (~~(shall be deposited)~~) in the air operating permit account created under RCW 70.94.015. Ecology shall deposit all control technology fees collected (~~(by the department)~~) from (~~(nonpermit)~~) nonair chapter 173-401 WAC program sources (~~(shall be deposited)~~) in the air pollution control account.

(10) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsections (2) through (4) of this section, ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5) of this section, ecology shall track time and expenditures on a source-category basis.

(11) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

AMENDATORY SECTION (Amending WSR 07-11-018, filed 5/3/07, effective 6/3/07)

WAC 173-455-130 Air pollution standards variance fee. The department shall charge a fee of ~~((sixty-five))~~ ninety-five dollars per hour to process a variance request in accordance with WAC 173-400-180.

**WSR 18-22-007
PERMANENT RULES
OFFICE OF THE**

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2018-07—Filed October 25, 2018,
10:34 a.m., effective November 25, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule amends WAC 284-16-150 through 284-16-190 regarding the valuation of a stock of a subsidiary of a domestic insurance company to be compatible with the current version of the Insurance Holding Company Act.

Citation of Rules Affected by this Order: Amending WAC 284-16-160, 284-16-170, 284-16-180, and 284-16-190.

Statutory Authority for Adoption: RCW 48.02.060, 48.12.180, and 48.31B.040.

Adopted under notice filed as WSR 18-19-093 on September 18, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: October 25, 2018.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 76-7, filed 11/30/76)

WAC 284-16-160 Definitions. For purpose of this regulation:

(1) ~~((The term))~~ "Subsidiary" (~~(shall have))~~ has the same meaning (~~((given it by RCW 48.31A.010))~~) as in RCW 48.31B.005;

(2) ~~((The term))~~ "Book value" ~~((shall))~~ means that value determined by dividing the amount of its capital and surplus as shown in its last annual statement or subsequent report of examination (excluding from its surplus, any reserves required by statute and any portion of surplus properly allocable to policyholders, ~~((rather))~~ other than stockholders) less the ~~((value of))~~ par ~~((of))~~ or redemption value, whichever is the greater ~~((of))~~ of all of its preferred stock ~~((, if any))~~ outstanding, by the total number of shares of its common stock issued and outstanding.

AMENDATORY SECTION (Amending Order R 76-7, filed 11/30/76)

WAC 284-16-170 Usual valuation of stock of a subsidiary. The common stock of any subsidiary of an insurer may always be valued on the basis of the value of only such of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer under either the requirements of chapter 48.13 or 48.31B RCW, or both.

AMENDATORY SECTION (Amending Order R 76-7, filed 11/30/76)

WAC 284-16-180 Other methods of valuing stock of a subsidiary. If sound business judgment of an insurer's management causes it to believe that a valuation of common stock of a subsidiary pursuant to WAC 284-16-170 is inappropriate, it may value such stock on one of the following bases:

(1) "Book value," provided, however, that the common stock of a noninsurance company may not be valued on the basis of this subsection, and further provided that an insurer may value its holdings of stock in a subsidiary insurer at acquisition cost if acquisition cost is less than market or book value.

(2) One of the following bases appropriate to each type of subsidiary owned by it, provided, however, that an insurer shall not be required to value the stock of all its subsidiaries on the same basis:

(a) Subject to the limitations imposed under WAC 284-16-190, the net worth of a noninsurance company determined in accordance with generally accepted accounting principles, as of the end of its most recent fiscal year, provided, subject to WAC 284-16-200, that the financial statements of the company for its most recent fiscal year have been audited by an independent certified public accountant in accordance with generally accepted auditing standards. The common stock of an insurance company may not be valued under this subsection.

(b) Subject to the limitations imposed under WAC 284-16-190, a value equal to the cost of the common stock of the subsidiary, provided such value is determined and adjusted to reflect subsequent operating results, in the case of insurance companies in accordance with statutory accounting requirements, and for other than insurance companies in accordance with generally accepted accounting principles.

(c) The market value of the common stock of the subsidiary, if the stock is listed on a national securities exchange.

(d) The value, if any, placed on the common stock of such subsidiary by the National Association of Insurance Commissioners.

(e) Any other value which the insurer can substantiate to the satisfaction of the commissioner as being a reasonable value.

AMENDATORY SECTION (Amending Order R 76-7, filed 11/30/76)

WAC 284-16-190 Limitation on values. (1) With respect to values determined under WAC 284-16-180 (2)(a) or (b), amounts attributable to "good will," and other intangibles shall not in the aggregate (of all direct and indirect subsidiaries) exceed (either initially on acquisition of a subsidiary, or thereafter), 10% of the capital and surplus of an insurer, as reported in its next preceding annual statement. Such amounts shall be written off over a period not in excess of ten years, written down for any other than temporary decline of the fair value of an investment as a subsidiary, or other adjustments in accordance with the NAIC statements of statutory accounting principles.

(2) For purposes of this section, "good will" shall be defined as the amount arising at a given point in time, resulting from an arm's-length transaction involving the transfer of a business, representing the difference between the value of the consideration given and the net asset value of the properties acquired on the books of the predecessor company.

(3) Where warranted in exceptional cases, the commissioner may require a more rapid write-off of good will than is otherwise provided in this section.

WSR 18-22-010

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-305—Filed October 25, 2018, 1:32 p.m., effective November 25, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changes to WAC 220-330-040 would revise the date when recreational anglers can use pot gear in coastal Marine Area 2-1 (Willapa Bay). Currently, the recreational fishery using pot gear is open from December 1 through September 15. This change would allow recreational pot gear to be used two weeks earlier, starting on November 15. This change would not affect the recreational Dungeness crab fishery in the Columbia River where pot gear is already allowed year round.

Citation of Rules Affected by this Order: Amending WAC 220-330-040 Crab—Areas and seasons—Personal use.

Statutory Authority for Adoption: RCW 77.040.020 [77.04.020], 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 18-16-011 on July 23, 2018.

Changes Other than Editing from Proposed to Adopted Version: The geographic scope of the proposed rule change is limited to Willapa Bay only rather than all coastal marine

areas excluding the Columbia River as described in the proposed rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 15, 2018.

Brad Smith, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-330-040 Crab—Areas and seasons—Personal use. (1) It is unlawful to fish for or possess crab taken for personal use from Puget Sound except during the following seasons:

(a) Marine Area 4 east of the Bonilla-Tatoosh line, and Areas 5, 6, 8-1, 8-2, 9, 10, 11, 12, and 13: Open 7:00 a.m., July 1 through Labor Day, Thursday through Monday of each week.

(b) Those waters of Marine Area 7 south and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence true west to the international boundary and south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Open 7:00 a.m., July 15 through September 30, Thursday through Monday of each week.

(c) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Open 7:00 a.m. August 15 through September 30, Thursday through Monday of each week.

(2) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear from Marine Areas 1, 2, 3, and Area 4 west of the Bonilla-Tatoosh line except during the period from December 1 through September 15, except that it is lawful to fish for or possess crab taken for personal use

with shellfish pot gear from Marine Area 2-1 (Willapa Bay) from November 15 through September 15. Open to gear other than shellfish pot gear year-round.

(3) The Columbia River upstream from a line projected from the outermost end of the north jetty to the exposed end of the south jetty is open to crab fishing for personal use year-round.

(4) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(5) Violation of this section is a misdemeanor, punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty.

WSR 18-22-012

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed October 25, 2018, 1:52 p.m., effective November 25, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule clarifies the consumer's tax measure under circumstances where the consumer is the first person in possession of any nonexempt hazardous substance or where the consumer is the first person who must pay the tax upon substances previously possessed in this state.

Citation of Rules Affected by this Order: Amending WAC 458-20-252.

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

Other Authority: Chapter 82.21 RCW.

Adopted under notice filed as WSR 18-15-023 on July 10, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 25, 2018.

Erin T. Lopez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-01-155, filed 12/21/16, effective 1/21/17)

WAC 458-20-252 Hazardous substance tax. (1) Introduction. Under chapter 82.21 RCW (referred to in this rule as the "law"), a hazardous substance tax is imposed upon the wholesale value of certain substances and products, with specific credits and exemptions provided. The tax is an excise tax upon the privilege of possessing hazardous substances or products in this state.

(a) Chapter 82.21 RCW defines certain specific substances as being hazardous and includes other substances by reference to federal legislation governing such things. It also provides authority to the director of the state department of ecology to designate by rule any other substance or product as hazardous that could present a threat to human health or the environment. (Chapter 173-342 WAC.)

(b) Chapter 82.21 RCW is administered exclusively under this rule. The law relates exclusively to the possession of hazardous substances and products. The law does not relate to waste, releases or spills of any materials, cleanup, compensation, or liability for such things, nor does tax liability under the law depend upon such factors. The incidence or privilege that incurs tax liability is simply the possession of the hazardous substance or product, whether or not such possession actually causes any hazardous or dangerous circumstance.

(c) The hazardous substance tax is imposed upon any possession of a hazardous substance or product in this state by any person who is not expressly exempt of the tax. However, it is the intent of the law that the economic burden of the tax should fall upon the first such possession in this state. Therefore, the law provides that if the tax has not been paid upon any hazardous substance or product the department of revenue may collect the tax from any person who has had possession. The amount of tax paid then constitutes a debt owed by the first person having had taxable possession to the person who pays the tax.

(2) Definitions. For purposes of this rule the following definitions apply.

(a) "Tax" means the hazardous substance tax imposed under chapter 82.21 RCW.

(b) "Hazardous substance" means:

(i) Any substance that, on March 1, 2002, is a hazardous substance under section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Sec. 9601(14), as amended by Public Law 99-499 on October 17, 1986, except that hazardous substance does not include the following non-compound metals when in solid form in a particle larger than one hundred micrometers (0.004 inches) in diameter: Antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc. These substances consist of chemicals and elements in their purest form. A CERCLA substance that contains water is still considered pure. Combinations of CERCLA substances as ingredients together with nonhazardous substances will not be taxable unless the end product is specifically designated as a hazardous substance by the department of ecology;

(ii) Petroleum products (further defined below);

(iii) Pesticide products required to be registered under section 136a of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. Sec. 136 et seq., as amended by Public Law 104-170 on August 3, 1996; and

(iv) Anything else enumerated as a hazardous substance in chapter 173-342 WAC by the department of ecology.

(c) "Product(s)" means any item(s) containing a combination of ingredients, some of which are hazardous substances and some of which are not hazardous substances.

(d) "Petroleum product" means any plant condensate, lubricating oil, crankcase motor oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual fuel, asphalt base, liquefied or liquefiable gases, such as butane, ethane and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

The term "derived from the refining of crude oil" as used herein, means produced because of and during petroleum processing. "Petroleum processing" includes all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to crude oil or any byproduct of crude oil so that as a result thereof a fuel or lubricant is produced for sale or commercial or industrial use. "Fuel" includes all combustible gases and liquids suitable for the generation of energy. The term "derived from the refining of crude oil" does not mean petroleum products that are manufactured from refined oil derivatives, such as petroleum jellies, cleaning solvents, asphalt paving, etc. Such further manufactured products become hazardous substances only when expressly so designated by the director of the department of ecology in chapter 173-342 WAC.

(e) "Possession" means control of a hazardous substance located within this state and includes both actual and constructive possession.

(i) "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(ii) "Actual possession" occurs when the person with control has physical possession.

(iii) "Constructive possession" occurs when the person with control does not have physical possession.

(f) "Previously taxed hazardous substance" means a hazardous substance upon which the tax has been paid and which has not been remanufactured or reprocessed in any manner.

(i) Remanufacturing or reprocessing does not include the mere repackaging or recycling for beneficial reuse. Rather, these terms embrace activities of a commercial or industrial nature involving the application of skill or labor by hand or machinery so that as a result, a new or different substance or product is produced.

(ii) "Recycling for beneficial reuse" means the recapturing of any used substance or product, for the sole purpose of extending the useful life of the original substance or product in its previously taxed form, without adding any new, different, or additional ingredient or component.

(iii) Example: Used motor oil drained from a crankcase, filtered, and containerized for reuse is not remanufactured or reprocessed. If the tax was paid on possession of the oil before use, the used oil is a previously taxed substance.

(iv) Possessions of used hazardous substances by persons who merely operate recycling centers or collection sta-

tions and who do not reprocess or remanufacture the used substances are not taxable possessions.

(g) "Wholesale value" is the tax measure or base. It means the fair market value determined by the wholesale selling price.

In cases where no sale has occurred, wholesale value means the fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character. In such cases the wholesale value shall be the "value of the products" as determined under the alternate methods set forth in WAC 458-20-112.

(h) "Selling price" means consideration of any kind expressed in terms of money paid or delivered by a buyer to a seller, without any deductions for any costs whatsoever. Bona fide discounts actually granted to a buyer result in reductions in the selling price rather than deductions.

(i) "State," for purposes of the credit provisions of the hazardous substance tax, means:

(i) The state of Washington.

(ii) States of the United States or any political subdivisions of such other states.

(iii) The District of Columbia.

(iv) Territories and possessions of the United States.

(v) Any foreign country or political subdivision thereof.

(j) "Person" means any natural or artificial person, including a business organization of any kind, and has the further meaning defined in RCW 82.04.030.

The term "natural person," for purposes of the tax exemption in subsection (4)(b) of this rule regarding substances used for personal or domestic purposes, means human beings in a private, as opposed to a business sense.

(k) Except as otherwise expressly defined in this rule, the definitions of terms provided in chapters 82.04, 82.08, and 82.12 RCW apply equally for this rule. Other terms not expressly defined in these chapters or this rule are to be given their common and ordinary meanings.

(3) Tax rate and measure. The tax is imposed upon the privilege of possessing a hazardous substance in this state. The tax rate is seven tenths of one percent (.007). The tax measure or base is the wholesale value of the substance, as defined in this rule.

(4) Exemptions. The following are expressly exempt from the tax:

(a) Any successive possessions of any previously taxed hazardous substances are tax exempt.

(i) Any person who possesses a hazardous substance that has been acquired from any other person who is registered with the department of revenue and doing business in this state may take a written statement certifying that the tax has been previously paid. Such certifications must be taken in good faith and must be in the form provided in subsection (14) of this rule. Blanket certifications may be taken, as appropriate, which must be renewed at intervals not to exceed four years. These certifications may be used for any single hazardous substance or any broad classification of hazardous substances, e.g., "all chemicals."

(ii) In the absence of taking such certifications, the person who possesses any hazardous substance must retain proofs that it purchased or otherwise acquired the substance

from a previous possessor in this state. It is not necessary for subsequent possessors to obtain certificates of previously taxed hazardous substances in order to perfect their tax exemption. Documentation that establishes any evidence of previous tax payment by another person will suffice. This includes invoices or billings from in-state suppliers that reflect their payment of the tax or simple bills of lading or delivery documents revealing an in-state source of the hazardous substances.

(iii) This exemption for taxes previously paid is available for any person in successive possession of a taxed hazardous substance even though the previous payment may have been satisfied by the use of credits or offsets available to the previous person in possession.

(iv) Example. Company A brings a substance into this state upon which it has paid a similar hazardous substance tax in another state. Company A takes a credit against its Washington tax liability in the amount of the other state's tax paid. It then sells the substance to Company B, and provides Company B with a certificate of previously taxed substance. Company B's possession is tax exempt even though Company A has not directly paid Washington's tax but has used a credit against its Washington liability.

(b) Any possession of a hazardous substance by a natural person for use of a personal or domestic nature, rather than a business nature, is tax exempt.

(i) This exemption extends to relatives, as well as other natural persons who reside with the person possessing the substance, and also to regular employees of that person who use the substance for the benefit of that person.

(ii) This exemption does not extend to possessions by any independent contractors hired by natural persons, which contractors themselves provide the hazardous substance.

(iii) Examples: Possessions of spray materials by an employee-gardener or soaps and cleaning solvents by an employee-domestic servant, when such substances are provided by the natural person for whose domestic benefit such things are used, are tax exempt. Also, possessions of fuel by private persons for use in privately owned vehicles are tax exempt.

(c) Any possession of any hazardous substance, other than pesticides or petroleum products, possessed by a retailer for making sales to consumers, in an amount that is determined to be "minimal" by the department of ecology. That department has determined that the term "minimal" means less than \$1,000.00 worth of such hazardous substances measured by their wholesale value, possessed during any calendar month.

(d) Possessions of alumina or natural gas are tax exempt.

(e) Persons or activities that the state is prohibited from taxing under the United States Constitution are tax exempt.

(i) This exemption extends to the U.S. government, its agencies and instrumentalities, and to any possession the taxation of which has been expressly reserved or preempted under the laws of the United States.

(ii) The tax will not apply with respect to any possession of any hazardous substance purchased, extracted, produced or manufactured outside this state that is shipped or delivered into this state until the interstate transportation of such substance has finally ended in this state. Thus, out-of-state sell-

ers or producers need not pay the tax on substances shipped directly to customers in this state. The customers must pay the tax upon their first possession unless otherwise expressly exempt.

(iii) Out-of-state sellers or producers will be subject to tax upon substances shipped or delivered to warehouses or other in-state facilities owned, leased, or otherwise controlled by them.

(iv) However, the tax will not apply with respect to possessions of substances that are only temporarily stored or possessed in this state in connection with through, interstate movement of the substances from points of origin to points of destination both of which are outside of this state.

(f) The former exemption for petroleum products for export sale or use outside this state as fuel was effectively repealed by I-97. There are no exemptions under the law for any possessions of hazardous substances in this state simply because such substances may later be sold or used outside this state.

(g) Any possession of an agricultural crop protection product that is solely for use by a farmer or certified applicator as an agricultural crop protection product and is warehoused in this state or transported to or from this state is tax exempt, provided that the person possessing the product does not use, manufacture, package for sale, or sell the product in this state. The following definitions apply throughout this subsection unless the context clearly requires otherwise.

(i) "Agricultural crop protection product" means a chemical regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 as amended as of September 1, 2015, when used to prevent, destroy, repel, mitigate, or control predators, diseases, weeds, or other pests.

(ii) "Certified applicator" has the same meaning as provided in RCW 17.21.020.

(iii) "Farmer" has the same meaning as in RCW 82.04-213.

(iv) "Manufacturing" includes mixing or combining agricultural crop protection products with other chemicals or other agricultural crop protection products.

(v) "Package for sale" includes transferring agricultural crop protection products from one container to another, including the transfer of fumigants and other liquid or gaseous chemicals from one tank to another.

(vi) "Use" has the same meaning as in RCW 82.12.010.

(5) Credits. There are three distinct kinds of tax credits against liability that are available under the law.

(a) A credit may be taken by any manufacturer or processor of a hazardous substance produced from ingredients or components that are themselves hazardous substances, and upon which the hazardous substance tax has been paid by the same person or is due for payment by the same person.

(i) Example. A manufacturer possesses hazardous chemicals that it combines to produce an acid which is also designated as a hazardous substance or product. When it reports the tax upon the wholesale value of the acid it may use a credit to offset the tax by the amount of tax it has already paid or reported upon the hazardous chemical ingredients or components. In this manner the intent of the law to tax hazardous substances only once is fulfilled.

(ii) Under circumstances where the hazardous ingredient and the hazardous end product are both possessed by the same person during the same tax reporting period, the tax on the respective substances must be computed and the former must be offset against the latter so that the tax return reflects the tax liability after the credit adjustment.

(iii) This credit may be taken only by manufacturers who have the first possession in this state of both the hazardous ingredients and the hazardous end product.

(b) A credit may be taken in the amount of the hazardous substance tax upon the value of fuel that is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(i) The credit may be claimed only for the amount of tax reported or actually due to be paid on the fuel, not the amount representing the value of the fuel.

(ii) The purpose of this credit is to exclude from taxation any possessions of fuel that remains in the fuel tanks of any carrier vehicles powered by such fuel when they leave this state, regardless of where or from whom such fuel-in-tanks was acquired.

(iii) The nature of this credit is such that it generally has application only for interstate and foreign private or common carriers that carry fuel into this state and/or purchase fuel in this state. The intent is that the tax will apply only to so much of such fuel as is actually consumed by such carriers within this state.

(iv) In order to equitably and efficiently administer this tax credit, any fuel that is brought into this state in carrier vehicle fuel tanks must be accounted for separately from fuel that is purchased in this state for use in such fuel tanks. Formulas approved by the department of revenue for reporting the amount of fuel consumed in this state for purposes of this tax or other excise tax purposes will satisfy the separate accounting required under this subsection.

(v) Fuel-in-tanks brought into this state must be fully reported for tax and then the credit must be taken in the amount of such fuel that is taken back out of this state. This is to be done on the same periodic excise tax return so that the net effect is that the tax is actually paid only upon the portion of fuel consumed here.

(vi) The credit for fuel-in-tanks purchased in this state must be accounted for by using a fuel-in-tanks credit certificate in substantially the following form:

**Certificate of Credit for Fuel Carried
from this State in Fuel Tanks**

I hereby certify that the petroleum products specified herein, purchased by or transferred to the undersigned, from (name of seller or transferor), are entitled to the credit for fuel that is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle operated by a private or common carrier in interstate or foreign commerce. I will become liable for and pay the taxes due upon all or any part of such fuel that is not so carried from this state. This certification is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No.
 (if applicable)

Type of Business

Firm Name

Business Address

Registered Name

(if different)

Tax Reporting Agent

(if applicable)

Authorized Signature

Title

Identity of Fuel

(kind and amount by volume)

Date:

(vii) This certificate may be executed and provided to any possessor of fuel in this state, throughout the chain of distribution, with respect to fuel that ultimately will be sold and delivered into any carrier's fuel tanks in this state. Thus, refiners or manufacturers will take such certificates directly from carriers or from their wholesale purchasers who will sell to such carriers. Similarly, fuel dealers and distributors will take such certificates from carriers to whom they sell such fuel. These certificates must be retained as a permanent part of such seller's business records.

(viii) Persons who execute and provide these credit certificates to their fuel suppliers must retain suitable purchase and sales records as may be necessary to determine the amount of tax for which such persons may be liable.

(ix) Blanket certificates may be used to cover recurrent purchases of fuel by the same purchaser. Such blanket certificates must be renewed every two years.

(c) A credit may be taken against the tax owed in this state in the amount of any other state's hazardous substance tax that has been paid by the same person measured by the wholesale value of the same hazardous substance.

(i) In order for this credit to apply, the other state's tax must be significantly similar to Washington's tax in all its various respects. The taxable incident must be possessing the substance; the tax purpose must be that the substance is hazardous; and the tax measure must be stated in terms of the wholesale value of the substance, without deductions for costs of doing business, such that the other state's tax does not constitute an income tax or added value tax.

(ii) This credit may be taken for the amount of any other state's qualifying tax that has actually been paid before Washington state's tax is incurred because the substance was previously possessed by the same person in another taxing jurisdiction.

(iii) The amount of credit is limited to the amount of tax paid in this state upon possession of the same hazardous substance in this state. Also, the credit may not be applied against any tax paid or owed in this state other than the hazardous substance tax imposed under chapter 82.21 RCW.

(iv) Exchange agreements under which hazardous substances or products possessed in this state are exchanged through any accounts crediting system with like substances possessed in other states do not qualify for this credit. The

substance taxed in another state, and for which this credit is sought, must be actually, physically possessed in this state.

(v) Persons claiming this credit must maintain records necessary to verify that the credit taking qualifications have been met. Additional information regarding recordkeeping requirements is provided in WAC 458-20-19301. The department of revenue will publish an excise tax bulletin listing other states' taxes that qualify for this credit.

(6) Newly defined hazardous substances. Under chapter 82.21 RCW the director of the department of ecology may identify and designate other substances or products as being hazardous substances for purposes of the tax. The director of the department of ecology may also delete substances or products previously designated as hazardous substances. Such actions are done by amending chapter 173-342 WAC.

(a) The law allows the addition or deletion of substances or products as hazardous substances by rule amendments, no more often than twice in any calendar year.

(b) When such additions or deletions are made, they do not take effect for tax purposes until the first day of the following month that is at least thirty days after the effective date of rule amendment by the department of ecology.

(i) Example. The department of ecology amends chapter 173-342 WAC by adding a new substance and the effective date of the amendment is June 15th. Possession of the substance does not become taxable until August 1st.

(ii) The tax is owed by any person who has possession of the newly designated hazardous substance upon the tax effective date as explained herein. It is immaterial that the person in possession on that date was not the first person in possession of the substance in this state before it was designated as hazardous.

(7) Recurrent tax liability. It is the intent of the law that all hazardous substances possessed in this state should incur this tax liability only once unless they are expressly exempt. This is true of hazardous ingredients of products as well as the manufactured end product itself, if designated as a hazardous substance. The *exemption* for previously taxed hazardous substances does not apply to "products" that have been manufactured or remanufactured simply because an ingredient or ingredients of that product may have already been taxed when possessed by the manufacturer. Instead of an exemption, manufacturers in possession of both the hazardous ingredient(s) and end product(s) should use the *credit* provision explained at subsection (5)(a) of this rule.

(a) However, the term "product" is defined to mean only an item or items that contain a combination of both hazardous substance(s) and nonhazardous substance(s). The term does not include combinations of only hazardous substances. Thus, possessions of substances produced by combining other hazardous substances upon all of which the tax has previously been paid will not again be taxable.

(b) When any hazardous substance(s) is first produced during and because of any physical combination or chemical reaction that occurs in a manufacturing or processing activity, the intermediate possession of such substance(s) within the manufacturing or processing plant is not considered a taxable possession if the substance(s) becomes a component or ingredient of the product being manufactured or processed or is

otherwise consumed during the manufacturing or processing activity.

However, when any intermediate hazardous substance is first produced during a manufacturing or processing activity and is withdrawn for sale or transfer outside of the manufacturing or processing plant, a taxable first possession occurs.

(c) Concentrations or dilutions for shipment or storage. The mere addition or withdrawal of water or other nonhazardous substances to or from hazardous substances designated under CERCLA or FIFRA for the sole purpose of transportation, storage, or the later manufacturing use of such substances does not result in any new hazardous product.

(8) How and when to pay tax. The tax must be reported on a special line of the combined excise tax return designated "hazardous substances." It is due for payment together with the timely filing of the return upon which it is reported, covering the tax reporting period during which the hazardous substance(s) is first possessed within this state. Any person who is not expressly exempt of the tax and who possesses any hazardous substance in this state, without having proof that the tax has previously been paid on that substance, must report and pay the tax.

(a) It may be that the person who purchases a hazardous substance will not have billing information from which to determine the wholesale value of the substance when the tax return for the period of possession is due. In such cases the tax is due for payment no later than the next regular reporting due date following the reporting period in which the substance(s) is first possessed.

(b) The taxable incident or event is the possession of the substance. Tax is due for payment by the purchaser of any hazardous substance whether or not the purchase price has been paid in part or in full.

(c) Special provision for manufacturers, refiners, and processors. Manufacturers, refiners, and processors who possess hazardous substances are required to report the tax and take any available exemptions and credits only at the time that such hazardous substances are withdrawn from storage for purposes of their sale, transfer, remanufacture, or consumption.

(9) How and when to claim credits. Credits should be claimed and offset against tax liability reported on the same excise tax return when possible. The tax return form provides a line for reporting tax on hazardous substances and a line for taking credits as an offset against the tax reported. It is not required that any documents or other evidences of entitlement to credits be submitted with the report. Such proofs must be retained in permanent records for the purpose of verification of credits taken.

(10) Special provision for consumer/first possessors. Under circumstances where the consumer is the first person in possession of any nonexempt hazardous substance (e.g., substances imported by the consumer), or where the consumer is the person who must pay the tax upon substances previously possessed in this state (fuel purchased for export in fuel tanks) the consumer's tax measure will be ~~((eighty percent of its retail purchase price. This provision is intended to achieve a tax measure equivalent to))~~ the wholesale value determined as nearly as possible according to the wholesale

selling price at the place of use of similar substances of like quality and character.

(11) Hazardous substances or products on consignment. Consignees who possess hazardous substances or products in this state with the power to sell such things, in their own name or on behalf of a disclosed or undisclosed consignor are liable for payment of the tax. The exemption for previously taxed substances is available for such consignees only if the consignors have paid the tax and the consignee has retained the certification or other proof of previous tax payment referred to in subsection (4)(a)(i) and (ii) of this rule. Possession of consigned hazardous substances by a consignee does not constitute constructive possession by the consignor.

(12) Hazardous substances untraceable to source. Various circumstances may arise whereby a person will possess hazardous substances in this state, some of which have been previously taxed in this or other states and some of which may not. In such cases formulary tax reporting may be used, only upon a special ruling by the department of revenue.

Example. Fungible petroleum products from sources both within and outside this state are commingled in common storage facilities. Formulary reporting is appropriate based upon volume percentages reflecting the ratio of in-state production to out-of-state production or other form of acquisition.

(13) Administrative provisions. The provisions of chapter 82.32 RCW regarding due dates, reporting periods, tax return requirements, interest and penalties, tax audits and limitations, disputes and appeals, and all such general administrative provisions apply equally to the hazardous substance tax. Special requested rulings covering unique circumstances generally will be issued within sixty days from the date upon which complete information is provided to the department of revenue.

(14) Certification of previously taxed hazardous substance. Certification that the hazardous substance tax has already been paid by a person previously in possession of the substance(s) may be taken in substantially the following form:

I hereby certify that this purchase -
all purchases of
(omit one)
..... by
(identify substance(s) purchased) (name of purchaser)
who possesses registration no.
(buyer's number, if registered)

consists of the purchase of hazardous substance(s) or product(s) upon which the hazardous substance tax has been paid in full by a person previously in possession of the substance(s) or product(s) in this state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion, and with the full knowledge and agreement that the undersigned hereby assumes any liability for hazardous substance tax which has not been previously paid because of possession of the hazardous substance(s) or product(s) identified herein.

..... The registered seller named below personally paid the tax upon possession of the hazardous substances.

..... A person in possession of the hazardous substances prior to the possession of the registered seller named below paid the tax.

(Check the appropriate line.)

Name of registered seller Registration No.
 Firm name Address
 Type of business
 Authorized signature Title
 Date

WSR 18-22-021
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 26, 2018, 9:44 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The department is amending WAC 388-478-0015 Need standards for cash assistance, to revise the basic need standards for cash programs. These changes, effective January 1, 2019, are required annually by RCW 74.04.770.

Citation of Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090.

Adopted under notice filed as WSR 18-18-075 on September 4, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 25, 2018.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-01-040, filed 12/12/17, effective 1/12/18)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with an obligation to pay shelter costs:

Assistance unit size	Need standard
1	\$((1,388)) <u>1,460</u>
2	((1,756)) <u>1,848</u>
3	((2,168)) <u>2,281</u>
4	((2,558)) <u>2,692</u>
5	((2,948)) <u>3,102</u>
6	((3,339)) <u>3,513</u>
7	((3,859)) <u>4,060</u>
8	((4,271)) <u>4,494</u>
9	((4,683)) <u>4,927</u>
10 or more	((5,095)) <u>5,360</u>

(2) For assistance units with shelter provided at no cost:

Assistance unit size	Need standard
1	\$((643)) <u>659</u>
2	((813)) <u>833</u>
3	((1,004)) <u>1,029</u>
4	((1,185)) <u>1,214</u>
5	((1,365)) <u>1,399</u>
6	((1,546)) <u>1,585</u>
7	((1,787)) <u>1,832</u>
8	((1,978)) <u>2,027</u>
9	((2,169)) <u>2,223</u>
10 or more	((2,359)) <u>2,418</u>

WSR 18-22-024
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed October 26, 2018, 10:04 a.m., effective November 26, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the amendments are to make technical corrections, update the school improvement goal process to align to Washington state's consolidated plan, clarify definitions, and describe the process for setting school improvement goals.

Citation of Rules Affected by this Order: Amending WAC 180-105-020, 180-105-040, and 180-105-060.

Statutory Authority for Adoption: RCW 28A.305.130.

Adopted under notice filed as WSR 18-11-108 on May 21, 2018.

Changes Other than Editing from Proposed to Adopted Version: Proposed WAC 180-105-040 (7)(a) referenced required state assessments by referring to them as "assessments of student learning" in the proposed rules. Upon receiving written public comment that this could be interpreted as an outdated reference to the Washington assessment of student learning, a prior assessment that was required in Washington state, the state board of education staff changed the term to "required state assessments" in the final rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 11, 2018.

Randy Spaulding
Executive Director

AMENDATORY SECTION (Amending WSR 07-07-052, filed 3/14/07, effective 4/14/07)

WAC 180-105-020 (~~Reading and mathematics~~)
Performance improvement goals. ((1) Each school district board of directors shall by December 15, 2003:

(a) Adopt district-wide performance improvement goals using the federal requirements to determine the increase in the percentage of students who meet or exceed the standard on the Washington assessment of student learning for reading and mathematics in grades four, seven, and ten; and

(b) Direct each school in the district that administers the Washington assessment of student learning for grade four, seven, or ten to adopt performance improvement goals using the federal requirements to determine the increase in the percentage of students meeting the standard for its fourth, seventh, or tenth grade students in reading and mathematics.

(2) School districts and schools shall establish separate district-wide and school reading and mathematics improvement goals using the federal requirements to determine the increase in requirements under subsection (1) of this section for each of the following groups of students:

- (a) All students;
- (b) Students of each major racial and ethnic group;
- (c) Economically disadvantaged students;
- (d) Students with disabilities; and
- (e) Students with limited English proficiency.

(3) School districts and schools are not required to publish numerical improvement goals in a grade level for reading and mathematics for 2004 or in any year thereafter for any student group identified in subsection (2) of this section in which there were fewer than ten students eligible to be assessed on the Washington assessment of student learning in the prior year. However, this subsection shall not be construed to affect WAC 180-16-220(2)(b) or any other requirements for school and school district improvement plans.

(4) Annual performance improvement goals for both school districts and schools shall be determined:

(a) By using the starting point and annual goals established using the federal requirements for determining starting

points in the 2003 Washington State No Child Left Behind (NCLB) Accountability Plan.

(b) If the performance improvement goals established by using the federal requirements to determine the increase for assessments administered in the spring of 2003 and each year thereafter through and including assessments administered in the spring of 2013 are not met, but the other indicator is met [the other indicator for high schools is the graduation goal (WAC 180-105-040(4)) and the other indicator for elementary and middle schools is the unexcused absences goal (Washington State Accountability System under NCLB 2001)] then a substitute calculation may be made. That substitute calculation representing satisfactory progress shall not be less than the sum of:

(i) The percentage of students meeting standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject; and

(ii) The percentage of students who did not meet standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject, multiplied by ten percent.

(e) The performance improvement goals for assessments administered in the spring of 2014 shall be that all students eligible to be assessed meet standard on the Washington assessment of student learning.

(5) School districts and schools shall be deemed to have met the performance improvement goals established pursuant to this chapter if the school district or school achieves the minimum improvement goal required under subsection (4) of this section, even if the school district or school does not achieve the performance improvement goals established by using the federal requirements to determine the increase.

(6) No performance improvement goal for a group in a subject and grade established pursuant to this section shall be used for state or federal accountability purposes if fewer than thirty students in the group for a subject and grade are eligible to be assessed on the Washington assessment of student learning.) (1) As part of the district and school improvement plan required in WAC 180-16-220 each school district board of directors shall by September 1, 2019, and annually thereafter:

(a) Adopt district-wide performance improvement goals for the measures included in the Washington school improvement framework.

(b) Direct each school in the district that enrolls students in grades three through eight and/or high school to establish goals to increase the measures included in the Washington school improvement framework consistent with state and district goals.

(2) School districts and schools shall establish separate district-wide and school English language arts and mathematics improvement goals using the federal requirements to determine the increase in requirements under subsection (1) of this section for the all students group and each of the groups of students required under the federal requirements.

(3) School districts and schools are not required to publish numerical improvement goals in a grade level or student group referenced in subsection (2) of this section for any year in which there were fewer than the minimum number of reportable students identified in the Washington accountabil-

ity plan approved by the U.S. Department of Education. However, this subsection shall not be construed to affect WAC 180-16-220 (2)(b) or any other requirements for school and school district improvement plans.

AMENDATORY SECTION (Amending WSR 05-15-036, filed 7/11/05, effective 7/11/05)

WAC 180-105-040 Definitions. ((As used in Title 3 WAC:

(1) "High school" means a public school in the state enrolling students in any of grades nine through twelve.

(2) "Graduation rate" means the percentage of students who receive a regular high school diploma within four academic years of having enrolled for the first time as ninth grade students. Students who transfer to another school less than four academic years after initial enrollment in the ninth grade shall not be included in the calculation of the graduation rate for the school from which the student transfers. Students who become deceased shall not be included in the calculation of the graduation rate for the school last attended. Students who earn a regular high school diploma after their four academic years will be included in additional calculations and reports for the year a regular high school diploma is completed.

(3) "Graduation rate goal" means the expected minimum graduation rate reported in a particular year for the prior year's graduating class. For example, the graduation rate goal for 2006 relates to students in the class of 2005.

(4) "Graduating class" or "class of" or "cohort" of any particular year means the group of students who are scheduled to graduate in that particular year after having completed grades nine through twelve in four or fewer academic years.))

(1) "High school" means a public school in the state enrolling students in any of grades nine through twelve.

(2) "Graduation rate" means the four-year adjusted cohort graduation rate expressed as the percentage of students who receive a regular high school diploma within four academic years of having enrolled for the first time as ninth grade students. Students who transfer to another school less than four academic years after initial enrollment in the ninth grade shall not be included in the calculation of the graduation rate for the school from which the student transfers. Students who become deceased shall not be included in the calculation of the graduation rate for the school last attended. Students who earn a regular high school diploma after their four academic years will be included in additional calculations and reports for the year a regular high school diploma is completed.

(3) "Performance improvement goals" means the long-term goals described in the Washington accountability plan approved by the U.S. Department of Education for the academic achievement indicator, high school graduation indicator, and English learner progress indicator.

(4) "School and school district improvement plans" means the data-driven plan for the district and each school described and required under WAC 180-16-220 that promotes a positive impact on student learning and includes a continuous improvement process.

(5) "Federal requirements" means the accountability and other requirements specified by the U.S. Department of Education in the Elementary and Secondary Education Act of 1965, as amended.

(6) "Washington school improvement framework" or "WSIF" means the system of school differentiation described in the Washington accountability plan approved by the U.S. Department of Education as meeting federal requirements. The framework methodology establishes a summative score for the all students group and the reportable student groups specified in WAC 180-105-020(2) from up to five indicators broadly categorized as academic achievement, student academic growth, English learner progress, high school graduation, and school quality or student success.

(7) "Washington school improvement framework indicators" includes the following indicators:

(a) "Academic achievement indicator" means the measure of the percentage of students who are proficient on the required state assessments in reading/English language arts and mathematics included as part of the system of differentiation described in the Washington accountability plan approved by the U.S. Department of Education.

(b) "Student growth indicator" means a measure of academic growth or academic improvement derived from the required state assessments included as part of the system of differentiation described in the Washington accountability plan approved by the U.S. Department of Education.

(c) "High school graduation indicator" means the graduation rate and adjustments if any included as part of the system of differentiation described in the Washington accountability plan approved by the U.S. Department of Education. This indicator only applies to high schools as defined in subsection (3) of this section.

(d) "English learner progress indicator" means a measure of the progress in achieving English language proficiency for English learners included as part of the system of differentiation as described in the Washington accountability plan approved by the U.S. Department of Education.

(e) "School quality or student success indicator" means the measure or combination of measures of student engagement and school climate included as part of the system of differentiation described in the Washington accountability plan approved by the U.S. Department of Education.

(i) "Regular school attendance" is a measure of school quality or student success in the Washington school improvement framework. The measure is the percentage of students at a school who had fewer than eighteen full-day absences (ten percent) during the school year.

(ii) "9th graders on track" is a measure of school quality or student success in the Washington school improvement framework. The measure is the percentage of first-time ninth graders at a school who pass all the credits attempted. This indicator only applies to high schools as defined in subsection (3) of this section.

(iii) "Advanced course-taking" is a measure of school quality or student success in the Washington school improvement framework. The measure is the percentage of all enrolled students (grades nine through twelve) who complete a dual credit course. This indicator only applies to high schools as defined in subsection (3) of this section.

AMENDATORY SECTION (Amending WSR 07-07-052, filed 3/14/07, effective 4/14/07)

WAC 180-105-060 ((High school graduation.) Establishing goals. ((1) Each school district board of directors shall by December 15, 2005, revise district-wide graduation rate goals for 2006 and each year thereafter and shall direct each high school in the district to revise graduation rate goals for 2006 and each year thereafter, subject to approval by the board.

(2) ~~The minimum graduation rate goals through 2013 shall be as follows for each of the nine groups of students listed in WAC 180-105-040(4):~~

(a) ~~Sixty-six percent in 2005, one percentage point above the previous year's goal from 2006 through 2009, and three percentage points above the previous year's goal in 2010 through 2013; or~~

(b) ~~For any student group whose graduation rate falls below sixty-six percent in 2005, the minimum goal for 2005 is two percentage points above that group's graduation rate in 2004, an additional two percentage points per year above the previous year's goal in 2006 through 2009, and an additional four percentage points per year above the previous year's goal in 2010 through 2013, until the rate for that group meets or exceeds the goal described in (a) of this subsection.~~

(3) ~~Graduation rate goals in 2014 and each year thereafter for each group of students listed in WAC 180-105-040(4) shall be not less than eighty-five percent.~~

(4) ~~School district boards of directors are authorized to adopt district-wide graduation rate goals and to approve high school graduation rate goals that exceed the minimum level required under this section. However, district-wide and high school graduation rate goals that exceed the minimum level required under this section shall not be used for federal or state accountability purposes.)~~ (1) Annual performance improvement goals for both school districts and schools established pursuant to WAC 180-105-020 shall be determined:

(a) Using the most recently available school improvement framework results as the starting point and annual increments to reach the goals outlined in (b) of this subsection.

(b) The performance improvement goals for assessments administered in the spring of 2027 shall be consistent with the goals outlined in the state consolidated plan. At a minimum schools and districts must include the following goals:

(i) Ninety percent of students eligible to be assessed meet standard on the required state assessments.

(ii) Graduation rate for all students, and each group of students referenced in WAC 180-105-020(2) shall be not less than ninety percent.

(iii) In the districts that administer the Washington English language proficiency assessment described in the Washington accountability plan approved by the U.S. Department of Education to adopt performance improvement goals using the federal requirements to determine the increase in the percentage of students making progress toward English language proficiency included in the Washington school improvement framework.

(c) Districts and schools shall establish goals for each of the Washington school improvement framework indicators

as defined in WAC 180-105-040(7) for all students and each group of students referenced in WAC 180-105-020(2).

(2) School district boards of directors are authorized to adopt district-wide and school goals that exceed the minimum level required under this section. However, district-wide and school goals that exceed the minimum level required under this section shall not be used for federal or state accountability purposes.

WSR 18-22-033

PERMANENT RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2018-03—Filed October 29, 2018, 1:51 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The health care authority (HCA) amends, recodifies, and repeals existing sections within chapter 182-16 WAC and adds new sections. The authority divides the chapter into three parts: Part I: General Provisions, Part II: Brief Adjudicative Proceedings, and Part III: Formal Administrative Hearings. The intent of these changes is to make the public employees benefits board (PEBB) appeals process easier for appellants to understand, to align with the Washington Administrative Procedures [Procedure] Act, and to improve resolution timelines.

Part II sets forth the rules that will govern the PEBB brief adjudicative proceeding process. The new process generally requires a presiding officer designated by the HCA director to issue an initial order within ten days of the appeal being received by the PEBB appeals unit. The rule also creates a second level of review in a brief adjudicative proceeding that will be completed by an internal review officer or officers designated by the HCA director and will result in a final order. Requests for review can be made orally to the PEBB appeals unit or by a written request within twenty-one days of the initial order. If no request for review is made within the twenty-one days, the initial order will become the final order without further action by HCA.

Where the issues and interests involved in an appeal warrant, a brief adjudicative proceeding can be converted from a brief adjudicative proceeding to a formal administrative hearing at any time by a presiding officer or a review officer or officers.

An appeal can also be converted to a formal administrative hearing when it is found that the use of the brief adjudicative proceeding violates any provision of law, when the protection of the public interest requires the authority to give notice and an opportunity to participate to persons other than the parties, or when the issues and interests involved in the controversy warrant the use of the procedures or RCW 34.05.413 through 34.05.479 that govern formal administrative hearings.

Part III governs the formal administrative hearings in conjunction with chapter 34.05 RCW. A hearing officer will preside over the formal administrative hearings. The hearing officer will issue a final order that can be appealed to superior court.

Citation of Rules Affected by this Order: New WAC 182-16-058, 182-16-120, 182-16-2000, 182-16-2005, 182-16-2010, 182-16-2020, 182-16-2030, 182-16-2040, 182-16-2050, 182-16-2060, 182-16-2070, 182-16-2080, 182-16-2085, 182-16-2090, 182-16-2100, 182-16-2105, 182-16-2110, 182-16-2120, 182-16-2130, 182-16-2140, 182-16-2150, 182-16-2160, 182-16-3000, 182-16-3005, 182-16-3010, 182-16-3015, 182-16-3030, 182-16-3080, 182-16-3090, 182-16-3100, 182-16-3110, 182-16-3120, 182-16-3130, 182-16-3140, 182-16-3160, 182-16-3170, 182-16-3180, 182-16-3190 and 182-16-3200; repealing WAC 182-16-025, 182-16-030, 182-16-032, 182-16-035, 182-16-036, 182-16-038, 182-16-040, 182-16-050, 182-16-052, 182-16-061, 182-16-062, 182-16-067, 182-16-070, 182-16-071, 182-16-072, 182-16-073, 182-16-080, 182-16-081, 182-16-082, 182-16-085, 182-16-090, 182-16-091, 182-16-092, 182-16-100, 182-16-105, 182-16-106 and 182-16-110; and amending WAC 182-16-010, 182-16-020, 182-16-055, 182-16-064, 182-16-066, and 182-16-130.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-19-088 on September 18, 2018.

Changes Other than Editing from Proposed to Adopted Version: The authority has decided to not make the proposed changes to the definition of LTD insurance in WAC 182-16-020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 39, Amended 6, Repealed 27.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 39, Amended 6, Repealed 27.

Date Adopted: October 29, 2019 [2018].

Wendy Barcus
Rules Coordinator

PART I

GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 17-19-077, filed 9/15/17, effective 1/1/18)

WAC 182-16-010 ~~((Appeals—Purpose and scope.))~~
Purpose. ~~((1) For WAC 182-16-025 through 182-16-040, the model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use by the authority in public employees benefits board (PEBB) benefits related pro-~~

~~ceedings. The model rules of procedure may be found in chapter 10-08 WAC. Other procedural rules adopted in chapters 182-08, 182-12, and 182-16 WAC are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and the procedural rules adopted in WAC 182-16-025 through 182-16-040, the procedural rules adopted by the health care authority (HCA) shall govern.~~

~~(2) WAC 182-16-050 through 182-16-110 describes the general rules and procedures that apply to an administrative hearing, requested under WAC 182-16-050, of a PEBB appeals committee decision.~~

~~(a) WAC 182-16-050 through 182-16-110 supplements the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules of procedure in chapter 10-08 WAC. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended are adopted for use in a hearing. In the case of a conflict between the model rules of procedure and the rules adopted in WAC 182-16-050 through 182-16-110, the rules adopted in WAC 182-16-050 through 182-16-110 shall prevail.~~

~~(b) If there is a conflict between WAC 182-16-050 through 182-16-110 and specific PEBB program rules, the specific PEBB program rules prevail. PEBB program rules are found in chapters 182-08 and 182-12 WAC.~~

~~(c) Nothing in WAC 182-16-050 through 182-16-110 is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if a hearing right exists, including the APA and program rules or laws.~~

~~(d) The hearing rules for the PEBB program in WAC 182-16-050 through 182-16-110 do not apply to any other HCA program.~~

~~(3) The definitions in WAC 182-16-020 apply throughout this chapter.) This chapter describes the general rules and procedures that apply to the authority's brief adjudicative proceedings and formal administrative hearings.~~

AMENDATORY SECTION (Amending WSR 17-19-077, filed 9/15/17, effective 1/1/18)

WAC 182-16-020 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Appellant" means a person or entity who requests a review by the PEBB appeals ~~((committee or an))~~ unit or a formal administrative hearing about the action of the HCA or its contracted vendor.

"Authority" or "HCA" means the Washington state health care authority.

"Brief adjudicative proceeding" means the process described in RCW 34.05.482 through 34.05.494.

"Business days" means all days except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Calendar days" or "days" means all days including Saturdays and Sundays.

"Continuance" means a change in the date or time of when a brief adjudicative proceeding or formal administrative hearing will occur.

"Contracted vendor" means any person, persons, or entity under contract or agreement with the HCA to provide goods or services for the provision or administration of PEBB benefits. The term "contracted vendor" includes subcontractors of the HCA and subcontractors of any person, persons, or entity under contract or agreement with the HCA that provide goods or services for the provision or administration of PEBB benefits.

"Denial" or "denial notice" means an action by, or communication from, either an employing agency, or the PEBB program that aggrieves a subscriber, a dependent, or an applicant, with regard to PEBB benefits including, but not limited to, actions or communications expressly designated as a "denial," "denial notice," or "cancellation notice."

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan (~~authorized in chapter 41.05 RCW~~) under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the Internal Revenue Code.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, electronic mail, electronic files, or other printed or written items.

"Employee" for the public employees benefits board program includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the

exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under RCW 41.05.011 or by the authority under this chapter.

"Employer-based group medical" means group medical related to a current employment relationship. It does not include medical coverage available to retired employees, individual market medical coverage, or government-sponsored programs such as medicare or medicaid.

"Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, educational service districts, and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority as described in WAC 182-08-245.

"Employing agency" for the public employees benefits board program means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; (~~charter school; or~~) and a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"File" or "filing" means the act of delivering documents to the office of the presiding (~~officer's office~~) officer, review officer, or hearing officer. A document is considered filed when it is received by the authority or its designee.

"Final order" means an order that is the final PEBB program decision.

"Formal administrative hearing" means a proceeding before a hearing officer that gives an appellant an opportunity for an evidentiary hearing.

"HCA hearing representative" means a person who is authorized to represent the PEBB program in a formal administrative hearing. The person may be an assistant attorney general or authorized HCA employee.

"Health plan" means a plan offering medical or dental, or both, developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

~~("Hearing" means a proceeding before a presiding officer that gives an appellant an opportunity to be heard in a dispute about a decision made by the PEBB appeals committee, including prehearing conferences, dispositive motion hearings, status conferences, and evidentiary hearings.~~

~~"Hearing representative" means a person who is authorized to represent the PEBB program in an administrative~~

hearing. ~~The person may be an assistant attorney general, a licensed attorney, or authorized HCA employee.~~)

"Hearing officer" means an impartial decision maker who presides at a formal administrative hearing, and is:

- A director-designated HCA employee; or
- When the director has designated the office of administrative hearings (OAH) as a hearing body, an administrative law judge employed by the OAH.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Life insurance" for eligible employees includes basic life insurance and accidental death and dismemberment (AD&D) insurance paid for by the employing agency, as well as optional life insurance and optional AD&D insurance offered to and paid for by employees for themselves and their dependents. Life insurance for eligible retirees includes retiree term life insurance offered to and paid for by retirees.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby eligible state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan ~~((authorized in chapter 41.05 RCW))~~ under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"PEBB" means the public employees benefits board.

~~(("PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The director has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.))~~

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB insurance coverage" means any health plan, life insurance, long-term disability (LTD) insurance, long-term care insurance, or property and casualty insurance administered as a PEBB benefit.

"PEBB program" means the program within the HCA that administers insurance and other benefits for eligible employees (as described in WAC 182-12-114), eligible retired employees (as described in WAC 182-12-171 and 182-12-180), eligible survivors (as described in WAC 182-12-180, 182-12-250, and 182-12-265), eligible dependents (as described in WAC 182-12-250 and 182-12-260), and others as defined in RCW 41.05.011.

"Prehearing conference" means a proceeding scheduled and conducted by a ~~((presiding))~~ hearing officer to address issues in preparation for a formal administrative hearing.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's medical premium contribution, due to an enrollee's tobacco use or ~~((a))~~ an enrolled subscriber's spouse or state registered domestic partner choosing not to enroll in ~~((his or her))~~ their employer-based group medical when:

- The spouse's or state registered domestic partner's share of the medical premiums ((are)) is less than ninety-five percent of the additional cost an employee would be required to pay to enroll a spouse or state registered domestic partner in the Uniform Medical Plan (UMP) Classic ((premiums)); and
- The benefits have an actuarial value of ~~((benefits is))~~ at least ninety-five percent of the actuarial value of UMP Classic benefits.

"Presiding officer" means an impartial decision maker who conducts a brief adjudicative proceeding and is ~~((an attorney, presides at an administrative hearing, and is either:~~

- a director-designated HCA employee((or
- ~~When the director has designated the office of administrative hearings (OAH) as a hearing body, an administrative law judge employed by the OAH.~~

~~"Record" means the official documentation of the hearing process. The record includes recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents).~~

"Review officer or officers" means one or more delegates from the director that consider appeals relating to the administration of PEBB benefits by the PEBB program.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program (DCAP), medical flexible spending arrangement (FSA), or premium payment plan ~~((as authorized in chapter 41.05 RCW))~~ offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

~~"Service" or "serve" means the ((delivery of documents as described in WAC 182-16-067))~~ process described in WAC 182-16-058.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government, and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education, and any unit of state government established by law.

"Subscriber" means the employee, retiree, continuation coverage enrollee, or survivor who has been determined eligible by the PEBB program, employer group, state agency, or charter school and is the individual to whom the PEBB program and contracted vendors will issue all notices, information, requests, and premium bills on behalf of enrollees.

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, and other tobacco products. It does not include e-cigarettes or United States Food and Drug Administration (FDA) approved quit aids.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

AMENDATORY SECTION (Amending WSR 16-20-080, filed 10/4/16, effective 1/1/17)

WAC 182-16-055 Mailing address changes. (1) During the appeal process if the appellant's mailing address changes, the appellant must notify the ((hearing representative and the presiding officer)) public employees benefits board (PEBB) appeals unit as soon as possible((, when the appellant's mailing address changes)).

(2) If the appellant does not notify the ((hearing representative and the presiding officer)) PEBB appeals unit of a change in the appellant's mailing address and the ((presiding officer and hearing representative)) PEBB appeals unit continues to serve notices and other important documents to the appellant's last known mailing address, the documents will be deemed served on the appellant.

(3) This requirement to provide notice of an address change is in addition to WAC 182-08-198, 182-08-199, 182-12-128, and 182-12-262 that require a subscriber to update their address.

NEW SECTION

WAC 182-16-058 Service or serve. (1) When the rules in this chapter or in other public employees benefits board (PEBB) program rules or statutes require a party to serve copies of documents on other parties, a party must send copies of the documents to all other parties or their representatives as described in this chapter. In this section, requirements for service or delivery by a party apply also when service is required by the presiding officer, review officer or officers, or hearing officer.

(2) Unless otherwise stated in applicable law, documents may be sent only as identified in this chapter to accomplish service. A party may serve someone by:

- (a) Personal service (hand delivery);
- (b) First class, registered, or certified mail sent via the United States Postal Service or Washington state consolidated mail services;
- (c) Fax;
- (d) Commercial delivery service; or
- (e) Legal messenger service.

(3) A party must serve all other parties or their representatives whenever the party files a motion, pleading, brief, or other document with the presiding officer, review officer or officers, or hearing officer's office, or when required by law.

(4) Service is complete when:

- (a) Personal service is made;
- (b) Mail is properly stamped, addressed, and deposited in the United States Postal Service;
- (c) Mail is properly addressed, and deposited in the Washington state consolidated mail services;

- (d) Fax produces proof of transmission;
- (e) A parcel is delivered to a commercial delivery service with charges prepaid; or
- (f) A parcel is delivered to a legal messenger service with charges prepaid.

(5) A party may prove service by providing any of the following:

- (a) A signed affidavit or certificate of mailing;
- (b) The certified mail receipt signed by the person who received the parcel;
- (c) A signed receipt from the person who accepted the commercial delivery service or legal messenger service parcel;
- (d) Proof of fax transmission.

(6) Service cannot be made by electronic mail unless mutually agreed to in advance and in writing by the parties.

(7) If the document is a subpoena, follow the compliance procedure as described in WAC 182-16-3130.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-16-064 Applicable rules and laws. ((During a hearing;)) A presiding officer, review officer or officers, or hearing officer must first apply the applicable public employees benefits board (PEBB) program rules adopted in the Washington Administrative Code (WAC). If no PEBB program rule applies, the presiding officer, review officer or officers, or hearing officer must decide the issue according to the best legal authority and reasoning available, including federal and Washington state constitutions, statutes, regulations, significant decisions indexed as described in WAC 182-16-130, and court decisions.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-16-066 Burden of proof, standard of proof, and presumptions. (1) The burden of proof is a party's responsibility to provide evidence regarding disputed facts and persuade the presiding officer, review officer or officers, or hearing officer that a position is correct based on the standard of proof.

(2) Standard of proof refers to the amount of evidence needed to prove a party's position. Unless stated otherwise in rules or law, the standard of proof brief adjudicative proceeding or formal administrative in a hearing is a preponderance of the evidence, meaning that something is more likely to be true than not.

(3) Public officers and agencies are presumed to have properly performed their duties and acted as described in ((accordance with)) the law, unless substantial evidence to the contrary is presented. A party challenging this presumption bears the burden of proof.

NEW SECTION

WAC 182-16-120 Computation of time. (1) In computing any period of time prescribed by this chapter, the day of the event from which the time begins to run is not included. For example, if an initial order is served on Tues-

day and the party has twenty-one days to request a review, start counting the days with Wednesday.

(2) Except as provided in subsection (3) of this section, the last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, in which case the period extends to the end of the next business day.

(3) When the period of time prescribed or allowed is less than ten days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(4) The deadline is 5:00 p.m. on the last day of the computed period.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-16-130 Index of significant decisions. (1) A final decision may be relied upon, used, or cited as precedent by a party if the final order has been indexed in the authority's index of significant decisions in accordance with RCW 34.05.473 (1)(b).

(2) ~~((The))~~ An index of significant decisions is available to the public ~~((at))~~ on the health care ~~((authority (HCA) internet page))~~ authority's (HCA) web site. As decisions are indexed they will be ~~((linked on this page. For additional information on how to obtain a copy of the index, contact the HCA hearing representative))~~ available on the web site.

(3) A final decision published in the index of significant decisions may be removed from the index when:

(a) A ~~((precedential))~~ published decision entered by the court of appeals or the supreme court reverses an indexed final decision; or

(b) HCA determines that the indexed final decision is no longer precedential due to changes in statute, rule, or policy.

PART II

BRIEF ADJUDICATIVE PROCEEDINGS

NEW SECTION

WAC 182-16-2000 Brief adjudicative proceedings. Pursuant to RCW 34.05.482, the authority will use brief adjudicative proceedings for issues identified in this chapter when doing so would not violate law, or when protection of the public interest does not require the authority to give notice and an opportunity to participate to persons other than the parties, or the issue and interests involved in the controversy do not warrant use of the procedures of RCW 34.05.413 through 34.05.479 which govern formal administrative hearings.

NEW SECTION

WAC 182-16-2005 Record—Brief adjudicative proceeding. The record in a brief adjudicative proceeding consists of any documents regarding the matter, considered or prepared by the presiding officer for the brief adjudicative proceeding or by the review officer or officers for any review. The authority's record does not have to constitute the

exclusive basis for agency action, unless otherwise required by law.

NEW SECTION

WAC 182-16-2010 Where to appeal a decision regarding eligibility, enrollment, premium payments, premium surcharges, a public employees benefits board (PEBB) wellness incentive, or the administration of benefits? (1) Any current or former employee of a state agency or their dependent aggrieved by a decision made by the state agency with regard to public employees benefits board (PEBB) eligibility, enrollment, or premium surcharges may appeal that decision to the state agency by the process outlined in WAC 182-16-2020.

Note: Eligibility decisions address whether a subscriber or a subscriber's dependent is entitled to PEBB insurance coverage, as described in PEBB rules and policies. Enrollment decisions address the application for PEBB benefits as described in PEBB rules and policies including, but not limited to, the submission of proper documentation and meeting enrollment deadlines.

(2) Any current or former employee of an employer group or their dependent who is aggrieved by a decision made by an employer group with regard to PEBB eligibility, enrollment, or premium surcharges may appeal that decision to the employer group through the process established by the employer group.

Exception: Any current or former employee of an employer group aggrieved by a decision regarding life insurance, long-term disability (LTD) insurance, eligibility to participate in the PEBB wellness incentive program, or eligibility to receive a PEBB wellness incentive may appeal that decision to the PEBB appeals committee by the process described in WAC 182-16-2030.

(3) Any subscriber or dependent aggrieved by a decision made by the PEBB program with regard to PEBB eligibility, enrollment, premium payments, premium surcharges, eligibility to participate in the PEBB wellness incentive program, or eligibility to receive a PEBB wellness incentive, may appeal that decision to the PEBB appeals unit by the process described in WAC 182-16-2030.

(4) Any PEBB enrollee aggrieved by a decision regarding the administration of a health plan, life insurance, or long-term disability insurance may appeal that decision by following the appeal provisions of those plans, with the exception of:

- (a) Enrollment decisions;
- (b) Premium payment decisions other than life insurance premium payment decisions; and
- (c) Eligibility decisions.

(5) Any PEBB enrollee aggrieved by a decision regarding the administration of PEBB long-term care insurance or property and casualty insurance may appeal that decision by following the appeal provisions of those plans.

(6) Any PEBB employee aggrieved by a decision regarding the administration of a benefit offered under the state's salary reduction plan may appeal that decision by the process described in WAC 182-16-2050.

(7) Any subscriber aggrieved by a decision made by the PEBB wellness incentive program contracted vendor regarding the completion of the PEBB wellness incentive program requirements, or a request for a reasonable alternative to a wellness incentive program requirement, may appeal that decision by the process described in WAC 182-16-2040.

NEW SECTION

WAC 182-16-2020 How can a current or former employee or an employee's dependent appeal a decision made by a state agency about eligibility, premium surcharge, or enrollment in benefits? (1) An eligibility, premium surcharge, or enrollment decision made by a state agency may be appealed by submitting a written request for administrative review to the state agency. The state agency must receive the request for administrative review no later than thirty days after the date of the denial notice. The contents of the request for administrative review are to be provided as described in WAC 182-16-2070.

(a) Upon receiving the request for administrative review, the state agency shall perform a complete review of the denial by one or more staff who did not take part in the decision resulting in the denial. As part of the administrative review, the state agency may hold a formal meeting or formal administrative hearing, but is not required to do so.

(b) The state agency shall render a written decision within thirty days of receiving the request for administrative review. The written decision shall be sent to the employee or employee's dependent who submitted the request for administrative review and must include a description of appeal rights. The state agency shall also send a copy of the state agency's written decision to the state agency's administrator (or designee) and to the public employees benefits board (PEBB) appeals unit. If a state agency fails to render a written decision within thirty days of receiving the written request for administrative review, the request for administrative review may be considered denied and the original underlying state agency decision may be appealed to the PEBB appeals unit by following the process in this section.

(c) The state agency may reverse eligibility, premium surcharge, or enrollment decisions based only on circumstances that arose due to delays caused by the state agency or errors made by the state agency.

(2) Any current or former employee or employee's dependent who disagrees with the state agency's decision in response to a written request for administrative review, as described in subsection (1) of this section, may request a brief adjudicative proceeding to be conducted by the authority by submitting a written request to the PEBB appeals unit.

(a) The PEBB appeals unit must receive the request for a brief adjudicative proceeding no later than thirty days after the date of the state agency's written decision on the request for administrative review. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(i) The PEBB appeals unit shall notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(ii) Once the PEBB appeals unit receives a request for a brief adjudicative proceeding, the PEBB appeals unit will send a request for documentation and information to the applicable state agency. The state agency will then have two business days to respond to the request and provide the requested documentation and information. The state agency will also send a copy of the documentation and information to the employee, former employee, or the employee's dependent.

(iii) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(b) If an employee fails to timely request a brief adjudicative proceeding to appeal the state agency's written decision within thirty days by following the process in (a) of this subsection, the state agency's prior written decision becomes the health care authority's final decision.

NEW SECTION

WAC 182-16-2030 Appealing a public employees benefits board (PEBB) program decision regarding eligibility, enrollment, premium payments, premium surcharges, a PEBB wellness incentive, or certain decisions made by an employer group? (1) A decision made by the public employees benefits board (PEBB) program regarding eligibility, enrollment, premium payments, premium surcharges, a PEBB wellness incentive, may be appealed by submitting a request to the PEBB appeals unit for a brief adjudicative proceeding to be conducted by the authority.

(2) A decision made by an employer group regarding life insurance, LTD insurance, eligibility to participate in the PEBB wellness incentive program, or eligibility to receive a PEBB wellness incentive may be appealed by submitting a request to the PEBB appeals unit for a brief adjudicative proceeding to be conducted by the authority.

(3) The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(4) The request for a brief adjudicative proceeding from a current or former employee or employee's dependent must be received by the PEBB appeals unit no later than thirty days after the date of the denial notice.

(5) The request for a brief adjudicative proceeding from a retiree, self-pay enrollee, or dependent of a retiree or self-pay enrollee must be received by the PEBB appeals unit no later than sixty days after the date of the denial notice.

(6) The PEBB appeals unit shall notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(7) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(8) Failing to timely request a brief adjudicative proceeding to appeal a decision made under this section within the applicable time frame described in subsections (4) and (5) of this section, will result in the prior PEBB program decision becoming the authority's final decision without further employing agency action.

NEW SECTION

WAC 182-16-2040 How can a subscriber appeal a decision regarding the administration of wellness incentive program requirements? (1) Any subscriber aggrieved by a decision regarding the completion of the wellness incentive program requirements, or request for a reasonable alternative to a wellness incentive program requirement, may appeal that decision to the public employees benefits board (PEBB) wellness incentive program contracted vendor.

(2) Any subscriber who disagrees with a decision in response to an appeal filed with the PEBB wellness incentive program contracted vendor may appeal the decision by submitting a request for a brief adjudicative proceeding to the PEBB appeals unit.

(a) The request for a brief adjudicative proceeding from a current or former employee must be received by the PEBB appeals unit no later than thirty days after the date of the denial notice. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(b) The request for a brief adjudicative proceeding from a retiree or self-pay subscriber must be received by the PEBB appeals unit no later than sixty days after the date of the denial notice. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(3) The PEBB appeals unit shall notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(4) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(5) If a subscriber fails to timely request a brief adjudicative proceeding of a decision made under subsection (1) of this section within thirty days by following the process in WAC 182-16-2020(2), the decision of the PEBB wellness incentive program contracted vendor becomes the authority's final decision.

NEW SECTION

WAC 182-16-2050 How can an employee who is eligible to participate in the state's salary reduction plan appeal a decision regarding the administration of benefits offered under the state's salary reduction plan? (1) Any employee who disagrees with a decision that denies eligibility for, or enrollment in, a benefit offered under the state's salary reduction plan may appeal that decision by submitting a written request for administrative review to their state agency. The state agency must receive the written request for administrative review no later than thirty days after the date of the denial. The contents of the written request for administrative review are to be provided as described in WAC 182-16-2070.

(a) Upon receiving the written request for administrative review, the state agency shall perform a complete review of the denial by one or more staff who did not take part in the decision resulting in the denial.

(b) The state agency shall render a written decision within thirty days of receiving the request for administrative review. The written decision shall be sent to the employee

who submitted the written request for review and must include a description of appeal rights. The state agency shall also send a copy of the state agency's administrator (or designee) and to the PEBB appeals unit. If a state agency fails to render a written decision within thirty days of receiving the written request for administrative review, the request for administrative review may be considered denied and the original underlying state agency decision may be appealed to the PEBB appeals unit by following the process in this section.

(2) Any employee who disagrees with the state agency's decision in response to a written request for administrative review, as described in this section, may request a brief adjudicative proceeding to be conducted by the authority by submitting a written request to the PEBB appeals unit.

(a) The PEBB appeals unit must receive the request for a brief adjudicative proceeding no later than thirty days after the date of the state agency's written decision on the request for administrative review. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(i) The PEBB appeals unit shall notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(ii) Once the PEBB appeals unit receives a request for a brief adjudicative proceeding, the PEBB appeals unit will send a request for documentation and information to the applicable state agency. The state agency will then have two business days to respond to the request. The state agency will also send a copy of the documentation and information to the employee.

(iii) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(b) If an employee fails to timely request a brief adjudicative proceeding to appeal a decision made under this section within thirty days by following the process described in this subsection, the state agency's prior written decision becomes the authority's final decision without further state agency action.

(3) Any employee aggrieved by a decision regarding a claim for benefits under the medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP) offered under the state's salary reduction plan may appeal that decision to the authority's contracted vendor by following the appeal process of that contracted vendor.

(a) Any employee who disagrees with a decision in response to an appeal filed with the contracted vendor that administers the medical FSA and DCAP under the state's salary reduction plan may request a brief adjudicative proceeding by submitting a written request to the PEBB appeals unit. The PEBB appeals unit must receive the request for a brief adjudicative proceeding no later than thirty days after the date of the contracted vendor's appeal decision. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(i) The PEBB appeals unit shall notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(ii) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(b) If an employee fails to timely request a brief adjudicative proceeding to appeal a decision made under this section within thirty days by following the process described in this subsection, the contracted vendor's prior written decision becomes the authority's final decision.

(4) Any employee aggrieved by a decision regarding the administration of the premium payment plan offered under the state's salary reduction plan may request a brief adjudicative proceeding to be conducted by the authority by submitting a written request to the PEBB appeals unit for a brief adjudicative proceeding.

(a) The PEBB appeals unit must receive the request for a brief adjudicative proceeding no later than thirty days after the date of the denial notice by the PEBB program. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(i) The PEBB appeals unit shall notify the appellant in writing when the notice of appeal has been received.

(ii) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(b) If an employee fails to timely request a brief adjudicative proceeding to appeal a decision made under this section within thirty days by following the process described in this subsection, the PEBB program's prior written decision becomes the authority's final decision.

NEW SECTION

WAC 182-16-2060 How can an entity or organization appeal a decision of the health care authority to deny an employer group application? (1) An entity or organization whose employer group application is denied by the authority may appeal the decision by submitting a request for a brief adjudicative proceeding to the public employees benefits board (PEBB) appeals unit. For rules regarding eligible entities, see WAC 182-12-111.

(2) The PEBB appeals unit must receive the request for a brief adjudicative proceeding no later than thirty days after the date of the denial notice. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(3) The PEBB appeals unit shall notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(4) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(5) Failing to timely request a brief adjudicative proceeding to appeal a decision made under this section within thirty days by following the process described in subsection (2) of this section, will result in the prior PEBB program decision becoming the authority's final decision.

NEW SECTION

WAC 182-16-2070 What should a written request for administrative review and a request for brief adjudicative proceeding contain? A written request for administrative review and a request for brief adjudicative proceeding should contain:

(1) The name and mailing address of the party requesting an administrative review or the brief adjudicative proceeding;

(2) The name and mailing address of the appealing party's representative, if any;

(3) Documentation, or reference to documentation, of decisions previously rendered through the appeal process, if any;

(4) A statement identifying the specific portion of the decision being appealed and clarifying what is believed to be unlawful or in error;

(5) A statement of facts in support of the appealing party's position;

(6) Any information or documentation that the appealing party would like considered;

(7) The type of relief sought; and

(8) The signature of the appealing party or the appealing party's representative.

NEW SECTION

WAC 182-16-2080 Who can appeal or represent a party in a brief adjudicative proceeding? (1) The appellant may act as their own representative or may choose to be represented by another person, except employees of the health care authority (HCA) or HCA's authorized agents.

(2) If the appellant is represented by a person who is not an attorney admitted to practice in Washington state, the representative must provide the presiding officer and other parties with the representative's name, address, and telephone number. In cases involving confidential information, the non-attorney representative must provide the PEBB appeals unit and other parties with a signed, written consent permitting release to the nonattorney representative of the appellant's personal health information protected by state or federal law.

(3) An attorney admitted to practice law in Washington state representing the appellant must file a written notice of appearance containing the attorney's name, address, and telephone number with the presiding officer's office and serve all parties with the notice. In cases involving confidential information, the attorney must provide the PEBB appeals unit and other parties with a signed, written consent permitting release to the attorney of the appellant's personal health information protected by state or federal law. If the appellant's attorney representative no longer represents the appellant, then the attorney must file a written notice of withdrawal of representation with the presiding officer or review officer or officers' office and serve all parties with the notice.

NEW SECTION

WAC 182-16-2085 Continuances. The presiding officer or review officer or officers may grant, in their sole discretion, a request for a continuance on motion of the appellant, the authority, or on its own motion. The continuance may be up to thirty calendar days.

NEW SECTION

WAC 182-16-2090 Initial order. Unless a continuance has been granted, within ten days after the PEBB appeals unit receives a request for a brief adjudicative proceeding, the presiding officer shall render a written initial order that addresses the issue or issues raised by the appellant in their

appeal. The presiding officer shall serve a copy of the initial order on all parties and the initial order shall contain information on how the appellant may request review of the initial order.

NEW SECTION

WAC 182-16-2100 How to request a review of an initial order resulting from a brief adjudicative proceeding.

(1) An appellant who has received an initial order upholding an employing agency decision, PEBB program decision, or a decision made by PEBB program contracted vendor, may request review of the initial order by the authority. The appellant must file a written request for review of the initial order or by making an oral request for review of the initial order with the public employees benefits board (PEBB) appeals unit within twenty-one days after service of the initial order. The written request for review of the initial order must be provided using the contact information included in the initial order. If the appellant fails to request review of the initial order within twenty-one days, the order becomes the final order without any further action by the authority.

(2) Upon timely request by the appellant, a review of an initial order will be performed by one or more review officers designated by the director of the authority.

(3) If the parties have not requested review, the authority may review an order resulting from a brief adjudicative proceeding on its own motion, and without notice to the parties, but it may not take action on review less favorable to any party than the initial order without giving that party notice and an opportunity to explain that party's view of the matter.

NEW SECTION

WAC 182-16-2105 Withdrawing the request for a brief adjudicative proceeding or review of an initial order.

(1) The appellant may withdraw the request for a brief adjudicative proceeding or review of an initial order for any reason, and at any time, by contacting the public employees benefits board (PEBB) appeals unit. The PEBB appeals unit will present the withdrawal request to the presiding officer or review officer or officers.

(2) The request for withdrawal must be made in writing.

(3) After a withdrawal request is received, the presiding officer or review officer or officers must enter and serve a written order dismissing the appeal.

(4) If an appellant withdraws a request for a brief adjudicative proceeding or review of an initial order, the appellant may not reinstate the request for a brief adjudicative proceeding or review of an initial order unless time remains on their original appeal period.

NEW SECTION

WAC 182-16-2110 Final order. (1) A final order issued by the review officer or officers will be issued in writing and include a brief statement of the reasons for the decision.

(2) The final order must be rendered and served within twenty days of the date of the initial order or of the date the

request for review of the initial order was received by the PEBB appeals unit, whichever is later.

(3) The final order will include a notice that reconsideration and judicial review may be available.

(4) A request for review of the initial order is deemed denied if the authority does not issue a final order within twenty days after the request for review of the initial order is filed.

NEW SECTION

WAC 182-16-2120 Request for reconsideration. (1) A request for reconsideration asks the review officer or officers to reconsider the final order because the party believes the review officer or officers made a mistake of law, mistake of fact, or clerical error.

(2) A request for reconsideration must state in writing why the party wants the final order to be reconsidered.

(3) Requests for reconsideration must be filed with the review officer or officers who entered the final order.

(4) If a party files a request for reconsideration:

(a) The review officer or officers must receive the request for reconsideration on or before the tenth business day after the service date of the final order.

(b) The party filing the request must send copies of the request to all other parties.

(c) Within five business days of receiving a request for reconsideration, the review officer or officers must serve all parties a notice that provides the date the request for reconsideration was received.

(5) The other parties may respond to the request for reconsideration. The response must state in writing why the final order should stand. Responses are optional. If a party chooses not to respond, that party will not be prejudiced because of that choice.

(a) Responses to a request for reconsideration must be received by the review officer or officers no later than seven business days after the service date of the review officer's or officers' notice as described in subsection (4)(c) of this section, or the response will not be considered.

(b) Service of responses to a request for reconsideration must be made to all parties.

(6) If a party needs more time to file a request for reconsideration or respond to a request for reconsideration, the review officer or officers may extend the required time frame if the party makes a written request providing a good reason for the request within the required time frame.

(7) Unless the request for reconsideration is denied as untimely filed under WAC 182-16-2120 (4)(a), the same review officer or officers who entered the final order, if reasonably available, will also consider the request as well as any responses received.

(8) The decision on the request for reconsideration must be in the form of a written order denying the request, granting the request in whole or in part and issuing a new written final order, or granting the petition and setting the matter for further hearing.

(9) If the review officer or officers do not send an order on the request for reconsideration within twenty calendar

days of the date of the notice described in subsection (4)(c) of this section, the request is deemed denied.

(10) If any party files a request for reconsideration of the final order, the reconsideration process must be completed before any judicial review may be requested. However, the filing of a petition for reconsideration is not required before requesting judicial review.

(11) An order denying a request for reconsideration is not subject to judicial review.

(12) No evidence may be offered in support of a motion for reconsideration, except newly discovered evidence that is material for the party moving for reconsideration and that the party could not with reasonable diligence have discovered and produced at the hearing or before the ruling on a dispositive motion.

NEW SECTION

WAC 182-16-2130 Judicial review of final order. (1) Judicial review is the process of appealing a final order to a court.

(2) The appellant may appeal a final order by filing a written petition for judicial review that meets the requirements of RCW 34.05.546. The public employees benefits board (PEBB) program may not request judicial review.

(3) The appellant should consult RCW 34.05.510 through 34.05.598 for further details and requirements of the judicial review process.

NEW SECTION

WAC 182-16-2140 Presiding officer—Designation and authority. The designation of a presiding officer shall be consistent with the requirements of RCW 34.05.485 and the presiding officer shall not have personally participated in the decision made by the employing agency or PEBB program.

(1) The presiding officer will decide the issue based on the information provided by the parties during the presiding officer's review of the appeal.

(2) A presiding officer is limited to those powers granted by the state constitution, statutes, rules, or applicable case law.

(3) A presiding officer may not decide that a rule is invalid or unenforceable.

(4) In addition to the record, the presiding officer may employ authority expertise as a basis for the decision.

NEW SECTION

WAC 182-16-2150 Review officer or officers—Designation and authority. (1) The designation of a review officer or officers shall be consistent with the requirements of RCW 34.05.491 and the review officer or officers shall not have personally participated in the decision made by the employing agency or PEBB program.

(2) The review officer or officers shall review the initial order and the record to determine if the initial order was correctly decided.

(3) The review officer or officers will issue a final order that will either:

(a) Affirm the initial order in whole or in part;

(b) Reverse the initial order in whole or in part; or

(c) Refer the matter for a formal administrative hearing;

or

(d) Remand to the presiding officer in whole or in part.

(4) A review officer or officers are limited to those powers granted by the state constitution, statutes, rules, or applicable case law.

(5) A review officer or officers may not decide that a rule is invalid or unenforceable.

(6) In addition to the record, the review officer or officers may employ authority expertise as a basis for the decision.

NEW SECTION

WAC 182-16-2160 Conversion of a brief adjudicative proceeding to a formal administrative hearing. (1)

The presiding officer or the review officer or officers, in their sole discretion may convert a brief adjudicative proceeding to a formal administrative hearing at any time on motion by the subscriber or enrollee or their representative, the authority, or on the presiding officer or review officer or officers' own motion.

(2) The presiding officer or review officer or officers must convert the brief adjudicative proceeding to a formal administrative hearing when it is found that the use of the brief adjudicative proceeding violates any provision of law, when the protection of the public interest requires the authority to give notice and an opportunity to participate to persons other than the parties, or when the issues and interests involved in the controversy warrant the use of the procedures or RCW 34.05.413 through 34.05.479 that govern formal administrative hearings.

(3) When a brief adjudicative proceeding is converted to a formal administrative hearing, the director may become the hearing officer or may designate a replacement hearing officer to conduct the formal administrative hearing upon notice to the subscriber or enrollee and the authority.

(4) When a brief adjudicative proceeding is converted to a formal administrative hearing, WAC 182-16-010 through 182-16-130 and 182-16-3000 through 182-16-3200 apply to the formal administrative hearing.

PART III

FORMAL ADMINISTRATIVE HEARINGS

NEW SECTION

WAC 182-16-3000 Formal administrative hearings.

(1) When a brief adjudicative proceeding is converted to a formal administrative hearing consistent with WAC 182-16-2160, the director designates a hearing officer to conduct the formal administrative hearing.

(2) Formal administrative hearings are conducted consistent with the Administrative Procedure Act, RCW 34.05.413 through 34.05.479.

(3) This part describes the general rules and procedures that apply to public employees benefits board (PEBB) benefits formal administrative hearings.

(a) This part supplements the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules of procedure in chapter 10-08 WAC. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use by the authority in public employees benefits board (PEBB) benefits formal administrative hearings. Other procedural rules adopted in chapters 182-08, 182-12, and 182-16 WAC are supplementary to the model rules of procedure.

(b) In the case of a conflict between the model rules of procedure and this part, the procedural rules adopted in this part shall govern.

(c) If there is a conflict between this part and specific PEBB program rules, the specific PEBB program rules prevail. PEBB program rules are found in chapters 182-08 and 182-12 WAC.

(d) Nothing in this part is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if a hearing right exists, including the APA and program rules or laws.

NEW SECTION

WAC 182-16-3005 Record—Formal administrative hearings. The record in a formal administrative hearing consists of the official documentation of the hearing process. The record includes, but is not limited to, recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

NEW SECTION

WAC 182-16-3010 Requirements to appear and represent a party in the formal administrative hearing process. (1) All parties must provide the hearing officer and all other parties with their name, address, and telephone number.

(2) The appellant may act as their own representative or have another person represent them, except employees of the health care authority (HCA) or HCA's authorized agents.

(3) If the appellant is represented by a person who is not an attorney admitted to practice in Washington state, the representative must provide the hearing officer and all other parties with the representative's name, address, and telephone number. In cases involving confidential information, the non-attorney representative must provide the HCA hearing representative with a signed, written consent permitting release to the nonattorney representative of personal health information protected by state or federal law.

(4) An attorney admitted to practice law in Washington state, who wishes to represent the appellant, must file a written notice of appearance containing the attorney's name, address, and telephone number with the hearing officer's office and serve all parties with the notice. In cases involving confidential information, the attorney representative must provide the HCA hearing representative with a signed, written consent permitting release to the attorney representative of the appellant's personal health information protected by state or federal law. If the appellant's attorney representative no longer represents the appellant, then the attorney must file

a written notice of withdrawal of representation with the hearing officer's office and serve all parties with the notice.

NEW SECTION

WAC 182-16-3015 Hearing officers—Assignment, motions of prejudice, and disqualification. (1) **Assignment.** A hearing officer will be assigned at least five business days before a hearing. A party may ask which hearing officer is assigned to a hearing by contacting the hearing officer's office listed on the notice of hearing. If requested by a party, the hearing officer's office must send the name of the assigned hearing officer to all parties, by electronic mail or in writing, at least five business days before the scheduled hearing date.

(2) **Motion of prejudice.** Any party requesting a different hearing officer may file a written motion of prejudice against the hearing officer assigned to the matter before the hearing officer rules on a discretionary issue in the case, admits evidence, or takes testimony.

(a) A motion of prejudice must include a declaration stating that a party does not believe the hearing officer can hear the case fairly. Service of copies of the motion must also be made to all parties listed on the notice of hearing.

(b) Any party's first motion of prejudice will be automatically granted. Any subsequent motion of prejudice made by a party may be granted or denied at the discretion of the hearing officer no later than seven days after receiving the motion.

(c) A party may make an oral motion of prejudice at the beginning of a hearing before the hearing officer rules on a discretionary issue in the matter, admits evidence, or takes testimony if:

(i) The hearing officer was not assigned at least five business days before the date of the hearing; or

(ii) The hearing officer was changed within five business days of the date of the hearing.

(3) **Disqualification.** A hearing officer may be disqualified from presiding over a hearing for bias, prejudice, conflict of interest, or ex parte contact with a party to the hearing.

(a) Any party may file a petition to disqualify a hearing officer as described in RCW 34.05.425. A petition to disqualify must be in writing and service promptly made to all parties and the hearing officer upon discovering facts of possible grounds for disqualification.

(b) The hearing officer whose disqualification is requested will determine whether to grant or deny the petition in a written order, stating facts and reasons for the determination. The hearing officer must serve the order no later than seven days after receiving the petition for disqualification.

NEW SECTION

WAC 182-16-3030 Authority of the hearing officer. (1) A hearing officer must hear and decide the issues de novo (anew) based on the evidence and oral or written arguments presented during a formal administrative hearing and admitted into the record.

(2) A hearing officer has no inherent or common law powers, and is limited to those powers granted by the state constitution, statutes, or rules.

(3) A hearing officer may not decide that a rule is invalid or unenforceable. If the validity of a rule is raised during a formal administrative hearing, the hearing officer may allow only argument to preserve the record for judicial review.

NEW SECTION

WAC 182-16-3080 Time requirements for service of notices made by the hearing officer. (1) The hearing officer or their designee must serve a notice of a formal administrative hearing to all parties and their representatives at least twenty-one calendar days before the hearing date. The parties may agree to, but the hearing officer cannot impose, a shorter notice period.

(2) If a prehearing conference or dispositive motion hearing is scheduled, the hearing officer must serve a notice of the prehearing conference or dispositive motion hearing to the parties and their representatives at least seven business days before the date of the prehearing conference or dispositive motion hearing except:

(a) The hearing officer may change any scheduled formal administrative hearing into a prehearing conference or dispositive motion hearing and provide less than seven business days' notice of the prehearing conference or dispositive motion hearing; and

(b) The hearing officer may give less than seven business days' notice if the only purpose of the prehearing conference is to consider whether to grant a continuance.

(3) The hearing officer must reschedule a formal administrative hearing if necessary to comply with the notice requirements in this section.

NEW SECTION

WAC 182-16-3090 Formal administrative hearing location. (1) A hearing officer must be present at all hearings. Hearings may be held either in person or telephonically.

(a) A telephonic hearing is where all parties and the hearing officer are present by telephone.

(b) An in-person hearing is where the appellant appears face-to-face with the hearing officer. The other parties can choose to appear either in person or by telephone, but cannot be ordered to appear in person.

(2) Whether a hearing is held in person or telephonically, the parties have the right to see all documents, hear all testimony, and question all witnesses.

(3) If a hearing is originally scheduled to be held in person, the appellant may ask the hearing officer to change the in-person hearing to a telephonic hearing. Once a telephonic hearing begins, the hearing officer may stop, reschedule, and change the telephonic hearing to an in-person hearing if any party makes such a request.

NEW SECTION

WAC 182-16-3100 Rescheduling and continuances for formal administrative hearings. (1) Any party may request the hearing officer to reschedule a formal administrative hearing if a rule requires notice of a hearing and the amount of notice required was not provided.

(a) The hearing officer must reschedule the hearing under circumstances identified in subsection (1) of this section if requested by any party.

(b) The parties may agree to shorten the amount of notice required by any rule.

(2) Any party may request a continuance of a formal administrative hearing either orally or in writing.

(a) In each formal administrative hearing, the hearing officer must grant each party's first request for a continuance. The continuance may be up to thirty calendar days.

(b) The hearing officer may grant each party up to one additional continuance of up to thirty calendar days because of extraordinary circumstances established at a proceeding.

(c) After granting a continuance, the hearing officer or their designee must:

(i) Immediately telephone all other parties to inform them the hearing was continued; and

(ii) Serve an order of continuance on the parties no later than fourteen days before the new formal administrative hearing date. All orders of continuance must provide a new deadline for filing documents with the hearing officer. The new filing deadline can be no less than ten calendar days prior to the new formal administrative hearing date. If the continuance is granted pursuant to (b) of this subsection, then the order of continuance must also include findings of fact that state with specificity the extraordinary circumstances for which the hearing officer granted the continuance.

(3) Regardless of whether a party has been granted a continuance as described in subsection (1) of this section, the hearing officer must grant a continuance if a new material issue is raised during the formal administrative hearing and a party requests a continuance.

NEW SECTION

WAC 182-16-3110 Prehearing conferences. (1) A prehearing conference is a formal proceeding conducted on the record by a hearing officer to prepare for a formal administrative hearing.

(a) The hearing officer must record a prehearing conference using audio recording equipment.

(b) The hearing officer may conduct a prehearing conference in person, by telephone conference call, or in any other manner acceptable to the parties.

(2) Any party can request a prehearing conference. The hearing officer must grant each party's first request for a prehearing conference if it is filed with the hearing officer at least seven business days before the next scheduled hearing date. The hearing officer may grant requests for additional prehearing conferences.

(3) The appellant must attend or participate in any scheduled prehearing conference. If the appellant does not attend or participate in a scheduled prehearing conference, the hearing officer will enter an order of default dismissing the matter.

(4) During a prehearing conference the parties and the hearing officer may:

(a) Identify the issue or issues to be decided;

(b) Agree to the date, time, and place of any requested or necessary hearing or hearings;

- (c) Identify accommodation and safety issues; or
- (d) Establish a schedule for:
 - (i) The exchange and filing of briefs;
 - (ii) Providing a list of proposed witnesses;
 - (iii) Providing exhibit lists; and
 - (iv) Providing proposed exhibits before the hearing.

(5) After the prehearing conference ends, the hearing officer must enter a written order that recites the action taken at the prehearing conference, a case schedule outlining hearing dates and deadlines for exchanging witness lists and exhibits, and any other agreements reached by the parties.

(6) The hearing officer must serve the prehearing order to the parties at least fourteen calendar days before the next scheduled hearing.

(7) A party may object to the prehearing order by filing an objection with the hearing officer in writing no later than ten days after the service date of the order. The hearing officer must serve a written ruling on the objection.

(8) If no objection is made to the prehearing order, the order determines how the case will be conducted by the hearing officer, including whether a hearing will be in person or held by telephone conference, unless the hearing officer enters an amended prehearing conference order.

NEW SECTION

WAC 182-16-3120 Dispositive motions. (1) A dispositive motion could dispose of one or all the issues in a formal administrative hearing, such as a motion to dismiss or motion for summary judgment.

(2) To request a dispositive motion hearing a party must file a written dispositive motion with the hearing officer and serve a copy of the motion to all other parties. The hearing officer may also set a dispositive motion hearing, and request briefing from the parties, to address any possible dispositive issues the hearing officer believes must be addressed before the hearing.

(3) The deadline to file a timely dispositive motion shall be ten calendar days before the scheduled hearing.

(4) Upon receiving a dispositive motion, a hearing officer:

(a) Must convert the scheduled hearing to a dispositive motion hearing when:

(i) The dispositive motion is timely filed with the hearing officer at least ten calendar days before the date of the hearing; and

(ii) The party filing the dispositive motion has not previously filed a dispositive motion.

(b) May schedule a dispositive motion hearing in all instances other than described in (a) of this subsection.

(5) The hearing officer may conduct the dispositive motion hearing in person or by telephone conference. For dispositive motion hearings scheduled to be held in person, the HCA hearing representative may choose to attend and participate in person or by telephone conference call.

(6) The party requesting the dispositive motion hearing must attend and participate in the dispositive motion hearing in person or by telephone. If the party requesting the motion hearing does not attend and participate in the dispositive

motion hearing, the hearing officer will enter an order of default.

(7) During a dispositive motion hearing, the hearing officer can only consider the filed dispositive motions, any response to the motions, evidence submitted to support or oppose the motions, and argument on the motions. Prior to rescheduling any necessary hearings, the hearing officer must serve a written order on the dispositive motions.

(8) The hearing officer must serve the written order on the dispositive motions to all parties no later than eighteen calendar days after the dispositive motion hearing is held. Orders on dispositive motions are subject to motions for reconsideration or petitions for judicial review as described in WAC 182-16-2120 and 182-16-2130.

NEW SECTION

WAC 182-16-3130 Subpoenas. (1) Hearing officers, the HCA hearing representative, and attorneys for the parties may prepare subpoenas as described in Washington state civil rule 45, unless otherwise prohibited by law. Any party may request the hearing officer prepare a subpoena on their behalf.

(2) The hearing officer may schedule a prehearing conference to decide whether to issue a subpoena.

(3) If a party requests the hearing officer prepare a subpoena on its behalf, the party is responsible for:

(a) Service of the subpoena; and

(b) Any costs associated with:

(i) Compliance with the subpoena; and

(ii) Witness fees as described in RCW 34.05.446(7).

(4) Service of a subpoena must be made by a person who is at least eighteen years old and not a party to the hearing. Service of the subpoena is complete when the person serving the subpoena:

(a) Gives the person or entity named in the subpoena a copy of the subpoena; or

(b) Leaves a copy of the subpoena with a person over the age of eighteen at the residence or place of business of the person or entity named in the subpoena.

(5) To prove service of a subpoena on a witness, the person serving the subpoena must file with the hearing officer's office a signed, written, and dated statement that includes:

(a) The name of the person to whom service of the subpoena occurred;

(b) The date the service of the subpoena occurred;

(c) The address where the service of the subpoena occurred; and

(d) The name, age, and address of the person who provided service of the subpoena.

(6) A party may request the hearing officer quash (set aside) or change a subpoena request at any time before the deadline given in the subpoena.

(7) A hearing officer may quash (set aside) or change a subpoena if it is unreasonable.

NEW SECTION

WAC 182-16-3140 Orders of dismissal—Reinstating a formal administrative hearing after an order of dismissal. (1) An order of dismissal is an order from the hearing

officer ending the matter. The order is entered because the party who made the appeal withdrew from the proceeding, the appellant is no longer aggrieved, the hearing officer granted a dispositive motion dismissing the matter, or the hearing officer entered an order of default because the party who made the appeal failed to attend or refused to participate in a prehearing conference or the formal administrative hearing.

(2) The order of dismissal becomes a final order if no party files a request to vacate the order as described in subsections (3) through (7) of this section.

(3) If the hearing officer enters and serves an order dismissing the formal administrative hearing, the appellant may file a written request to vacate (set aside) the order of dismissal. Upon receipt of a request to vacate an order of dismissal, the hearing officer must schedule and serve notice of a prehearing conference as described in WAC 182-16-3080. At the prehearing conference, the party asking that the order of dismissal be vacated has the burden to show good cause according to subsection (8) of this section for an order of dismissal to be vacated and the matter to be reinstated.

(4) The request to vacate an order of dismissal must be filed with the hearing officer and the other parties. The party requesting that an order of dismissal be vacated should specify in the request why the order of dismissal should be vacated.

(5) The request to vacate an order of dismissal must be filed with the hearing officer no later than twenty-one calendar days after the date the order of dismissal was entered. If no request is received within that deadline, the dismissal order becomes a final order and the final order will stand.

(6) If the hearing officer finds good cause, as described in subsection (8) of this section, for the order of dismissal to be vacated, the hearing officer must enter and serve a written order to the parties setting forth the findings of fact, conclusions of law, and reinstatement of the matter.

(7) If the order of dismissal is vacated, the hearing officer will conduct a formal administrative hearing at which the parties may present argument and evidence about issues raised in the original appeal. The formal administrative hearing may occur immediately following the prehearing conference on the request to vacate only if agreed to by the parties and the hearing officer, otherwise a formal administrative hearing date must be scheduled by the hearing officer.

(8) Good cause is a substantial reason or legal justification for failing to appear, act, or respond to an action using the provisions of Superior Court civil rule 60 as a guideline. This good cause exception applies only to this chapter. This good cause exception does not apply to any other chapter or chapters in Title 182 WAC.

NEW SECTION

WAC 182-16-3160 Withdrawing a formal administrative hearing. (1) The appellant may withdraw a formal administrative hearing for any reason, and at any time, by contacting the HCA hearing representative who will coordinate the withdrawal with the hearing officer.

(2) The request for withdrawal must generally be made in writing. An oral withdrawal by the appellant is permitted during a formal administrative hearing when both the hearing officer and HCA hearing representative are present.

(3) After a withdrawal request is received, the hearing officer must cancel any scheduled hearings and enter and serve a written order dismissing the case.

NEW SECTION

WAC 182-16-3170 Final order deadline—Required information. (1) Within ninety days after the formal administrative hearing record is closed, the hearing officer shall serve a final order that shall be the final decision of the authority. The hearing officer shall serve a copy of the final order to all parties.

(2) The hearing officer must include the following information in the written final order:

(a) Identify the order as a final order of the public employees benefits board (PEBB) program;

(b) List the name and docket number of the case and the names of all parties and representatives;

(c) Enter findings of fact used to resolve the dispute based on the evidence admitted in the record;

(d) Explain why evidence is, or is not, credible when describing the weight given to evidence related to disputed facts;

(e) State the law that applies to the dispute;

(f) Apply the law to the facts of the case in the conclusions of law;

(g) Discuss the reasons for the decision based on the facts and the law;

(h) State the result and remedy ordered; and

(i) Include any other information required by law or program rules.

NEW SECTION

WAC 182-16-3180 Request for reconsideration and response—Process. (1) A request for reconsideration asks the hearing officer to reconsider the final order because the party believes the hearing officer made a mistake of law, mistake of fact, or clerical error.

(2) A request for reconsideration must state in writing why the party wants the final order to be reconsidered.

(3) Requests for reconsideration must be filed with the hearing officer who entered the final order.

(4) If a party files a request for reconsideration:

(a) The hearing officer must receive the request for reconsideration on or before the tenth business day after the service date of the final order.

(b) The party filing the request must serve copies of the request to all other parties.

(c) Within five business days of receiving a request for reconsideration, the hearing officer must serve to all parties a notice that provides the date the request for reconsideration was received.

(5) The other parties may respond to the request for reconsideration. The response must state in writing why the final order should stand. Responses are optional. If a party

chooses not to respond, that party will not be prejudiced because of that choice.

(a) Responses to a request for reconsideration must be received by the hearing officer no later than seven business days after the service date of the hearing officer's notice as described in subsection (4)(c) of this section, or the response will not be considered.

(b) Service of responses to a request for reconsideration must be made to all parties.

(6) If a party needs more time to file a request for reconsideration or respond to a request for reconsideration, the hearing officer may extend the required time frame if the party makes a written request providing a good reason for the request within the required time frame.

(7) No evidence may be offered in support of a motion for re-consideration, except newly discovered evidence that is material for the party moving for reconsideration and that the party could not with reasonable diligence have discovered and produced at the hearing or before the ruling on a dispositive motion.

NEW SECTION

WAC 182-16-3190 Decisions on requests for reconsideration. (1) Unless the request for reconsideration is denied as untimely filed under WAC 182-16-3180, the same hearing officer who entered the final order, if reasonably available, will also dispose of the request as well as any responses received.

(2) The decision on the request for reconsideration must be in the form of a written order denying or granting the request in whole or in part and issuing a new written final order.

(3) If the hearing officer does not send an order on the request for reconsideration within twenty calendar days of the date of the notice described in WAC 182-16-2120, the request is deemed denied.

(4) If any party files a request for reconsideration of the final order, the reconsideration process must be completed before any judicial review may be requested. However, the filing of a request for reconsideration is not required before requesting judicial review.

(5) An order denying a request for reconsideration is not subject to judicial review.

NEW SECTION

WAC 182-16-3200 Judicial review of final order. (1) Judicial review is the process of appealing a final order to a court.

(2) The appellant may appeal a final order by filing a written petition for judicial review that meets the requirements of RCW 34.05.546. The public employees benefits board (PEBB) program may not request judicial review.

(3) The appellant should consult RCW 34.05.510 through 34.05.598 for further details and requirements of the judicial review process.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 182-16-025 Where do members appeal decisions regarding eligibility, enrollment, premium payments, premium surcharges, a public employees benefits board (PEBB) wellness incentive, or the administration of benefits?
- WAC 182-16-030 How can a current or former employee or an employee's dependent appeal a decision made by a state agency about eligibility, premium surcharge, or enrollment in benefits?
- WAC 182-16-032 How can a decision made by the public employees benefits board (PEBB) program regarding eligibility, enrollment, premium payments, premium surcharge, eligibility to participate in the PEBB wellness incentive program or receive a PEBB wellness incentive; or a decision made by an employer group regarding life insurance or LTD insurance be appealed?
- WAC 182-16-035 How can a subscriber appeal a decision regarding the administration of wellness incentive program requirements?
- WAC 182-16-036 How can an employee who is eligible to participate in the state's salary reduction plan appeal a decision regarding the administration of benefits offered under the state's salary reduction plan?
- WAC 182-16-038 How can an entity or organization appeal a decision of the health care authority to deny an employer group application?
- WAC 182-16-040 What should the request for review or notice of appeal contain?
- WAC 182-16-050 How can an appellant aggrieved by a written decision made by the public employees benefits board (PEBB) appeals committee request an administrative hearing?
- WAC 182-16-052 Requirements to appear and represent a party in the administrative hearing process.
- WAC 182-16-061 Presiding officers—Assignment, motions of prejudice, and disqualification.
- WAC 182-16-062 Authority of the presiding officer.
- WAC 182-16-067 Service of documents on another party.

- WAC 182-16-070 Calculating when a hearing deadline ends.
- WAC 182-16-071 Time requirements for service of notices made by the presiding officer.
- WAC 182-16-072 Hearing location.
- WAC 182-16-073 Rescheduling and continuances.
- WAC 182-16-080 Determining if an administrative hearing right exists.
- WAC 182-16-081 Prehearing conferences.
- WAC 182-16-082 Dispositive motions.
- WAC 182-16-085 Subpoenas.
- WAC 182-16-090 Orders of dismissal—Reinstating a hearing after an order of dismissal.
- WAC 182-16-091 Settlement agreements.
- WAC 182-16-092 Withdrawing the request for an administrative hearing.
- WAC 182-16-100 Final order deadline—Required information.
- WAC 182-16-105 Motion for reconsideration and response—Process.
- WAC 182-16-106 Decisions on motions for reconsideration.
- WAC 182-16-110 Judicial review of final order.

WSR 18-22-040**PERMANENT RULES
PUGET SOUND****CLEAN AIR AGENCY**

[Filed October 30, 2018, 9:47 a.m., effective December 1, 2018]

Effective Date of Rule: December 1, 2018.

Purpose: **Section 1.07**, the definition of "Toxic Air Contaminant or TAC" in the agency's current rule (Regulation I, Section 1.07(w)) is no longer consistent with the definition of this term in WAC 173-400-030(91) and references an obsolete section of the WAC. The proposed update will replace the outdated definition with the current WAC definition.

Section 3.11, the agency's practice for many years has been to annually adjust the maximum civil penalty amount as allowed by law. The proposed adjustment to the maximum civil penalty amount accounts for inflation, as authorized by RCW 70.94.431 and as determined by the state office of the economic and revenue forecast council. Without this adjustment, the maximum penalty amount would effectively decrease each year. The CPI for the Seattle/Tacoma/Bellevue area increased by 4.04 percent for the 2017 calendar year, which amounts to an increase of \$762.00 in the maximum civil penalty amount.

The proposed amendment does not affect the way the agency determines actual civil penalty amounts in individual cases. This continues to be done following civil penalty worksheets previously approved by the board.

Section 3.25, this section currently provides that whenever federal rules are referenced in agency regulations, the effective date of the federal regulations referred to is July 1, 2017. This provides certainty so that persons affected by the regulations and agency staff know which version of a federal regulation to reference. For many years, the agency's practice has been to update this date annually to stay current with federal regulations. Following this practice, the proposed amendments would change the reference date to July 1, 2018.

Citation of Rules Affected by this Order: Regulation I, Sections 1.07 (Definitions), 3.11 (Civil Penalties), and 3.25 (Federal Regulation Reference Date).

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 18-17-168 on August 21, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 27, 2018.

Craig Kenworthy
Executive Director

AMENDATORY SECTION**SECTION 1.07 DEFINITIONS**

When used herein:

(a) **AGENCY** means the Puget Sound Clean Air Agency.

(b) **AIR CONTAMINANT** means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(c) **AIR POLLUTION** means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. Air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(d) **AMBIENT AIR** means the surrounding outside air.

(e) **BOARD** means the Board of Directors of the Puget Sound Clean Air Agency.

(f) **COMBUSTIBLE REFUSE** means solid or liquid combustible waste material.

(g) **CONTROL EQUIPMENT** means any device which prevents or controls the emission of any air contaminant.

(h) **CONTROL OFFICER** means the Air Pollution Control Officer of the Puget Sound Clean Air Agency.

(i) **EMISSION** means a release of air contaminants into the ambient air.

(j) **EMISSION STANDARD** means a requirement established under the Federal Clean Air Act (FCAA) or chapter 70.94 RCW that limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment, work practice, or operational standard adopted under the FCAA or chapter 70.94 RCW.

(k) **EQUIPMENT** or **EMISSIONS UNIT** means any part of a stationary source or source that emits or would have the potential to emit any pollutant subject to regulation under the federal Clean Air Act, chapter 70.94 or 70.98 RCW.

(l) **FUEL BURNING EQUIPMENT** means equipment that produces hot air, hot water, steam, or other heated fluids by external combustion of fuel.

(m) **GASOLINE** means a petroleum distillate that is a liquid at standard conditions and has a true vapor pressure greater than 4 pounds per square inch absolute at 20°C, and is used as a fuel for internal combustion engines. Also any liquid sold as a vehicle fuel with a true vapor pressure greater than 4 pounds per square inch absolute at 20°C shall be considered "gasoline" for purpose of this regulation.

(n) **GASOLINE STATION** means any site dispensing gasoline into motor vehicle, marine vessel, or aircraft fuel tanks from stationary storage tanks.

(o) **HAZARDOUS AIR POLLUTANT** means any air pollutant listed in or pursuant to section 112(b) of the federal Clean Air Act, 42 U.S.C. §7412.

(p) **MOTOR VEHICLE** means any operating vehicle or one capable of being operated that has its own self-contained sources of motive power, is designed for the transportation of people or property, and is of the type for which a license is required for operation on a highway.

(q) **MULTIPLE CHAMBER INCINERATOR** means a furnace for the destruction of waste consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned.

(r) **OWNER** or **OPERATOR** means the person who owns, leases, supervises, or operates the equipment or control equipment.

(s) **PERSON** means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(t) **REASONABLY AVAILABLE CONTROL TECHNOLOGY** or **RACT** means the lowest emission standard that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capi-

tal and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

(u) **REFUSE BURNING EQUIPMENT** means equipment employed to burn any solid or liquid combustible refuse.

(v) **SOURCE** means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related group of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same 2-digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 supplement.

(w) **TOXIC AIR POLLUTANT (TAP) or "toxic air contaminant"** (~~(CONTAMINANT or TAC)~~) means any (~~(Class A or Class B)~~) toxic air pollutant listed in WAC 173-460-150 (~~(and 173-460-160)~~). The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 (~~(and/or 173-460-160)~~). The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(x) **TRUE VAPOR PRESSURE** means the equilibrium partial pressure of a petroleum liquid as determined by methods described in American Petroleum Institute Bulletin 2517, "Evaporative Loss from External Floating Roof Tanks", May 1996.

(y) **URBANIZED AREA** means those portions of King, Pierce, Kitsap, and Snohomish Counties designated as urbanized areas by the U.S. Department of Commerce, Bureau of the Census.

(z) **VOLATILE ORGANIC COMPOUND** or **VOC** means an organic compound that participates in atmospheric photochemical reactions as defined in 40 CFR 51.100(s) in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference.

AMENDATORY SECTION

SECTION 3.11 CIVIL PENALTIES

(a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed \$((18,847.00)) 19,609.00, per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than \$((18,847.00)) 19,609.00, for each day of continued noncompliance.

(c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during

regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.

(d) A mitigation request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;

(2) A copy of the Notice and Order of Civil Penalty involved;

(3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

(f) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION

SECTION 3.25 FEDERAL REGULATION REFERENCE DATE

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, (~~2017~~) 2018.

WSR 18-22-041

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed October 30, 2018, 10:05 a.m., effective November 30, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-101-3170 Group training home, in order to strike the requirement for a group training home to be licensed as an adult family home. RCW 70.128.030(3) specifically exempts facilities approved and certified under chapter 71A.22 RCW, Training centers and homes, from the operation of chapter 70.128 RCW, Adult family homes.

Citation of Rules Affected by this Order: Amending WAC 388-101-3170.

Statutory Authority for Adoption: Chapter 71A.22 RCW.

Other Authority: RCW 70.128.030.

Adopted under notice filed as WSR 18-17-066 on August 9, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 29, 2018.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-02-022, filed 12/21/07, effective 2/1/08)

WAC 388-101-3170 Group training home. After the effective date of this chapter a person or entity desiring to become a group training home must:

- (1) Complete an application on forms and attachments designated by the department; and
- (2) Currently be:
 - (a) Certified as a community residential services and support provider; and
 - (b) ~~((Licensed as an adult family home under chapter 70.128 RCW; and~~
 - (e)) A nonprofit business in accordance with state and federal law.

WSR 18-22-043

PERMANENT RULES

SHORELINE COMMUNITY COLLEGE

[Filed October 30, 2018, 12:01 p.m., effective November 30, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The college is repealing chapter 132G-136 WAC and creating chapter 132G-137 WAC to provide updated and clarifying language regarding the use of facilities at Shoreline Community College. The updated code incorporates new model language that implements best practices for the smooth operation of Shoreline Community College's buildings and grounds in support of our primary mission as an educational facility.

Citation of Rules Affected by this Order: New chapter 132G-137 WAC; and repealing chapter 132G-136 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 18-17-136 on August 20, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1 [7], Amended 0, Repealed 1 [13].

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1 [7], Amended 0, Repealed 1 [13].

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2018.

Cheryl Roberts
President

Chapter 132G-137 WAC

USE OF COLLEGE FACILITIES

NEW SECTION

WAC 132G-137-010 Use of college facilities. Shoreline Community College is a learning organization within higher education provided and maintained by the people of the state. The college's buildings, properties, and facilities shall be reserved at all times for activities related directly to its cultural, educational, or recreational pursuits.

NEW SECTION

WAC 132G-137-020 Limitation of use to school activities. The college buildings, properties, and facilities, including those assigned to student programs, may be used only for:

(1) The regularly established teaching, research, or public service activities of the college and its departments or related agencies.

(2) Cultural, educational, or recreational activities of the students or of the employees.

(3) Short courses, conferences, seminars, or similar events, conducted either in the public service or for the advancement of specific departmental professional interests, when arranged under the sponsorship of the college or its departments.

(4) Cultural or professional events open to the public by:

- (a) K-12 and universities;
- (b) State or federal agencies;
- (c) Charitable agencies; or
- (d) Civic or community organizations whose activities are of a character appropriate to the college.

(5) College facilities shall be assigned to student organizations for regular business meetings, social functions and for programs open to the public. Any recognized campus student organization may invite speakers from outside the campus community. In conformance with state guidelines, the appearance of an invited speaker on campus does not represent an endorsement by the college, its students, faculty, administration or the board of trustees, whether implicit or explicit, of the speaker's views.

(6) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to insure the proper maintenance of the facilities. Subject to the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Such arrangements must be made through the designated administrative officer. Allocation of space shall be made in accordance with published college regulations and on the basis of time, space availability, priority of request and the demonstrated needs of individuals or groups.

(7) Use of space shall not interfere with regularly scheduled classes or activities. Any damage to the assigned facilities may result in limitation of future allocation of space to the offending parties. Charges may be imposed for any damage, or for unusual costs associated with the use of the facility. Individuals or groups requesting space will be required to

state in advance the general purpose of any meeting. If any charge or collection of funds is contemplated, advance permission from the party giving authority for space allocations will be required.

NEW SECTION

WAC 132G-137-030 Limitation of use. (1) Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, research, or public service programs.

(2) College facilities may be rented to private or commercial organizations or associations but shall not be rented to individuals or groups conducting programs for private gain, with the exception of programs which support or promote the educational interests of the college.

(3) College facilities are available to recognized student groups, subject to these general policies and to the rules and regulations of the college.

(4) In compliance with the college's weapons policy, the possession, carrying, or display of any weapon by any person, except a commissioned law enforcement officer, is prohibited on college property, in academic buildings, administrative office buildings, recreational facilities, dining facilities, child care facilities, or at any athletic, entertainment, or educational event.

(a) Any individuals or groups, including those visiting or conducting business with Shoreline Community College, found in possession of a firearm or other weapon knowingly or under circumstances in which the individual should have known that they were in possession of a weapon or firearm within college property or while otherwise fulfilling job or academic responsibilities may be banned from the college for such time and extent as the college determines appropriate. Firearms or other weapons include, but are not limited to, the following:

(i) Any weapon or device from which a projectile or projectiles may be ejected by explosive, such as gunpowder;

(ii) Any simulated or actual firearm operated by any mechanism, gas, or compressed air;

(iii) Any knife with a blade exceeding three inches in length and/or which opens or is ejected open by an outward, downward thrust or movement, or spring;

(iv) Any device, instrument, or object that is used with intent to cause or negligently results in risk of injury or damage to any person or property. Individuals or groups will be directed and required to remove their weapons or themselves from the college property or premises, with all appropriate legal actions being taken upon failure to comply.

(b) Individuals with a valid Washington state concealed weapons permit must keep any firearm in their vehicle locked and concealed from view while parked on campus in accordance with RCW 9.41.050.

(c) The president or their designee may grant permission to bring a weapon elsewhere on campus upon a determination that the weapon is necessary for safety and security purposes. Such permission shall be in writing and shall be subject to

such terms or conditions incorporated in the written permission.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

NEW SECTION

WAC 132G-137-040 Administrative control. The board hereby delegates to the president authority to set up administrative procedures for proper review of the use of college facilities; to establish, within the framework of these policies, regulations governing such use; and to establish rental schedules where appropriate.

NEW SECTION

WAC 132G-137-050 Trespass. (1) Individuals who are not students or employees and who violate the college's rules, or whose conduct threatens the safety or security of its students and employees will be advised of the specific nature of the violation, and if they persist in the violation, they will be requested by the president, or designee, to leave the college property. Such a request will be deemed to prohibit the entry of the college property, withdraw the license or privilege to enter onto or remain upon any portion of the college property by the person or group of persons requested to leave, and subject such individuals to arrest under the provisions of chapter 9A.52 RCW.

(2) Members of the college community (students and employees) who do not comply with these regulations will be reported to the appropriate college office or outside agency for action in accord with established college policies.

(3) When the college revokes the license or privilege of any person to be on college property, temporarily or for a stated period of time, that person may file a request for review of the decision with the president or designee within ten days of receipt of the trespass notice. The request must contain the reasons why the individual disagrees with the trespass notice. The trespass notice will remain in effect during the pendency of any review period. The decision of the president or designee will be the final decision of the college and should be issued within five business days of receipt of the request to review the trespass notice.

NEW SECTION

WAC 132G-137-060 Prohibited conduct at college facilities. (1) State law relative to public institutions govern the use or possession of intoxicants on campus or at college functions. The use or possession of unlawful narcotics or drugs, not medically prescribed, on college property or at college functions, is prohibited. Students, staff and faculty who are obviously under the influence of intoxicants, unlawful drugs, or narcotics while in college facilities shall be subject to disciplinary action.

(2) A lottery or any other form of gambling is prohibited at Shoreline Community College.

(3) The smoking or vaping of tobacco is restricted by college policy, laws and regulations of the fire marshal to designated smoking areas only. The vaping or smoking of marijuana or herbal or chemical products, and the use of

smokeless or chewing tobacco is prohibited at all times on campus.

(4) Destruction of property is also prohibited by state law in reference to public institutions.

NEW SECTION

WAC 132G-137-070 Control of pets in college facilities. Pets on the grounds of Shoreline Community College shall be in the physical control of their owner in accordance with Shoreline municipal code title 6.30.050 (leash law) at all times. Animals, except for service animals, are prohibited from entering buildings operated by Shoreline Community College except by the express written permission of the president or designee.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132G-136-010	Rental of college facilities.
WAC 132G-136-020	Authorization for use of facilities.
WAC 132G-136-030	Trespass regulations.
WAC 132G-136-040	Collections.
WAC 132G-136-050	Presentation of media, distribution of materials, and posting of signs.
WAC 132G-136-060	Distribution of materials—Off-campus organizations and nonstudents.
WAC 132G-136-070	Student facilities or services—Appeals.
WAC 132G-136-080	College events—Admission restrictions.
WAC 132G-136-090	Physical education facility—Equipment stored in baskets.
WAC 132G-136-100	Physical education facility—Dress regulations.
WAC 132G-136-110	Eye protection.
WAC 132G-136-120	Off-campus student-invited speakers—Preamble.
WAC 132G-136-130	Off-campus student-invited speakers—Rules for scheduling.

WSR 18-22-044

PERMANENT RULES

SHORELINE COMMUNITY COLLEGE

[Filed October 30, 2018, 12:02 p.m., effective November 30, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The college is creating chapter 132G-142 WAC to provide clarifying language reflecting model code and best practices regarding the time, manner and place restrictions for expressive activities on campus covered under

first amendment rights. This language is being created to ensure there are protections in place to eliminate disruption to the educational process.

Citation of Rules Affected by this Order: New chapter 132G-142 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 18-17-137 on August 20, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1 [6], Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1 [6], Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2018.

Cheryl Roberts
President

Chapter 132G-142 WAC

USE OF COLLEGE FACILITIES FOR EXPRESSIVE ACTIVITIES

NEW SECTION

WAC 132G-142-010 Definitions. (1) "College facilities" or "campus" includes all buildings, structures, grounds, office space, and parking lots owned, leased or controlled by Shoreline Community College.

(2) "College group" means a group of individuals who currently are enrolled students or current employees of Shoreline Community College, or individuals who are sponsored by a recognized student organization, employee organization, or the administration of the college.

(3) "Expressive activity" includes, but is not limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments or other types of assemblies to share information, perspectives or viewpoints.

(4) "Noncollege group" means individuals or groups who currently are not enrolled students or current employees of Shoreline Community College and who are not officially affiliated or associated with, or invited guests of a recognized student organization or employee group, or with the administration of the college.

(5) "Public forum areas" means those areas of campus that the college has chosen to be open as places where non-

college groups may assemble for expressive activities protected by the first amendment, subject to reasonable time, place, or manner provisions.

(6) "Recognized organization" includes student clubs, college councils or committees, and other groups designated by policy or approved by college leadership.

(7) "Sponsor" means that when a college group invites a noncollege group onto campus, the college group will be responsible for the activity and will designate a college individual to be present at all times during the activity. The sponsor will ensure that those participating in the sponsored activity are aware of the college's rules and policies governing the activity. This definition does not apply to noncollege groups that rent college facilities.

NEW SECTION

WAC 132G-142-020 Statement of purpose. Shoreline Community College is an educational institution provided and maintained by the people of the state of Washington. College facilities are reserved primarily for educational use including, but not limited to, instruction, research, public assembly of college groups, student activities, and other activities directly related to the educational mission of the college. The public character of the college does not grant to individuals the right to an unlimited range to engage in activities which limits, interferes with, or otherwise disrupts the normal activities to which the college's facilities and grounds are dedicated. Accordingly, the college designates the common grounds and outdoor areas of the college as a limited public forum subject to the time, place, and manner limitations and restrictions set forth in this policy.

The purpose of the time, place, and manner regulations set forth in this policy is to establish procedures and reasonable controls for the use of college facilities for both college and noncollege groups. It is intended to balance the college's responsibility to fulfill its mission as a state educational institution of Washington with the interests of college groups and noncollege groups who are seeking to use the campus for purposes of expressive activity. The college recognizes that college groups should be accorded the opportunity to utilize the facilities and grounds of the college to the fullest extent possible. The college campus is open to noncollege groups to the extent that the usage does not conflict with the rights of college groups or substantially disrupt the educational process. The college has designated certain facilities as public use areas to noncollege groups as set forth herein.

NEW SECTION

WAC 132G-142-030 Use of facilities. (1) Subject to the regulations and requirements of this section, groups may use the campus limited forums for expressive activities between the hours of 7:00 a.m. and 10:00 p.m.

(2) The activity must not substantially or materially interfere with educational activities inside or outside any college building or otherwise prevent the college from fulfilling its mission and achieving its primary purpose of providing an education to its students. The activity must not substantially infringe on the rights and privileges of college students, employees, or invitees to the college.

(3) Any sound amplification may only be at a volume which does not disrupt or disturb the normal use of classrooms, offices, laboratories, or any previously scheduled college activity.

(4) Groups are encouraged to notify the safety and security department no later than twenty-four hours in advance of an activity. However, unscheduled activities are permitted so long as the activity does not materially disrupt any other function occurring at the college.

(5) All sites used for expressive activities shall be cleaned up and left in their original condition by the participants or group, and will be subject to inspection by a representative of the college after the activity. Reasonable charges may be assessed against the sponsoring organization or individuals for the costs of extraordinary cleanup or for the repair of damaged property.

(6) All fire, safety, sanitation or special regulations specified for activities under this section are to be obeyed. The college cannot and will not provide utility connections or hook-ups for the purposes of expressive activity conducted pursuant to this section.

(7) There shall be no camping on college facilities or grounds between the hours of 10:00 p.m. and 5:00 a.m. without express permission of the president or designee. Camping is defined to include sleeping, carrying on cooking activities, storing personal belongings for personal habitation, or the erection of tents or other shelters or structures used for purposes of personal habitation.

(8) The activity must not be conducted in such a manner as to obstruct vehicular, bicycle, pedestrian, or other traffic, or otherwise interfere with ingress or egress to the college, college buildings or facilities, or college activities. The activity must not create safety hazards or pose unreasonable safety risks to college students, employees, or invitees to the college.

(9) College facilities may not be used for commercial sales, solicitations, advertising or promotional activities, unless:

(a) Such activities serve educational purposes of the college; and

(b) Such activities are under the sponsorship of a college department, office, or officially chartered student club.

(10) The activity must be conducted in accordance with any other applicable college policies and rules, regulations, local ordinances, and state or federal laws.

NEW SECTION

WAC 132G-142-040 Additional requirements for noncollege groups. (1) College facilities may be rented by noncollege groups in accordance with the college's facilities use policy. When renting college facilities, an individual or organization may be required to post a bond or obtain insurance to protect the college against cost or other liability in accordance with the college's facility use policy. When the college grants permission to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage. Noncollege groups may otherwise use college facilities for expressive activity as identified in this section.

(2) The college designates its common grounds and outdoor spaces as the sole limited public forum area(s) for use by noncollege groups for expressive activities on campus. The public use areas may be scheduled. Scheduled groups have priority of use over unscheduled groups. Nothing in these rules prohibits noncollege groups from engaging in expressive activities at open public meetings, subject to the requirements of RCW 42.30.050.

(3) Noncollege groups that seek to engage in expressive activity in the designated public forum areas are encouraged to provide notice to the safety and security department no later than twenty-four hours prior to the event, along with the following information solely to ensure:

- (a) The area is not otherwise scheduled; and
- (b) To give the college an opportunity to assess any security needs:
 - (i) The name, address and telephone number of a contact person for the individual, group, entity, or organization sponsoring the activity;
 - (ii) The date, time, and requested location of the activity;
 - (iii) The nature and purpose of the activity; and
 - (iv) The estimated number of people expected to participate in the activity.

(4) Noncollege groups may use the public forum areas for first amendment activities between the hours of 7:00 a.m. and 10:00 p.m. Shoreline Community College is not open to the general public except during these times.

NEW SECTION

WAC 132G-142-050 Distribution of materials. Information may be distributed as long as it is not obscene or does not promote the imminent prospect of actual violence or harm. The distributor is encouraged, but not required, to include its name and address on the distributed information. College groups may post information on bulletin boards, kiosks, and other display areas designated for that purpose, following the relevant college procedure, and may distribute materials throughout the open areas of campus. Noncollege groups may distribute materials only on the grounds and outside spaces of the campus.

NEW SECTION

WAC 132G-142-060 Trespass. (1) Noncollege groups who violate these rules, any provision of the conduct code, or whose conduct jeopardizes the health or safety of others, will be advised of the specific nature of the violation, and if they persist in the violation, will be requested by the campus president or designee to leave the property. Such a request will be deemed to withdraw the license or privilege to enter onto or remain upon any portion of the college facilities of the person or group of persons requested to leave, and subject such individuals to arrest under the criminal trespass provisions of chapter 9A.52 RCW or municipal ordinance.

(2) Members of the college community (students, faculty, and staff) who do not comply with these regulations will be reported to the appropriate college office for action in accordance with established college policies.

(3) When the college revokes the license or privilege of any person or group to be on college property, temporarily or

for a stated period of time, that person may file a request for review of the decision with the president or their designee within ten days of receipt of the trespass notice. The request must contain the reasons why the individual disagrees with the trespass notice. The trespass notice will remain in effect during the pendency of any review period. The decision of the president or designee will be the final decision of the college and will be issued within five business days.

WSR 18-22-049

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed October 31, 2018, 7:16 a.m., effective December 1, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to update the Washington state department of agriculture's fair rules to be consistent with changes to state statute adopted by the legislature in 2018. Chapter 280, Laws of 2018, updated chapter 15.76 RCW to (1) ensure that if a fair is not held due to a natural disaster, and therefore does not conduct two successful, consecutive annual fairs, it will not lose eligibility to apply for allocations; (2) no longer restricts allocations to reimbursement for premiums and prizes; (3) allow fairs to receive reimbursement for operating expenses incurred; (4) increase the amount of the fair fund spent on allocations; and (5) clarify terms of appointment to the fairs commission. Chapter 16-700 WAC contains the requirements for agricultural fairs receiving allocations from the state fair fund. Adopted amendments reorganize the chapter and clarify qualifications and requirements for all categories of agricultural fairs.

Citation of Rules Affected by this Order: New WAC 16-700-015; repealing WAC 16-700-010, 16-700-011, 16-700-021, 16-700-027, 16-700-030, 16-700-040, 16-700-060, 16-700-075, 16-700-080 and 16-700-090; and amending WAC 16-700-002, 16-700-022, 16-700-024, 16-700-050, and 16-700-070.

Statutory Authority for Adoption: RCW 15.76.180.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-16-037 on July 25, 2018.

Changes Other than Editing from Proposed to Adopted Version: The department has included a definition for "operating expenses" and changed the word "prizes" to "awards."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 5, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 30, 2018.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 80-01-019, filed 12/14/79, effective 1/1/81)

WAC 16-700-002 Definitions. "Agricultural fair(=)" means a fair or exhibition ((which is)) intended to promote agriculture by ((including)) having a balanced variety of exhibits of livestock and agricultural products((=as well as)); agriculture related arts and manufactures; ((including)) products of the farm home((=)); and educational contests, displays, and demonstrations designed to train youth and to promote the ((welfare of farm people and rural living)) importance of agriculture and support rural economic development. There are five categories of agricultural fairs: Area fairs, community fairs, county fairs, district fairs, and youth shows or fairs.

"Allocation" means amounts from the state fair fund, the account established in RCW 15.76.115, allocated to agricultural fair categories.

"Area fair" means an agricultural fair with both open and junior participation and an extensive diversification of classes, displays, and exhibits. Area fairs serve an area larger than one county; have organized governing boards of directors; are nonprofit; show evidence of community support; and are not under county commissioner jurisdiction.

"Community fair" means an agricultural fair with either or both open or junior classes, displays or exhibits. Community fairs do not have as extensive diversification of classes, displays, or exhibits as area, county, or district fairs. Community fairs serve an area smaller than areas served by area, county, and district fairs; have organized governing boards of directors; are nonprofit; and show evidence of community support. There may be more than one community fair in a county.

"County fair" means an agricultural fair with both open and junior participation but not as extensive diversification of classes, displays, and exhibits as an area fair. County fairs are authorized by RCW 36.37.050, serve a single county, and are under the jurisdiction of a board of county commissioners.

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture.

"District fair" means an agricultural fair with both open and youth participation but not as extensive diversification of classes, displays, and exhibits as an area fair. District fairs are authorized by RCW 36.37.050, serve more than one county, and are under county commission jurisdiction.

"Operating expenses" means the amount awarded for premiums and awards; expenses for special agricultural education and demonstrations; judges' fees; staffing expenses; and other expenses used to operate an agricultural fair.

"Premiums and awards" means anything of value given as a reward or incentive for exhibits and educational contests, displays, and demonstrations of an educational nature. Premiums and awards do not include livestock sale revenues, nor

anything of value given as a reward or incentive for promotional or entertainment activities, such as queen contests, parades, dances, rodeos, and races.

"Reimbursement" means a proportion of an allocation distributed to eligible applicants as reimbursement for operating costs incurred according to the requirements of chapter 15.76 RCW and this chapter.

"Youth fair or show" means a 4-H or FFA agricultural fair with the purpose of educating and training youth in agriculture and life skills. Youth fairs or shows serve three or more counties; must be approved by an approving agency; have organized governing boards of directors; are nonprofit; and show evidence of community support.

"Youth fair or show approving agency" means either the Washington State University, which approves 4-H fairs and shows, or the office of the superintendent of public instruction, which approves FFA fairs and shows.

NEW SECTION

WAC 16-700-015 Applications for reimbursement.

(1) Agricultural fairs must use reimbursement application forms supplied by the department. Applicants for reimbursement must include all information requested by the application forms including, but not limited to, the number of exhibits and exhibitors, the amount awarded for premiums and awards, and operating expenses.

(2) An area, county, or district fair applying for a reimbursement must submit to the director an annual application and a certified auditor's report of operating expenses on or before February 15th in the year following the fair.

(3) A community fair applying for a reimbursement must submit to the director an annual notarized application on or before December 1st in the year of holding the fair.

(4) Youth fairs or shows applying for a reimbursement must submit to the director an annual notarized application on or before December 1st in the year of holding the fair. The department will submit a copy of each youth fair or show application to the approving agency.

AMENDATORY SECTION (Amending WSR 80-01-019, filed 12/14/79, effective 1/1/81)

WAC 16-700-022 Requirements to qualify for reimbursement. ~~((AH))~~ Any agricultural fair((s-shall)), except for single species youth shows, applying for reimbursement of operating expenses must:

~~(1) ((Have a written statement of aims and purposes made public.~~

~~((2)))~~ Provide special activities for youth training and development, such as judging contests, educational demonstrations, and displays ((designed to train youth)).

~~((3)))~~ (2) Hold all activities to be considered as part of the fair on consecutive days((= Provided, That)). A fair may hold a portion of these activities ((may be held)) up to seven days before the first day of the fair.

(3) Have all displays or exhibits in one place and open to the public for at least a seven-hour period.

AMENDATORY SECTION (Amending WSR 80-01-019, filed 12/14/79, effective 1/1/81)

WAC 16-700-024 Director's review. Any fair not qualifying under WAC ~~((16-700-021 or 16-700-022(3)))~~ 16-700-022 may apply to the director for a review of its circumstances and the director ~~((is authorized))~~ has discretion to determine eligibility ~~((on the basis))~~ in consideration of those circumstances on a case-by-case basis.

AMENDATORY SECTION (Amending WSR 97-04-078, filed 2/5/97, effective 3/8/97)

WAC 16-700-050 Merit criteria. (1) After allocation to fair categories, fairs commissioners evaluate agricultural fairs to help determine the distribution of reimbursement according to the merit rating.

(2) Fairs commissioners evaluating agricultural fairs have discretion in award of merit points.

(3) In determining the merit of ~~((area, district, county and community fairs shall be determined on the basis of))~~ agricultural fairs, the fairs commissioners use standards based on the following criteria:

~~((4))~~ (a) Aims and purposes: ~~((For what))~~ Evidence of successful achievement of the fair or show's stated aims and purposes. Fairs and shows should have a written statement prominently displayed to the public that describes the reason or purposes ~~((is the show held and what is the evidence of successful achievement of these aims and purposes?~~

~~((2))~~ for which the fair or show is held.

(b) Organization and management: ~~((To what))~~ The extent ~~((is))~~ to which the organization, its officers and management, and the physical facilities and financial resources are geared to accomplish the objectives stated ~~((above?~~

~~((3))~~ Area served: ~~What is the extent of the area from which exhibits and exhibitors are drawn and the extent of the area served?~~

~~((4))~~ in the written statement of aims and purposes.

(c) General attractiveness: ~~((Are))~~ The agricultural, educational, commercial and recreational features ~~((well balanced, making))~~ that help make the fair attractive to the fair-going public~~((?~~

~~((5))~~.

(d) Exhibits: ~~((What is))~~ The number, quality and diversity of exhibits and their general rating judged by recognized standards of excellence, as well as their neatness and orderliness in all departments, in open and junior classes~~((?~~

~~((6))~~.

(i) To qualify for the maximum number of animal exhibit merit points, fairs should have three or more large animal categories, such as beef, sheep, swine, horses, dairy, goats, and llamas; and three or more small animal categories, such as dogs, cats, poultry, rabbits, cavies, and pocket pets.

(ii) To qualify for the maximum number of still life exhibit merit points, fairs should have three or more still life categories, such as baked goods, food preservation, clothing and sewn items, decorative arts, fine arts, photography, horticulture, crops, floriculture, crafts and hobbies, ag mechanics, and STEM (science, technology, engineering and mathematics) exhibits.

(iii) Animal-only fairs and shows are exempt from the still life requirement.

(e) Community, county or area interest: ~~((How is fair))~~ The participation and support ~~((of))~~ from the area served as indicated by ~~((a))~~ attendance, both paid and total~~((s));~~ and ~~((b))~~ by active support ~~((of))~~ from service clubs, farm organizations and other groups~~((?~~

~~((7))~~.

(f) Success of the fair: How successful ~~((does))~~ the fair appears, measured by its accomplishment in relation to resources available~~((?)~~.

(4) In the case of youth fairs and shows, fair commissioners also consider to the extent to which the show or fair supplements youth programs; provides opportunities for showing results of supervised training in these programs; and provides special activities for youth development, such as judging contests, educational demonstrations, banquets, barbecues, programs, or other supervised recreation.

AMENDATORY SECTION (Amending Order 847, Regulation 7, effective 6/8/61)

WAC 16-700-070 Reserve for disaster grants. ~~((Allocations to fairs from the special assistance portion of the state fair fund shall be made on a matching basis except that this requirement may be waived in the case of assistance due to))~~ The department must reserve not less than five thousand dollars for the purpose of making disaster grants to fairs that have experienced disasters resulting from fire, flood, wind, snow, earthquake or other acts of God. ~~((A reserve of not less than \$5,000 shall be held for the purpose of making disaster grants.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-700-010 Activity reports required.

WAC 16-700-011 Fair reorganization.

WAC 16-700-021 Qualifications.

WAC 16-700-027 Board of directors.

WAC 16-700-030 Effect of donated labor, materials, and equipment.

WAC 16-700-040 Consideration given to community support.

WAC 16-700-060 Criteria for youth shows and fairs.

WAC 16-700-075 Special assistance grant limits.

WAC 16-700-080 Qualifying premiums and prizes.

WAC 16-700-090 Effective date.

WSR 18-22-055
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed October 31, 2018, 10:34 a.m., effective December 1, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changes to cannabis rules in chapter 314-55 WAC as a result of legislation passed during the 2017 legislative session, as well as a number of clarifying, technical, and other needed changes identified by stakeholders and the Washington state liquor and cannabis board.

Citation of Rules Affected by this Order: New WAC 314-55-117, 314-55-137 and 314-55-417; repealing WAC 314-55-081; and amending WAC 314-55-010, 314-55-015, 314-55-018, 314-55-020, 314-55-050, 314-55-073, 314-55-075, 314-55-077, 314-55-079, 314-55-080, 314-55-083, 314-55-084, 314-55-087, 314-55-089, 314-55-092, 314-55-095, 314-55-096, 314-55-097, 314-55-104, 314-55-120, 314-55-125, 314-55-140, 314-55-185, 314-55-410, 314-55-525, 314-55-530, 314-55-082, and 314-55-155.

Statutory Authority for Adoption: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369.

Adopted under notice filed as WSR 18-17-185 on August 22, 2018.

Changes Other than Editing from Proposed to Adopted Version: Removed changes to WAC 314-55-035.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 30, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 30, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 31, 2018.

Jane Rushford
Chair

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

WAC 314-55-010 Definitions. The following ((are)) definitions apply for the purpose of this chapter((-Other)) in addition to the definitions ((are)) provided in RCW 69.50-101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the WSLCB as a true party of interest in a marijuana license, as outlined in WAC 314-55-035. However, for purposes of determining an application's priority under RCW 69.50.331

(1)(a), only the person or business entity that is applying for the license will be considered the applicant.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

(6) "Cooperative" means a group of more than one, but no more than four qualified medical marijuana patients and/or designated providers who share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative.

(7) "Domicile" means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

(8) "Elementary school" means a school with a physical location for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

(9) "Employee" means any person performing services on a licensed premises for the benefit of the licensee whether or not such person is compensated by the licensee.

(10) "End product" means a marijuana product that requires no further processing prior to retail sale.

~~((11))~~ (11) "Financier" means any person or entity, other than a banking institution, ~~((that has made or will make an investment in the licensed business. A financier can be a person or entity))~~ that provides money as a gift((-)) or loans money to the applicant/business and expects to be paid back the amount of the loan with or without reasonable interest((-or expects any percentage of the profits from the business in exchange for a loan or expertise)).

~~((12))~~ (12) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

~~((13))~~ (13) "Harvest" means the marijuana plant material derived from plants of the same strain that were cultivated at the same licensed location and gathered at the same time.

(14) "Immature plant or clone" means a marijuana plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

~~((13))~~ (15) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana mix lot, marijuana concentrate or marijuana-infused product that must be or are intended to be converted further (~~(processed prior to retail sale)~~) to an end product.

~~((13))~~ (16) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~((14))~~ (17) "Licensed premises" means all areas of a premises where the licensee has leasehold rights as listed in the property lease submitted to the board. Any vehicle assigned for the purposes of transporting marijuana, ~~(usable)~~ useable marijuana, marijuana concentrates, or marijuana-infused products shall be considered an extension of the licensed premises.

~~((15))~~ (18) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

~~((16))~~ (19) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

~~((17))~~ (20) "Lozenge" means a marijuana-infused product such as a hard candy, mint, pastille, tablet, or similar type of edible product that is generally swallowed whole, chewed and swallowed, or dissolved in the mouth.

(21) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

~~((18))~~ (22) "Marijuana mix" means an intermediate lot that contains multiple strains of useable marijuana and is chopped or ground so no particles are greater than 3 mm.

(23) "Marijuana mix infused" or "mix infused" means an end product that contains marijuana mix and may contain other intermediate products or useable marijuana.

(24) "Marijuana mix packaged" or "mix packaged" means an end product containing only marijuana mix and no other product types.

(25) "Member," except as that term is used in relation to registered cooperatives, means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

~~((19))~~ (26) "Paraphernalia" means items used for the storage or use of ~~(usable)~~ useable marijuana, marijuana concentrates, or marijuana-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongs, and storage containers. Items for growing, cultivating, and processing marijuana, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

~~((20))~~ (27) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, insecticides, and cloning agents.

~~((21))~~ (28) "Perimeter" means a property line that encloses an area.

~~((22))~~ (29) "Plant" means a marijuana plant.

~~((23))~~ (30) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

~~((24))~~ (31) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, ~~((or))~~ federal government, or metropolitan park district.

~~((25))~~ (32) "Product(s) otherwise taken into the body" means a marijuana-infused product for human consumption or ingestion intended for uses other than inhalation, oral ingestion, or external application to the skin.

(33) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

~~((26))~~ (34) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

~~((27))~~ (35) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable non-profit organization, city, county, state, ~~((or))~~ federal government, or metropolitan park district.

~~((28))~~ (36) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((29))~~ (37) "Secondary school" means a high and/or middle school with a physical location: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

~~((30))~~ (38) "Selling price" means the same meaning as in RCW 82.08.010, except that when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. Selling

price means the true value of the product sold as determined or agreed to by the WSLCB. For purposes of this subsection:

(a) "Product" means marijuana, marijuana concentrates, ~~((usable)) useable~~ marijuana, ~~((and)) or~~ marijuana-infused products; and

(b) "True value" means market value based on sales at comparable locations in the state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. In the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

~~((34))~~ (39) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

~~((32))~~ (40) "WSLCB" means the Washington state liquor and cannabis board.

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

WAC 314-55-015 General information about marijuana licenses. (1) A person or entity must meet certain qualifications under this chapter to receive a marijuana license, which are continuing qualifications ~~((in order))~~ required to maintain the license.

(2) All applicants, licensees, and employees working in each licensed establishment must be at least twenty-one years of age. No one under twenty-one years of age is allowed to enter or remain on a marijuana licensed premises except as provided in RCW 69.50.357.

(3) Minors restricted signs must be posted at all marijuana licensed premises consistent with the requirements in WAC 314-55-086.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the WSLCB approves the license application.

(5) The WSLCB will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The WSLCB will not approve any marijuana license for a location on federal lands.

(7) The WSLCB will not approve any marijuana license within the exterior boundaries of the reservation of a federally recognized tribe without the express written consent of the tribe. If a tribe receives written notice from the WSLCB of a license application or change request under RCW 69.50.331 and the tribe does not respond to the WSLCB within thirty days of the date of that notice, the WSLCB will assume the tribe does not consent to the location of the applicant or licensee and the applicant or licensee must find a different location.

(8) The WSLCB will not approve any marijuana retailer license for a location within another business with the exception of the research license consistent with WAC 314-55-073. More than one license ~~((could))~~ may be located in the same building if each licensee has their own area separated by full walls with their own entrance, or if the same business entity holds a producer license and a processor license at the same

location under a single license number. Product may not be commingled.

~~((9))~~ (9) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the WSLCB in a conspicuous place on the premises.

~~((9))~~ (10) In approving a marijuana license, the WSLCB 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 marijuana license.

~~((10))~~ (11) A marijuana producer, processor or retailer licensed by the WSLCB must conduct the production, processing, storage, and sale of marijuana-infused products using sanitary practices.

~~((11))~~ A marijuana processor licensed by the board must ensure marijuana-infused edible processing 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.

(12) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on or within the licensed premises.

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

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, discounts, and exceptions, etc. (1) No industry member or ~~((marijuana retailer))~~ licensee shall enter into any agreement which causes undue influence over another ~~((retailer))~~ licensee or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of marijuana that are made in accordance with usual and common business practice and that are otherwise in compliance with ~~((the rules))~~ chapter 69.50 RCW and this chapter.

(2) No marijuana producer or processor shall advance and no marijuana licensee shall receive money or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;

(f) Free product of any kind except as allowed by WAC ~~((314-55-083))~~ 314-55-096 and RCW 69.50.585; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this ~~((rule))~~ section and under RCW 69.50.585.

(3) "Industry member" means a licensed marijuana producer, marijuana processor, marijuana retailer, marijuana transportation licensee, marijuana research licensee, their authorized representatives, and including, but not limited to, any affiliates, subsidiaries, officers, partners, financiers, agents, employees, and representatives of any ~~((industry member))~~ licensee.

(4) Consistent with WAC 314-55-017, no industry member or employee thereof shall sell to any marijuana licensee or solicit from any such licensee any order for any marijuana tied in with, or contingent upon, the licensee's purchase of some other marijuana, or any other merchandise, paraphernalia, property, or service.

(5) If the WSLCB finds in any instance that any licensee has violated this ~~((regulation))~~ section, then all licensees involved in the violation shall be held equally responsible ~~((for such violation))~~.

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

WAC 314-55-020 Marijuana license qualifications and application process—Licensing change requests. Each marijuana license application is unique and investigated individually. The WSLCB may inquire and request documents regarding all matters in connection with the marijuana license application. The application requirements for a marijuana license include, but are not ~~((necessarily))~~ limited to, the following:

(1) ~~((Per))~~ Consistent with RCW 69.50.331 (7) and (10), the WSLCB shall send a notice to cities and counties, ~~((and may send a notice to))~~ tribal governments ~~((or))~~, and port authorities regarding the marijuana license application within said jurisdiction. The local authority, tribal government, or port authority has twenty days to respond with a recommendation to approve the application or an objection to the applicant, location, or both.

(2) Consistent with RCW 69.50.331 (8)(e), the WSLCB shall send a notice to tribal governments when an applicant or licensee is proposed to be located within the exterior boundaries of the reservation of a federally recognized Indian tribe. The tribal government will have twenty days to respond with an approval to the application. If written approval is not received within thirty days, the WSLCB will assume the tribe does not consent to the applicant's location and the applicant must find a new location.

(3) Applicants for a new marijuana producer, processor, ~~((or))~~ retailer, transportation, or research license and those who apply to change their location must display a sign provided by the WSLCB on the outside of the premises to be licensed notifying the public that the premises are subject to an application for a marijuana license. Posting notices must occur within seven days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The WSLCB may check for compliance with this requirement at its discretion. The sign must:

(a) Not be altered. The licensee must post the sign sent by the WSLCB without changing, adding, or subtracting from the text;

(b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size sufficient to ensure that it will be readily seen by the public, at a minimum these signs must be eight and one-half by eleven inches;

(d) Be posted within seven business days of the date the notice is sent to the applicant by the WSLCB; and

(e) The notice must be posted for fourteen consecutive days.

~~((3))~~ The WSLCB will use a priority system to determine the order that marijuana retailers are licensed:

(a) First priority is given to applicants who:

(i) Applied to the state liquor and cannabis board for a marijuana retail license prior to July 1, 2014. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service showing the applicant applied for a retail marijuana license prior to July 1, 2014;

(ii) Operated or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB with a copy of the master business from department of revenue business licensing service showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(iii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iv) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue, department of labor and industries, and the employment security department that the entity is up to date on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in since January 1, 2013.

(b) Second priority is given to applicants who:

(i) Operated or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(ii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iii) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue, the department of labor and industries, and the employment security department that the entity is up to date on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in since January 1, 2013, for all businesses they are engaged in since January 1, 2013.

~~(e) Third priority is given to all other applicants who do not meet the qualifications and experience identified for priority one or two.~~

(4) All marijuana (~~retail~~) license applicants must meet the qualifications required by the WSLCB before they will be granted a license (~~regardless of priority~~).

(5) The WSLCB will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

(6) The WSLCB will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the WSLCB and submission of fingerprints to a vendor approved by the WSLCB. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check.

(7) The WSLCB will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(8) The WSLCB may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

(9) The WSLCB may conduct ~~((a final))~~ an inspection of the proposed or currently licensed business location, ~~((in order))~~ to determine if the applicant has complied with all the requirements of the license or change to the license or premises requested.

(10) ~~((Per))~~ Under RCW 69.50.331 (1)(c), all applicants applying for a marijuana license must have resided in the state of Washington for at least six months prior to application for a marijuana license. All business entities including, but not limited to, partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies, applying for a marijuana license must be formed in Washington. All members, governors, or agents of business entities must also meet the six month residency requirement. Managers or agents who manage a licensee's place of business must also meet the six month residency requirement.

~~((Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the WSLCB. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).~~

~~(12))~~ (a) As part of the application process, each applicant must submit ~~((in a format supplied by the WSLCB))~~ an operating plan ~~((detailing the following as it pertains))~~ outlining required elements for the location as provided in this chapter pertaining to the license type being sought. The operating plan must be submitted using an operating plan format supplied by the WSLCB. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. ~~((The operating plan must include the following information:~~

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	Transportation of product
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment to include all marijuana-infused edible processing facility equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
Employee compensation and benefits data (see subsection (13) of this section)	Employee compensation and benefits data (see subsection (13) of this section)	Employee compensation and benefits data (see subsection (13) of this section)

Producer	Processor	Retailer
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers))

(b) After obtaining a license, the license holder must notify the WSLCB in advance of any change in their operating plan. Prior approval is required before the change ((is) may be implemented.

(12) The WSLCB may place licensing change applications made by a licensee on hold if the change application is reasonably related to an ongoing investigation.

(a) The WSLCB may withdraw licensing change applications pending the results of an adjudicative proceeding regarding a violation of chapter 314-55 WAC. Depending on the outcome of the adjudicative proceeding, the licensee may reapply for the withdrawn licensing change application(s).

(b) Examples of licensing change applications that may be affected under this subsection include:

- (i) Application for additional funding;
- (ii) Application for added medical marijuana endorsement;
- (iii) Assumption of a license;
- (iv) Change in governing people, percentage owned, or stock/unit ownership;
- (v) Change of location;
- (vi) Expanding plant canopy to maximum allotted;
- (vii) Request to alter marijuana site or operating plan;
- (viii) Request to add a processor license; and
- (ix) Splitting a producer and processor license.

(13)(a) ~~((In order))~~ To aid the WSLCB in monitoring the industry as it develops, the WSLCB requests that all applicants and licensees seeking renewal provide the following information:

(b) Employees compensation and benefits data.

- (i) Will the applicant/licensee provide a living wage (at least one hundred fifty percent of the state minimum wage) to eighty-five percent or more of its hourly employees?
- (ii) Will the applicant/licensee provide health insurance to at least eighty-five percent of its hourly employees?
- (iii) Will the applicant/licensee provide a defined benefit pension plan to at least eighty-five percent of its hourly employees?
- (iv) Will the applicant/licensee provide five or more paid sick days annually to at least eighty-five percent of its hourly employees?
- (v) Is there a signed labor peace agreement or collective bargaining agreement with a labor organization in place?

(14) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue and other state agencies, as an individual or as part of any entity in which they have an ownership interest.

Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

(15) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

(16) Upon failure to respond to the WSLCB licensing and regulation division's requests for information and/or documentation within the timeline provided, the application may be administratively closed or denial of the application will be sought.

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

WAC 314-55-050 Reasons the WSLCB may seek denial, suspension, or cancellation of a marijuana license application or license. Following is a list of reasons the WSLCB may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the WSLCB has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

- (1) Failure to meet qualifications or requirements for the specific marijuana (~~(producer, processor, or retail))~~ license, as outlined in this chapter and chapter 69.50 RCW.
- (2) Failure or refusal to submit information or documentation requested by the WSLCB during the evaluation process.
- (3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the WSLCB during the application process or any subsequent investigation after a license has been issued.
- (4) Failure to meet the criminal history standards outlined in WAC 314-55-040.
- (5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.
- (6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the WSLCB to be gained in a manner which is in violation by law.
- (7) Denies the WSLCB or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or WSLCB rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (10).

(10) Except as provided in subsection (11) of this section, the WSLCB shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed below:

- (a) Elementary or secondary school;
- (b) Playground;
- (c) Recreation center or facility;
- (d) Child care center;
- (e) Public park;
- (f) Public transit center;
- (g) Library; or
- (h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11)(a) A city or county may by local ordinance permit the licensing of marijuana businesses within one thousand feet but not less than one hundred feet of the facilities listed in subsection (10) of this section except elementary and secondary schools, and playgrounds.

(b) If a licensee applies for a marijuana license at a location less than one thousand feet of a recreation center or facility, child care center, public park, public transit center, library, or game arcade, the licensee must provide the WSLCB with a copy of the local ordinance that describes the distance required by the city or county the facility will be located.

(12) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(13) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(14) Has been denied a liquor or marijuana license or had a liquor license or marijuana license suspended or revoked in this or any other state.

(15) The operating plan does not demonstrate, to the satisfaction of the WSLCB, the applicant is qualified for a license.

(16) Failure to operate in accordance with the WSLCB approved operating plan.

(17) The WSLCB determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

AMENDATORY SECTION (Amending WSR 17-04-038, filed 1/25/17, effective 2/25/17)

WAC 314-55-073 Marijuana research license. A marijuana research license allows a holder of the license to produce, process, and possess marijuana for the limited research purposes provided in RCW 69.50.372. The WSLCB designates a scientific reviewer (reviewer) to review research applications and make recommendations for the approval or denial of research projects and to assess licensed research activities. The following provisions are in addition to the requirements for marijuana research licensees provided in RCW 69.50.372.

(1) **Eligibility and continuing requirements for research license applications, prohibitions and restrictions.**

(a) Other than the restrictions listed in this subsection, any person, organization, agency, or business entity may apply for a marijuana research license.

(b) Other marijuana licensees may apply for a research license. Facilities at which the research is conducted must be wholly separate and distinct from the marijuana business, except:

(i) Licensed producers with a research license and approved research project may grow marijuana plants or possess marijuana for research purposes at the producer's licensed premises. However, all marijuana grown or possessed for research purposes or purposes other than those related to the research project must be kept wholly separated and distinct from commercial operations and must not be comingled with or diverted to marijuana grown for commercial purposes or purposes other than those related to the research project; and

(ii) Licensed processors with a research license and approved research project may possess marijuana for research purposes at the processors licensed premises. However, all marijuana possessed for research purposes must be kept wholly separated and distinct from all marijuana possessed for commercial purposes or purposes other than those related to the research project and must not be comingled with or diverted to marijuana possessed for commercial purposes or purposes other than those related to the research project. Licensed processors who do not also hold a producer license may not grow marijuana plants for the purposes of research under a research license at the processor's licensed location.

(c) Labs certified to perform quality assurance testing on marijuana and marijuana products by the WSLCB may apply for a research license. Certified labs with a research license and approved research project must ensure that all marijuana possessed for research purposes is wholly separated from and is not comingled with marijuana possessed for state required testing purposes for licensed producers or processors or marijuana possessed for any reason other than research purposes.

(d) All research license applicants and persons conducting research under the research license must be twenty-one years of age or older.

(e) All research license applicants and those persons that have managing control over an organization, agency, or business entity must pass a criminal background check and financial investigation prior to being eligible to receive a research license.

(f) Except as otherwise provided by chapter 69.50 RCW and agency rule, no applicant for a research license may possess any marijuana plants or marijuana for research purposes unless and until the research project is approved and the

applicant is notified that the research license is approved in writing by the WSLCB.

(g) No research licensee may conduct research unless and until the research project is approved by the reviewer and the WSLCB in writing.

(2) Initial applications.

(a) Application made with business licensing services (BLS).

(i) Applicants for a research license must apply through BLS to begin the application process for a research license.

(ii) Upon submitting an application for a research license through BLS, the applicant will receive an application letter from the WSLCB directing the applicant to submit the additional application materials directly to the WSLCB's designated scientific reviewer (reviewer).

(A) The applicant must submit complete and accurate additional application materials directly to the reviewer within thirty days of the date of the application letter from the WSLCB or by the date indicated on the application letter. It is the responsibility of the research license applicant to comply with the application requirements in this section and ensure the application is complete, accurate, and successfully submitted to the reviewer.

(B) Incomplete or incorrect additional application materials, materials that do not adhere to the content requirements in this section, or materials not received by the reviewer by 5:00 p.m. on the 30th day or the application date as indicated on the letter from the WSLCB will not be considered by the reviewer and the WSLCB will withdraw the application after receiving notice in writing from the reviewer.

(b) Additional application materials requirements.

(i) Application materials that do not adhere to the content requirements in this section or incomplete or incorrect applications will be withdrawn.

(ii) The applicant is responsible for ensuring that no information is included in the research plan that may compromise the applicant's ability to secure patent, trade secret, or other intellectual property protection. All application documents must be submitted by a person who has the legal authority to represent the entity if the applicant is an entity other than an individual person.

(iii) All documents must be submitted to the reviewer in a legible PDF format.

(iv) All of the following information and documents are required for each initial application:

(A) A completed cover page form, marijuana research license application form, and signature page form created by the WSLCB and available at the WSLCB's web site at www.lcb.wa.gov.

(B) A research plan limited to ~~((four))~~ eight pages, not including references or citations, that includes the following information:

(I) Purpose and goal(s) of the proposed research project(s);

(II) Key milestones and timelines for the research project(s);

(III) Background and preliminary studies;

(IV) Amount of marijuana to be grown, if applicable, including the justification with respect to milestone tasks;

(V) Anticipated cost of the proposed research project(s) and funding available for the work. The scientific reviewer may request additional information or ask clarifying questions about the cost of the proposal to determine whether the budget meets the scope and design of the proposed project;

(VI) Key personnel and organizations, including names and roles;

(VII) Facilities, equipment, and other resources required and available for conducting the proposed research project(s).

(C) A biosketch for each individual involved in executing the proposed research project limited to two pages per individual performing technical and administrative functions essential to performing the proposed research, including proof that the individual is twenty-one years of age or older. Biosketches must be prepared using the National Institutes of Health (NIH) biographical sketch format, available at <http://grants.nih.gov/grants/forms/new-renewal-revisions.htm>.

(D) Letters of support limited to two pages per letter confirming the commitment of time and resources from external personnel or organizations if external personnel or organizations will participate in research activities under an approved research project. Letters of support are required to confirm the commitment of time and resources from personnel involved in the proposed research project(s) who are not employed at the applicant organization. Letters of support must include specific details regarding the type(s) and magnitude of the time and resources being committed to the proposed research project(s) and must be signed by individuals having the authority to make such commitments.

(E) For all project(s) involving human or animal subjects, documentation of all required institutional review board (IRB) or institutional animal care and use committee (IACUC) approvals. Documents must be provided on IRB or IACUC letterhead and be signed by authorized officials of those regulatory bodies.

(v) Documents that do not conform to the requirements in subsection (b) of this section may be withdrawn. All non-form documents must conform to the following requirements:

(A) Eight and one-half by 11-inch portrait-oriented page dimensions;

(B) Single-spaced with all margins measuring at least one inch; and

(C) At least 12-point font in Times New Roman or Arial, not proportionately reduced.

(c) Review by the WSLCB's designated scientific reviewer.

(i) If the applicant submits application materials to the reviewer by the required deadline specified by the WSLCB's application letter and the reviewer determines the additional application materials are complete and meet the document requirements specified in this section, the reviewer will proceed with reviewing the research project to evaluate whether the project complies with the provisions of RCW 69.50.372 (1) and (2). The scientific reviewer may require the applicant to provide additional information if the scientific reviewer determines that more information is necessary to complete the review.

(ii) When evaluating research projects, the reviewer must:

(A) Ensure confidentiality; ~~((and))~~

(B) Screen members of the reviewer panel for any conflicts of interest and take appropriate measures if a conflict of interest is identified;

(C) Review all information, including the budget, to evaluate whether the scope and design of the proposed project matches the budget and resources of the applicant; and

(D) The scientific reviewer may require the applicant to submit to a site inspection. The site inspection may occur after the initial review and before the license is issued to evaluate the adequacy of the location, facilities, or equipment to complete the proposed project.

(iii) The reviewer will assess fees for the review of the research project proposal directly to the applicant pursuant to RCW 69.50.372(7). The reviewer will not recommend approval of an application for any research license for which an unpaid balance of fees to the reviewer is due regardless of the recommendation of the reviewer regarding the sufficiency of the research project.

(iv) If at any time during the process of review the reviewer finds that the additional application materials are not complete, the reviewer will notify the WSLCB in writing and the WSLCB will withdraw the application.

(v) The reviewer will supply a written evaluation to the WSLCB in writing after completing review of the research project. Evaluations will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation. The WSLCB will provide written evaluations to applicants following completion of the review process by the reviewer along with the WSLCB's approval or denial of the research license.

(d) **WSLCB requirements and licensing process.** If the reviewer indicates the application for a research license should be approved, the following requirements must be met prior to final approval of the license by the WSLCB.

(i) The WSLCB will request criminal background and financial information from the research license applicant and evaluate the applicant(s) pursuant to the standards and requirements established in WAC 314-55-020 except that research license applicants are not subject to prioritization under subsection (3) of that section;

(ii) Funding of the proposed research must be disclosed by the applicant(s) in amount, timing and source(s). Funding sources may include organizational resources and individuals and organizations that are not part of the person, organization, agency, or business entity applying for the research license. Out-of-state resources may be included, but must be identified;

(iii) The applicant(s) must adhere to the notice posting requirements under WAC 314-55-020;

(iv) The applicant must demonstrate access to and proficiency with the traceability system; and

(v) The applicant must meet facility security requirements as provided in WAC 314-55-083 prior to being granted a license.

(3) **Research license withdrawal and denials.**

(a) The WSLCB will withdraw an application if:

(i) The application or additional application materials are determined incomplete or incorrect by the WSLCB or its designated reviewer;

(ii) The additional application materials are not timely received by the reviewer as provided in this section; or

(iii) The applicant(s) request withdrawal of a research license application at any time in the application process. The applicant must request the withdrawal in writing and is responsible for any review costs due to the reviewer. The voluntary withdrawal of a research license application does not result in a hearing right.

(b) The WSLCB will deny a research license if:

(i) The scientific reviewer does not recommend approval of the license after reviewing the research proposal for compliance with this section or RCW 69.50.372;

(ii) The applicant does not meet the requirements for a license under this section or RCW 69.50.372; or

(iii) The applicant provides false or misleading information in any of the materials it submits to the WSLCB or the reviewer.

(c) If the WSLCB denies a research application for the reasons provided in (b)(iii) of this subsection or for failing to meet criminal history or administrative violations requirements under this section, the applicant(s) is prohibited from reapplying for a research license for one calendar year from the date of the WSLCB's denial of the license.

(d) A person or entity that has outstanding unpaid review fees owing to the scientific reviewer is prohibited from reapplying for a research license until all review fees are paid to the scientific reviewer.

(4) **Reporting required.**

(a) The WSLCB or the WSLCB's designated reviewer may require reporting by or auditing of research licensees as necessary.

(b) The WSLCB's designated reviewer must submit an annual status report of all completed and ongoing research projects for the previous year to the WSLCB by December 31st of each calendar year.

(c) The licensee must adhere to the reporting requirements in the traceability system under WAC 314-55-083.

(d) The reviewer must immediately notify the WSLCB if it receives information indicating that a research licensee is operating outside the scope of the projects approved under a research license.

(5) **Adding an additional research project or changing existing approved research project process (after licensure).**

(a) A research licensee is restricted to only those research activities under a research project that has been reviewed and approved by reviewer.

(b) Applications to add a new project or change an existing approved project is the same as what is required for initial application except that a new license application through BLS is not required. To apply to add a new research project or change an existing approved project, a research licensee must submit all materials to the reviewer as required under subsection (2)(b) of this section. Incomplete project applications will not be considered.

(c) The reviewer will review the application for a new research project or change to an existing approved research

project pursuant to subsection (2)(c) of this section. The reviewer will supply a written evaluation to the WSLCB and the licensee in writing after completing review of the application for a new research project or a change to an existing approved research project. Evaluations will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation.

(6) Research license renewals.

(a) Research license renewals operate on an annual basis, based on the license issuance date. A licensee must have an ongoing approved research project or an application for a new research project to be eligible for license renewal. The WSLCB will notify the licensee and reviewer ninety days prior to the license renewal date. The licensee must provide a status report to the reviewer or an application for a new research project if the licensee's ongoing approved research project will end within thirty days prior to or after the renewal date. The status report or application must be received by the reviewer within thirty days of the ninety-day renewal notice from the WSLCB or the license will not be renewed.

(b) The reviewer will notify the WSLCB in writing if the licensee meets the requirements for renewal not later than fifteen days prior to the licensee's renewal date.

(c) If the reviewer determines that the research project does not meet requirements for renewal due to lack of an ongoing project or for failure to meet the requirements of RCW 69.50.372 or this section for a proposed new project, the reviewer will recommend the WSLCB not renew the license.

(d) The WSLCB will review the licensee's violation history and criminal background check prior to renewal. If the violation history or criminal records disqualifies the licensee from eligibility for a research license under WAC 314-55-050, the WSLCB will not renew the license.

(7) License revocation.

(a) The WSLCB may revoke an application for the following reasons:

(i) The WSLCB has reason to believe that marijuana is being diverted from the research licensee;

(ii) The research licensee operates outside the scope of the research project(s) approved under the license issued to the licensee;

(iii) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the WSLCB during the application process or any subsequent investigation after a license has been issued;

(iv) The WSLCB finds that the licensee possesses marijuana plants, marijuana, or marijuana products that are not accounted for in the traceability system;

(v) The research licensee makes changes to their operating plan, entity structure, or location without prior approval from the WSLCB;

(vi) The research licensee fails to maintain security requirements for the licensed research facility; or

(vii) The licensee violates any provision of chapter 69.50 RCW or this chapter.

(b) A licensee may request voluntary cancellation of a license at any time. The licensee must request cancellation of a research license to the WSLCB in writing. The voluntary

cancellation of a research license does not result in a hearing right.

(8) Marijuana disposal requirements.

(a) Licensees must dispose of marijuana as provided in WAC 314-55-097.

(b) Licensees must dispose of marijuana if the research license is discontinued for any reason. A licensee may transfer plants to another marijuana research licensee. A licensee may work with the WSLCB to dispose of marijuana or marijuana plants.

(9) An applicant or licensee may request an administrative hearing to contest the withdrawal, denial, nonrenewal, or revocation of a research license pursuant to chapter 34.05 RCW. A request for a hearing must be made in writing and received by the WSLCB no later than twenty days after the date the notification of withdrawal, denial, nonrenewal, or revocation was mailed to the applicant or licensee. Appeal requests submitted in paper form may be delivered to the WSLCB in person during normal business hours at 3000 Pacific Avenue S.E., Olympia, WA 98501, or mailed to the WSLCB. Mailed appeal requests must be addressed to: WSLCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Adjudicative Proceedings Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98501.

AMENDATORY SECTION (Amending WSR 16-19-102, filed 9/21/16, effective 10/22/16)

WAC 314-55-075 (~~What is a~~) Marijuana producer license (~~and what are the~~) Privileges, requirements, and fees (~~related to a marijuana producer license?~~).

(1)(a) A marijuana producer license allows the licensee to produce, harvest, trim, dry, cure, and package marijuana into lots for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. A marijuana producer (~~can~~) may also produce and sell:

(i) Marijuana plants, seed, and plant tissue culture to other marijuana producer licensees; (~~and~~)

(ii) Immature marijuana plants or clones and marijuana seeds to members of a registered cooperative, qualifying patients, or designated providers under the conditions provided in (~~WAC 314-55-410~~) this chapter; and

(iii) Immature marijuana plants or clones and marijuana seeds to a licensed marijuana researcher under the conditions provided in this chapter.

(b) Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. An outdoor grow must be physically separated at least twenty feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible

for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The annual fee for issuance and renewal of a marijuana producer license is one thousand three hundred eighty-one dollars. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee ~~((will be))~~ is responsible for all fees required for ~~((the))~~ criminal history checks.

(4) ~~((The WSLCB will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the WSLCB.))~~ The application window for marijuana producer licenses is closed. The WSLCB may reopen the marijuana producer application window ~~((after the initial evaluation of the applications received and))~~ at subsequent times when the WSLCB deems necessary.

(5) Any entity and/or principals within any entity are limited to an interest, as defined in WAC 314-55-035, in no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production ~~((will be imposed at a later date))~~ cannot exceed the amount licensed. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
- (b) Tier 2 - Two thousand square feet up to ten thousand square feet; and
- (c) Tier 3 - Ten thousand square feet up to thirty thousand square feet.

(7) The WSLCB may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum square feet the WSLCB will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the WSLCB may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds the maximum square feet, the WSLCB reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

- (a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or
- (b) Indoor grows - Six months of their annual harvest.

(10) A producer may not treat or otherwise adulterate useable marijuana with any organic or nonorganic chemical

or other compound whatsoever to alter the color, appearance, weight, or smell of the useable marijuana.

(11) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

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

WAC 314-55-077 ((What is a)) **Marijuana processor license ((and what are the))—Privileges, requirements, and fees ((related to a marijuana processor license?))**, (1) A marijuana processor license allows the licensee to process, dry, cure, package, and label ~~((usable))~~ useable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

(2) **Application and license fees.**

(a) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a marijuana processor license is one thousand three hundred eighty-one dollars. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(c) The application window for marijuana processor licenses is closed. The WSLCB may reopen the marijuana processor application window at subsequent times when the WSLCB deems necessary.

(3) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(4)(a) A marijuana processor that makes marijuana-infused solid or liquid product meant to be ingested orally (marijuana edibles) must obtain a marijuana-infused edible endorsement from the department of agriculture as required under chapter 15.125 RCW and rules adopted by the department to implement that chapter (chapter 16-131 WAC). A licensee must allow the WSLCB or their designee to conduct physical visits and inspect the processing facility, recipes, and records required under WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice.

(b) A marijuana processor licensed by the board must ensure marijuana-infused edible processing 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 chapter 15.125 RCW and rules promulgated to implement chapters 16-131, 16-165 and 16-167 WAC.

(5)(a) A marijuana processor ((is allowed to)) may blend tested ~~((usable))~~ useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee ~~((provid-~~

ing)) so long as the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

~~((3)) (b) A processor may not treat or otherwise adulterate useable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable marijuana.~~

(6) Recipes, product, packaging, and labeling approval.

(a) A marijuana processor licensee must obtain label and packaging approval from the WSLCB for all marijuana-infused products meant for oral ingestion prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a picture of the product, labeling, and packaging to the WSLCB for approval. More information on the product, packaging, and label review process is available on the WSLCB's web site at www.lcb.wa.gov.

(b) All recipes for marijuana-infused products meant for oral ingestion (marijuana edible products) must be approved by the department of agriculture under chapter 16-131 WAC. Licensees must obtain recipe approval from the department of agriculture prior to submitting any marijuana edible products, packages, and labels for review and approval by the WSLCB. The recipe for any marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana processor's licensed premises and made available for inspection by the WSLCB or its designee.

(c) If the WSLCB denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing ~~((per))~~ under chapter 34.05 RCW, Administrative Procedure Act.

~~((4)) (7) With the exception of the marijuana, all ingredients used in making marijuana-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.~~

~~((5)) (8) Marijuana-infused edible products in solid or liquid form must ~~((meet the following requirements:~~~~

~~(a) If there is more than one serving in the package, each serving must be packaged individually in childproof packaging (see WAC 314-55-105(7)) and placed in the outer package.~~

~~(b) The label must prominently display the number of servings in the package.~~

~~(c) Marijuana-infused solid edible products must);~~

~~(a) Be homogenized to ensure uniform disbursement of cannabinoids throughout the product((-~~

~~(d) All marijuana-infused solid edibles must)); and~~

~~(b) Until January 1, 2019, prominently display on the label "This product contains marijuana."~~

~~((6) Marijuana-infused edible products in liquid form must meet the following requirements:~~

~~(a) If there is more than one serving in the package, a measuring device must be included in the package with the product.~~

~~(b) The label must prominently display the number of servings in the package and the amount of product per serving.~~

~~(e) Marijuana-infused liquid edibles must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.~~

~~(d) All marijuana-infused liquid edibles must prominently display on the label "This product contains marijuana."~~

~~(7)) (9) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana. Marijuana-infused products that require cooking or baking by the consumer are prohibited. Marijuana-infused products that are especially appealing to children are prohibited. Marijuana-infused edible products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.~~

~~(a) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with marijuana. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.~~

~~(b) Other food items that may not be infused with marijuana to be sold in a retail store ~~((are))~~ include:~~

~~(i) Any food that has to be acidified to make it shelf stable;~~

~~(ii) Food items made shelf stable by canning or retorting;~~

~~(iii) Fruit or vegetable juices (this does not include shelf stable concentrates);~~

~~(iv) Fruit or vegetable butters;~~

~~(v) Pumpkin pies, custard pies, or any pies that contain egg;~~

~~(vi) Dairy products of any kind such as butter, cheese, ice cream, or milk; and~~

~~(vii) Dried or cured meats.~~

~~(c) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.~~

~~(d) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.~~

~~(e) Per WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources and use that extraction to prepare allowable marijuana-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.~~

~~(f) The WSLCB may designate other food items that may not be infused with marijuana.~~

~~((8) The recipe for any marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana processor's licensed premises and made available for inspection by the WSLCB or its designee.~~

~~(9) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.~~

(10) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(11) A marijuana processor producing a marijuana-infused solid or liquid product meant to be ingested orally in a processing facility as required in WAC 314-55-015 (10) and (11) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The WSLCB will contract with the department of agriculture to conduct required processing facility inspections. All costs of inspections are borne by the licensee and the hourly rate for inspection is sixty dollars. A licensee must allow the WSLCB or their designee to conduct physical visits and inspect the processing facility, recipes and required records per WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice. Failure to pay for the processing facility inspection or to follow the processing facility requirements outlined in this section and WAC 314-55-015 will be sufficient grounds for the WSLCB to suspend or revoke a marijuana license.

(12) The WSLCB will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the WSLCB. The WSLCB may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the WSLCB deems necessary.

(13) A currently licensed marijuana producer may submit an application to add a marijuana processor license at the location of their producer license providing they do not already hold three processor licenses.

(14) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

~~(15))~~ (10) Marijuana processor licensees are allowed to have a maximum of six months of their average ~~((usable))~~ useable marijuana and six months average of their total production on their licensed premises at any time.

~~((16))~~ (11) **Processing service arrangements.** A processing service arrangement is when one processor (processor B) processes useable marijuana or an altered form of useable marijuana (marijuana product) for another licensed processor (processor A) for a fee.

(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter 69.50 RCW and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess marijuana or marijuana products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.

(b) Processing service arrangements must be made on a cash basis only as provided in WAC 314-55-115 and payment for the service and return of the processed product must be made within thirty calendar days of delivery to processor

B. Failure to do so as provided by the preceding sentence is a violation of this section and any marijuana or marijuana product involved in the transaction will be subject to seizure and destruction. Payment with any marijuana products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.

(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.

(12) Marijuana may not be returned by any retail licensee to any processor except as provided in this section.

(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of marijuana and marijuana products returned to the processor by any retail licensee.

(b) Marijuana may be returned by a retail licensee in the event a retailer goes out of the business of selling marijuana at retail and a cash refund, as defined by WAC 314-55-115, may be made upon the return of the marijuana or marijuana products, so long as WSLCB approval is acquired prior to returns and refunds under this subsection.

(c) Marijuana products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with marijuana products which were ordered or a cash refund, as defined by WAC 314-55-115, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A marijuana processor ~~((must))~~ may accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

AMENDATORY SECTION (Amending WSR 16-19-102, filed 9/21/16, effective 10/22/16)

WAC 314-55-079 ~~((What is a))~~ Marijuana retailer license ~~((and what are the))~~—Privileges, requirements, and fees ~~((related to a marijuana retailer license?))~~. (1) A marijuana retailer license allows the licensee to sell only ~~((usable))~~ useable marijuana, marijuana concentrates, marijuana-infused products, ~~((and))~~ marijuana paraphernalia, and lockable boxes to store marijuana at retail in licensed retail outlets to persons twenty-one years of age and older, except as allowed for persons under twenty-one years of age consistent with RCW 69.50.357 and WAC 314-55-080.

(2) ~~((Marijuana-infused products listed in WAC 314-55-077(6) are prohibited for sale by a marijuana retail licensee.~~

~~((3) Internet sales and delivery of product to customers is prohibited.))~~ The WSLCB may accept applications for marijuana retail licenses at time frames published on its web site at www.lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the WSLCB will determine the maximum number of marijuana retail locations per county.

(a) The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county and to accommodate the medical needs of qualifying patients and designated providers. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated.

(b) The number of retail licenses determined by the board can be found on the WSLCB web site at www.lcb.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than five retail marijuana licenses.

(4) Application and license fees.

(a) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is ~~((also))~~ responsible for ~~((paying the))~~ fees required by the approved vendor for fingerprint evaluation.

~~((5))~~ (b) The annual fee for issuance and renewal of a marijuana ~~((retailer's))~~ retailer license is one thousand ~~three~~ hundred eighty-one dollars. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee ~~((will be))~~ is responsible for all fees required for the criminal history checks.

~~((6))~~ (5) Internet sales and delivery of product to customers are prohibited.

(6) Sales of marijuana-infused products not permissible under WAC 314-55-077 are prohibited.

(7) Marijuana retailers may not sell marijuana products below the current acquisition cost.

~~((7))~~ (8) All marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(9) A marijuana retailer may not sell lockable boxes for less than the cost of acquisition or sell boxes received as a donation. The donation of lockable boxes must come from a person or entity that is not a licensed marijuana producer, processor, or retailer.

(10) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

~~((8))~~ (11) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined ~~((in the transportation rules))~~ in WAC 314-55-085.

~~((9))~~ (12) A marijuana retailer may accept returns of open marijuana products. Products must be returned in their original packaging with the lot, batch, or inventory ID number fully legible.

~~((10))~~ (13) A marijuana retailer may dispose of marijuana products as provided in WAC 314-55-097. ~~((Marijuana retailers must give seventy-two hours' notice to WSLCB enforcement prior to disposing of marijuana products.))~~

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

WAC 314-55-080 Medical marijuana endorsement.

(1) A medical marijuana endorsement added to a mari-

juana retail license allows the marijuana retail licensee to:

(a) Sell marijuana for medical use to qualifying patients and designated providers; and

(b) Provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.

(2) Qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use. Only a designated provider may purchase products for a qualifying patient under the age of eighteen who holds a valid recognition card.

(3) To maintain a medical marijuana endorsement in good standing, a marijuana retailer must:

(a) Follow all rules adopted by the department of health regarding retail sales of medical marijuana;

(b) Have a consultant on staff in accordance with department of health rules;

(c) Prohibit the medical use of marijuana by anyone at the retail outlet at all times, including medical use by qualifying patients;

(d) Maintain at all times, a representative assortment of marijuana products necessary to meet the needs of qualified patients and designated providers;

(e) Not market marijuana concentrates, ~~((usable))~~ useable marijuana, or marijuana-infused products in a way that make them especially attractive to minors;

(f) Demonstrate the ability to enter qualifying patients and designated providers in the medical marijuana authorization database established by the department of health;

(g) Issue recognition cards and agree to enter qualifying patients and designated providers into the database in compliance with the department of health standards;

(h) Keep ~~((copies of the qualifying patient's or designated provider's recognition card or equivalent records to document the validity of tax exempt sales for a minimum of three years))~~ records to document the validity of tax exempt sales as prescribed by the department of revenue for a minimum of five years. For the documentation requirements in RCW 69.50.375 (3)(e), licensees are not required to separately keep copies of the qualifying patient's or designated provider's recognition card because this information is stored in the medical marijuana authorization database;

(i) Train employees on the following:

(i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical marijuana authorization database;

(ii) Recognition of valid recognition cards; and

(iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of marijuana concentrates, ~~((usable))~~ useable marijuana, and marijuana-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

~~((3))~~ (4) **A marijuana retailer holding a medical marijuana endorsement may sell products with a THC concentration of 0.3 percent or less.** The licensee may also provide these products at no charge to qualifying patients or designated providers.

~~((4))~~ (5) **Unlicensed practice of medicine.** No owner, employee, or volunteer of a retail outlet and holding a medical marijuana endorsement may:

(a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of marijuana products or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of marijuana products.

~~((5))~~ (6) Failure to comply with subsections (3) and ~~((4))~~ (5) of this section may result in suspension or revocation of the medical marijuana endorsement.

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

WAC 314-55-083 (~~What are the~~) Security and traceability requirements for ~~(*)~~ marijuana licensees~~(?)~~. The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All licensees and employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises and engaged in the transportation of marijuana. The identification badge must list the licensee's trade name and include the person's full and legal name and photograph. All licensees and employees must have their state issued identification available to verify the information on their badge is correct.

(a) All nonemployee visitors to the licensed premises, other than retail store customers, shall be required to hold and properly display an identification badge issued by the licensee at all times while on the licensed premises.

(b) A log must be kept and maintained showing the full name of each visitor entering the licensed premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit.

(c) All log records must be maintained on the licensed premises for a period of three years and are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request.

(d) Employees, visitors, and other persons at a marijuana licensed premises, including persons engaged in the transportation of marijuana, must provide identification to a WSLCB enforcement officer upon request.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be ~~((utilized))~~ used.

(3) **Surveillance system.** At a minimum, a licensed premises must have a complete video surveillance system

with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog. The surveillance system storage device and/or the cameras must be internet protocol (IP) compatible. All cameras must be fixed and placement ~~((shall))~~ must allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and exits to an indoor facility ~~((shall))~~ must be recorded from both indoor and outdoor, or ingress and egress vantage points. All cameras must record continuously twenty-four hours per day and at a minimum of ten frames per second. The surveillance system storage device must be secured on the licensed premises in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards. ~~((are))~~ Controlled areas include:

~~((i))~~ (a) Any area within an indoor, greenhouse or outdoor room or area where marijuana is grown, or marijuana or marijuana waste is being moved within, processed, stored, or destroyed. Rooms or areas where marijuana or marijuana waste is never present are not considered control areas and do not require camera coverage.

~~((ii))~~ (b) All point-of-sale (POS) areas.

~~((iii))~~ (c) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low-light conditions.

~~((iv))~~ (d) Any room or area storing a surveillance system storage device.

~~((b) All marijuana, marijuana concentrates, or marijuana infused products that are intended to be removed or transported between two licensed premises shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the WSLCB or designees.))~~

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the WSLCB. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of ~~((usable))~~ useable marijuana or trim, leaves, and other plant matter, batches of extracts, marijuana-infused products, samples, and marijuana waste must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following informa-

tion is required and must be kept completely up-to-date in a system specified by the WSLCB:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana, marijuana extract, marijuana concentrates, marijuana-infused product, or marijuana waste is to be destroyed;

(d) When ~~((usable))~~ useable marijuana, marijuana concentrates, or marijuana-infused products are transported;

(e) Any theft of ~~((usable))~~ useable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;

~~((f))~~ ~~((There is a seventy two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed, a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste may be destroyed;~~

~~((g))~~ ~~There is a twenty four hour mandatory waiting period after the notification described in this subsection to allow for inspection before marijuana plants, seeds, plant tissue cultures, or lots of marijuana are transported from a producer to another producer or to a processor;~~

~~((h))~~ ~~There is a twenty four hour mandatory waiting period after the notification described in this subsection to allow for inspection before usable marijuana, marijuana concentrates, or marijuana-infused products are transported from a processor to another processor or to a retailer;~~

~~((i))~~ ~~All marijuana plants eight or more inches in height or width must be physically tagged and tracked individually;~~

~~((j))~~ ~~((g))~~ A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of ~~((usable))~~ useable marijuana or trim, leaves, and other plant matter, batches of extract, marijuana concentrates, marijuana-infused products, and marijuana waste;

~~((k))~~ ~~((h))~~ All marijuana, ~~((usable))~~ useable marijuana, marijuana-infused products, marijuana concentrates, seeds, plant tissue, clone lots, and marijuana waste must be physically tagged with the ~~((sixteen digit identification number))~~ unique identifier generated by the traceability system and tracked;

~~((l))~~ ~~((i))~~ All point-of-sale records;

~~((m))~~ ~~((j))~~ Marijuana excise tax records;

~~((n))~~ ~~((k))~~ All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;

~~((o))~~ ~~((l))~~ All ~~((free))~~ vendor samples provided to another licensee for purposes of education or negotiating a sale;

~~((p))~~ ~~((m))~~ All samples used for testing for quality by the producer or processor;

~~((q))~~ ~~((n))~~ Samples containing ~~((usable))~~ useable marijuana provided to retailers;

~~((r))~~ ~~((o))~~ Samples provided to the WSLCB or their designee for quality assurance compliance checks; and

~~((s))~~ ~~((p))~~ Other information specified by the board.

~~((5))~~ ~~Start-up inventory for marijuana producers. Within fifteen days of starting production operations a pro-~~

~~ducer must have all nonflowering marijuana plants, clones, seeds, and plant tissue cultures physically on the licensed premises. The producer must, within twenty four hours, record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.)~~

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

WAC 314-55-084 ((Production of)) Marijuana plant production. (1) Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

(a) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

(b) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(c) Potting soil, crop production aids, soil amendments, and other growing media available commercially in the state of Washington may be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

(2) Examples of prohibited products:

(a) The use of products containing plant growth regulators not allowed for use on food crops including, but not limited to, any of the following ingredients, is prohibited:

~~((*)~~ ~~((i))~~ Ancymidol;

~~((*)~~ ~~((ii))~~ Chlormequat chloride;

~~((*)~~ ~~((iii))~~ Clofencet;

~~((*)~~ ~~((iv))~~ Colchicine;

~~((*)~~ ~~((v))~~ Colloidal silver;

~~((*)~~ ~~((vi))~~ Daminozide;

~~((*)~~ ~~((vii))~~ Dikegulac-sodium;

~~((*)~~ ~~((viii))~~ Flumetralin;

~~((*)~~ ~~((ix))~~ Flurprimidol; and

~~((*)~~ ~~((x))~~ Paclobutrazol.

(b) The use of vitamin-hormone products not intended for use on food crops is prohibited.

(c) The use of products containing the insecticide DDVP (Dichlorvos) is prohibited in all areas where marijuana is being grown or processed.

(3) Soil amendments, fertilizers, growing media, other crop production aids, and pesticides that do not conform to subsections (1) and (2) of this section cannot be used, kept, or stored on the licensed premises.

(4) The following marijuana and marijuana products are subject to seizure and destruction:

(a) Marijuana exposed to unauthorized soil amendments or fertilizers; and

(b) Marijuana with ~~((detectable))~~ levels of unauthorized pesticides or plant growth regulators as provided in WAC 314-55-108.

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

WAC 314-55-087 ~~((What are the)) Recordkeeping requirements for marijuana licensees((?))~~ (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a ~~((three-year))~~ five-year period and must be made available for inspection if requested by an employee of the WSLCB:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records to include, but not limited to, training, payroll, and date of hire;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of ~~((usable))~~ useable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product pro-

duced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing ~~((usable))~~ useable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(q) Records of any marijuana product provided free of charge to qualifying patients or designated providers.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If print-outs of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 16-19-002, filed 9/7/16, effective 10/8/16)

WAC 314-55-089 ~~((What are the)) Tax and reporting requirements for marijuana licensees((?))~~ (1) ~~((Marijuana producer and marijuana processor licensees must submit monthly report(s) to the WSLCB.))~~ Marijuana retailer licensees must submit monthly report(s) and payments to the WSLCB. The required monthly reports must be:

(a) On a form or electronic system designated by the WSLCB;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the WSLCB on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twenti-

eth 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;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the WSLCB. The act of keeping data completely up-to-date in the state traceability system fulfills the monthly reporting requirement.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, other marijuana processors, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the WSLCB. The act of keeping data completely up-to-date in the state traceability system fulfills the monthly reporting requirement.

(4) **Marijuana retailer's licensees:**

(a) On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the WSLCB.

(b) A marijuana retailer licensee must collect from the buyer and remit to the WSLCB a marijuana excise tax of thirty-seven percent of the selling price on each retail sale of ~~((usable))~~ useable marijuana, marijuana concentrates, and marijuana-infused products.

(c) Product inventory reductions that are not adequately documented will be deemed to be sales and will be assessed the excise tax.

(d) Excise tax collected in error must either be returned to the customer(s) or remitted to the WSLCB if returning to the customer(s) is not possible.

(5) **Payment methods:** Marijuana excise tax payments are payable only by check, cashier's check, money order, or electronic payment or electronic funds transfer. Licensees must submit marijuana excise tax payments to the board by one of the following means:

(a) By mail to WSLCB, Attention: Accounts Receivable, P.O. Box 43085, Olympia, WA 98504;

(b) By paying through online access through the WSLCB traceability system; or

(c) By paying using a money transmitter licensed pursuant to chapter 19.230 RCW. If a licensee uses a money transmitter service, the licensee must remit payments in U.S. dollars.

(6) Payments transmitted to the board electronically under this section will be deemed received when received by the WSLCB's receiving account. All other payments transmitted to the WSLCB under this section by United States mail will be deemed received on the date shown by the post

office cancellation mark stamped on the envelope containing the payment.

(7) The WSLCB may waive the means of payment requirements as provided in subsection (5) of this section for any licensee for good cause shown. For the purposes of this section, "good cause" means the inability of a licensee to comply with the payment requirements of this section because:

(a) The licensee demonstrates it does not have and cannot obtain a bank or credit union account or another means by which to comply with the requirements of subsection (5) of this section and cannot obtain a cashier's check or money order; or

(b) Some other circumstance or condition exists that, in the WSLCB's judgment, prevents the licensee from complying with the requirements of subsection (5) of this section.

(8) If a licensee tenders payment of the marijuana excise tax in cash without applying for and receiving a waiver or after denial of a waiver, the licensee may be assessed a ten percent penalty.

(9) If a licensee is denied a waiver and requests an adjudicative proceeding to contest the denial, a brief adjudicative proceeding will be conducted as provided under RCW 34.05.482 through 34.05.494.

(10) For the purposes of this section, "electronic payment" or "electronic funds transfer" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. "Electronic funds transfer" includes payments made by electronic check (e-check).

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

WAC 314-55-092 (~~What if a marijuana licensee fails to report or pay, or reports or pays late?~~) Failure to pay excise taxes and late payment of excise taxes. (1) If a marijuana licensee does not submit its ~~((monthly reports and/or))~~ payment(s) to the WSLCB as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on the outstanding balance for any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth 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 WSLCB or authorized designee, will be used to assess the penalty of two percent per month on ~~((payments received))~~ the outstanding balance after the twentieth day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the WSLCB to suspend or revoke a marijuana license.

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

WAC 314-55-095 Marijuana servings and transaction limitations. Personal possession limits and transaction limits are detailed in RCW 69.50.360 and 69.50.4013.

(1) For persons age twenty-one and older and qualifying patients or designated providers who are not entered into the medical marijuana authorization database, marijuana serving and transaction limitations are as follows:

(a) **Single serving.** A single serving of a marijuana-infused product must not exceed ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(b) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed or otherwise taken into the body is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana concentrate cannot exceed one gram.

(c) **Transaction (~~(limitation)~~) limits.**

(i) A single transaction is limited to:

(A) One ounce of (~~(usable)~~) useable marijuana(~~(s)~~);

(B) Sixteen ounces of marijuana-infused product meant to be eaten or swallowed in solid form(~~(s)~~);

(C) Seven grams of marijuana-infused extract or marijuana concentrate for inhalation(~~(s)~~); and

(D) Seventy-two ounces of marijuana-infused product in liquid form (~~(meant to be eaten or swallowed)~~) for oral ingestion or applied topically to the skin; and

(E) Ten units of a marijuana-infused product otherwise taken into the body.

(ii) A licensee or employee of a licensee is prohibited from conducting a transaction that facilitates an individual in obtaining more than the personal possession amount.

(2) For qualifying patients and designated providers who are entered into the medical marijuana authorization database, serving and transaction limits are as follows:

(a) **Single serving.** Except as provided in chapter 246-70 WAC, a single serving of a marijuana-infused product must not exceed ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(b) **Maximum number of servings.** Except as provided in chapter 246-70 WAC, the maximum number of servings in any one single unit of marijuana-infused product meant to be eaten, swallowed or applied is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana concentrate cannot exceed one gram.

(c) **Transaction limitation.** A single transaction by a retail store with a medical marijuana endorsement to a qualifying patient or designated provider who is entered into the medical marijuana database is limited to three ounces of (~~(usable)~~) useable marijuana, forty-eight ounces of marijuana-infused product meant to be eaten or swallowed in solid form, twenty-one grams of marijuana-infused extract or marijuana concentrate for inhalation, and two hundred sixteen ounces of marijuana-infused product in liquid form meant to be eaten or swallowed.

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

WAC 314-55-096 Vendor, educational, and internal quality control samples. (1) **Vendor samples:** Producers or processors may provide free samples of (~~(usable)~~) useable marijuana, marijuana-infused products, and marijuana concentrates (~~(in order)~~) to negotiate a sale on product the retail licensee does not currently carry. All vendor sample limits are based on calendar months. The producer or processor must record the amount of each vendor sample and the processor or retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a "vendor sample" to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the vendor sample in the traceability system prior to sampling.

(a) Vendor samples may only be given to and used by licensees or employees of licensees who have product ordering authority or employees who provide input on product to licensees or employees of licensees who have purchasing authority to inform purchasing decisions as detailed in a written business policy.

(b) Producers may not provide any one licensed processor more than eight grams of marijuana flower per month free of charge for the purpose of negotiating a sale.

(~~((b))~~) (c) Processors may not provide any one licensed retailer more than eight grams of (~~(usable)~~) useable marijuana per month free of charge for the purpose of negotiating a sale.

(~~((c))~~) (d) Processors may not provide any one licensed retailer more than eight units of marijuana-infused products in solid form meant to be ingested orally or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single (~~(sample)~~) unit may exceed 10 mg of THC.

(~~((d))~~) (e) Processors may not provide any one licensed retailer more than eight units of marijuana-infused product in liquid form meant to be eaten, swallowed, or otherwise taken into the body per month free of charge for the purpose of negotiating a sale. No single (~~(sample)~~) unit may exceed 10 mg of THC.

(~~((e))~~) (f) Processors may not provide any one licensed retailer more than eight units of marijuana-infused products meant to be applied topically per month free of charge for the purpose of negotiating a sale.

(g) Processors may not provide any one licensed retailer more than two units of marijuana-infused extract meant for inhalation or infused marijuana mix per month free of charge for the purpose of negotiating a sale. No single (~~(sample)~~) unit may exceed 0.5 g.

(~~((f))~~) (h) A marijuana producer must make quality assurance test results available to any processor receiving samples to negotiate a sale. The producer must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.

(~~((g))~~) (i) A marijuana processor must make quality assurance test results available to any retailer receiving samples to negotiate a sale. If a marijuana extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical

used in the extraction process, or any other compound added to the extract.

~~((2))~~ **(j) Vendor sample labeling:** All vendor samples must be clearly labeled as a vendor sample and meet all labeling requirements of the product to be sampled.

~~((a) Sixteen digit identification)~~ **(i) The unique identifier number generated by the traceability system;**

~~((b))~~ **(ii) The UBI number of the licensed entity providing the sample; and**

~~((c))~~ **(iii) Weight of the product in ounces and grams or volume as applicable.**

~~((3))~~ **(2) Education sampling.** Processors may provide free samples of ~~((usable))~~ useable marijuana, marijuana-infused products, and marijuana concentrates to retail licensees to give to ~~((their budtender))~~ the licensee's employees for educational purposes. Products being sampled must be carried by the licensed retailer. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as "~~((budtender))~~ education sample" and recorded on a transport manifest. Once the retailer receives the sample, the retailer must accept the sample in the traceability system prior to distributing samples to the retailer's employees. All ~~((budtender))~~ employees at a licensed retail location who receive educational samples must be entered into the traceability system for the purpose of distributing education samples. ~~((Prior to sampling the receiving retailer must accept the sample in the traceability system, and distribute the education sample to the retail employee.~~

~~(a) All education samples are limited to a total of ten units per budtender employee per month, with a maximum of one hundred units per retail location.)~~

(a) Retailers are restricted to receiving a maximum of one hundred sample units per calendar month. No more than ten sample units may be provided to any one employee per calendar month.

~~(b) The maximum size of education samples ((for education)) are:~~

~~(i) ((Usable)) Useable marijuana, marijuana mix, and infused marijuana mix - One unit not to exceed ((.5 g)) 0.5 g.~~

~~(ii) Marijuana infused solid or liquid product meant to be ((eaten or swallowed)) ingested orally or otherwise taken into the body - One unit not to exceed 10 mg THC.~~

~~(iii) Marijuana-infused extract for inhalation - One unit not to exceed ((.25 g)) 0.25 g.~~

~~(iv) Marijuana-infused products for topical application - One unit not to exceed sixteen ounces.~~

~~(c) ((Products being sampled must be carried by the licensed retail premises.~~

~~((d))~~ Distribution and consumption of all educational samples is limited to retail employees who directly sell product to retail customers. Retail employees who are not involved in direct sales to customers are not eligible for education samples.

(d) Marijuana retail licensees are prohibited from providing educational samples to their employees as a form of compensation.

(e) A marijuana processor must make quality assurance test results available to any retailer receiving education samples. If a marijuana extract was added to the product, the pro-

cessors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(f) **Education sample labeling:** All education samples must be clearly labeled ~~((as "budtender" samples))~~ "education sample" and include the following information on the label:

(i) ~~((Sixteen digit identification))~~ The unique identifier number generated by the traceability system;

(ii) The UBI number and trade name of the licensed entity providing the sample;

(iii) Product name or strain name for ~~((usable))~~ useable marijuana;

(iv) Weight of the product in ounces and grams or volume as applicable; and

(v) Potency labeled as required under WAC 314-55-105.

~~((4))~~ **(3) A marijuana processor is not required to provide free samples to negotiate a sale or educational samples to a marijuana retail licensee, and a marijuana retail licensee may not require a marijuana processor to provide free sample to negotiate a sale or educational samples as a condition for purchasing the marijuana processor's products.**

~~((5) Marijuana retail licensees may not provide educational samples to their budtender employees as a form of compensation.~~

~~((6))~~ **(4) Internal quality control sampling:** Producers and processors may conduct limited self-sampling for quality control. All sample limits are based on calendar months. ~~((Sampling))~~ Consuming samples for quality control may not take place at a licensed premises. Only the producer, processor, or employees of the licensee may sample the marijuana flower, ~~((usable))~~ useable marijuana, marijuana-infused products, marijuana concentrates, and edible marijuana-infused product. The producer or processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(a) Producers may sample two grams of marijuana flower per strain, per month for quality sampling.

(b) Processors may sample one unit per batch of a new ~~((edible))~~ marijuana-infused product meant to be ((eaten or swallowed)) ingested orally or otherwise taken into the body to be offered for sale on the market.

(c) Processors may sample up to one unit per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. No single sample may exceed 0.5 g.

(d) Processors may sample one unit per batch of a new marijuana mix packaged to be offered for sale on the market. No single sample may exceed 1 g.

(e) Processors may sample one unit per batch of a new infused marijuana mix to be offered for sale on the market. No sample may exceed 0.5 g.

~~((7))~~ **(f) Processors may sample one unit per batch of a new marijuana-infused product for topical application to be offered for sale on the market. No sample may exceed sixteen ounces.**

(5) Retailers may not provide free samples to customers.

~~((8))~~ **(6) Sample jars:**

~~((a))~~ A processor may provide a retailer free samples of ~~((usable))~~ useable marijuana packaged in a sample jar pro-

ected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of ~~((usable))~~ useable marijuana. The plastic or metal mesh screen must be sealed onto the container, and must be free of rips, tears, or holes greater than 2 mm in diameter. The sample jar and the ~~((usable))~~ useable marijuana within may not be sold to a customer and must be returned to the licensed processor who provided the ~~((usable))~~ useable marijuana and sample jar.

~~((9))~~ **(b) Sample jar labeling:** All ~~((vendor samples and))~~ sample jars must be labeled with the following:

~~((a) Sixteen digit identification))~~ **(i) The unique identifier number** ~~((given))~~ generated by the traceability system;

~~((b))~~ **(ii) Information identifying whether it is a vendor sample or sample jar;**

~~((c))~~ **(iii) The UBI number of the licensed entity providing the sample; and**

~~((d))~~ **(iv) Weight of the product in ounces and grams or volume as applicable.**

~~((10))~~ **(c) A marijuana processor must make quality assurance test results available to any retailer receiving sample jars. The processor must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.**

(d) If a marijuana extract was added to the product, the processor must disclose to the retailer the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

~~((11))~~ **(7) Transportation.** Outgoing and return vendor samples and sample jars must adhere to the transportation requirements in WAC 314-55-085.

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

WAC 314-55-097 Marijuana waste disposal—Liquids and solids. (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is designated as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 314-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 314-55-104).

(ii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, ~~((usable))~~ useable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered ~~((unusable))~~ unuseable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, or laboratory. Disposal of the marijuana waste rendered ~~((unusable))~~ unuseable must follow the methods under subsection (6) of this section.

~~((a))~~ Wastes that must be rendered ~~((unusable))~~ unuseable prior to disposal include, but are not limited to, the following:

~~((b))~~ **(a) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."**

~~((c))~~ **(b) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.**

~~((d))~~ **(c) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the WSLCB to test for quality assurance that must be disposed of.**

~~((e))~~ **(d) Other wastes as determined by the WSLCB.**

~~((f))~~ **A producer or processor must provide the WSLCB a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.)**

(5) The allowable method to render marijuana plant waste ~~((unusable))~~ unuseable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent nonmarijuana waste by volume. Other methods to render marijuana waste ~~((unusable))~~ unuseable must be approved by the WSLCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

(i) Food waste;

(ii) Yard waste;

(iii) Vegetable based grease or oils; or

(iv) Other wastes as approved by the WSLCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

(i) Paper waste;

(ii) Cardboard waste;

(iii) Plastic waste;

(iv) Soil; or

(v) Other wastes as approved by the WSLCB.

(6) Marijuana wastes rendered (~~(unusable)~~) unuseable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered (~~(unusable)~~) unuseable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

(i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.

(ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered (~~(unusable)~~) unuseable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered (~~(unusable)~~) unuseable.

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

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to (~~(certain))~~ the methods, equipment, solvents, gases, and mediums detailed in this section when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane (~~(or other solvents or gases exhibiting low to minimal potential human health related toxicity approved by the WSLCB)~~). These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch. The CO₂ must be of at least ninety-nine percent purity.

(4) Closed loop systems for hydrocarbon or CO₂ extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(5) Certification from a licensed engineer must be provided to the WSLCB for professional grade closed loop systems used by processors to certify that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

(a) The American Society of Mechanical Engineers (ASME);

(b) American National Standards Institute (ANSI);

(c) Underwriters Laboratories (UL); or

(d) The American Society for Testing and Materials (ASTM).

(6) The certification document must contain the signature and stamp of a professional engineer and the serial number of the ex-traction unit being certified.

(7) Professional grade closed loop systems, and other equipment used must be approved for specific use or the tech-

nical report must be approved by the state building code officials prior to use per WAC 51-54A-3800.

(8) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

(a) Title 296 WAC;

(b) Chapters 51-51 and 51-54A WAC;

(c) National Fire Protection Association (NFPA) standards;

(d) International Building Code (IBC);

(e) International Fire Code (IFC); and

(f) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

(~~(8))~~ (9) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(~~(9))~~ (10) Under WAC 314-55-077, infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.

(~~(10))~~ (11) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

(~~(11))~~ (12) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(~~(12))~~ (13) Parts per million for one gram of finished extract cannot exceed (~~(500 parts per million or)~~) residual solvent or gas (~~(when quality assurance tested per RCW 69.50.348)~~) levels provided in WAC 314-55-102.

NEW SECTION

WAC 314-55-117 Use of payment services by retailers. Retail licensees may use payment services to facilitate retail sales transactions under the following conditions:

(1) The payment service provider must:

(a) If applicable, be licensed and in good standing with the Washington state department of financial institutions; and

(b) Not have any interest, as a true party of interest or financier, in a marijuana licensee.

(2) The payment service provider may charge a convenience fee to customers provided that the customer has the option of canceling the transaction when informed of the convenience fee.

(3) The retail purchase price must be calculated in U.S. dollars.

(4) The marijuana excise tax required under RCW 69.50.535 must be collected from the customer based on the U.S. dollar purchase price.

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

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the ((qualifying persons)) <u>true parties of interest or owners</u> in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the ((qualifying persons)) <u>true parties of interest or owners</u> for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the ((qualifying persons)) <u>true parties of interest or owners</u> in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75
Accepting additional funds from a new or previously approved financier.	Added financier.	\$75

(2) Licensees must notify the WSLCB if there are any changes to marital status of any true party of interest in the license.

(3) The WSLCB may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

(4) If the WSLCB receives an application to change the ownership structure of a licensee, the application will be withdrawn unless one or more of the following is submitted:

(a) Proof that the party being removed was notified that they were being removed and they did not object within ninety days:

(b) Signed documentation from the true party of interest being removed for the licensed entity that they agree with the removal; or

(c) A final court document removing them.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-125 Change of location. (1) Changing ~~((your))~~ a marijuana license to a new location requires ~~((an))~~ a change request application to the WSLCB, per the process outlined in WAC 314-55-020. WSLCB approval for change request applications must be obtained prior to any change of location of the licensed business.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

NEW SECTION

WAC 314-55-137 Receiverships. (1) **Service and notice.**

(a) Any person who files any receivership or trustee action involving any marijuana licensee must serve WSLCB with original notice of the action. Service is accomplished by delivery of the original notice of action to WSLCB at: 3000 Pacific Avenue S.E., Olympia, WA 98501, or mailed to the WSLCB. Mailed notice must be addressed to: WSLCB, ATTN: Licensing - Receiverships, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Licensing - Receiverships, 3000 Pacific Avenue S.E., Olympia, WA 98501.

(b) Only if WSLCB receives original notice of the action and the receiver is selected in accordance with WSLCB's requirements will WSLCB treat the licensee as compliant with this section.

(2) **The role of a receiver when a licensee is placed in receivership.** If a marijuana licensee is placed under receivership, the receiver:

(a) Upon compliance with the requirements set forth below, the receiver may operate the licensee's business during the receivership period;

(b) The receiver assumes all licensee reporting responsibilities under this chapter including, but not limited to, full responsibility for maintaining records and entries into the traceability system maintained by the WSLCB; and

(c) The receiver is required to comply with all applicable laws under chapter 69.50 RCW and rules in this chapter including, but not limited to, the responsibilities of marijuana licensees set forth in WAC 314-55-110.

(d) Failure to abide by the requirements set forth in chapter 69.50 RCW and this chapter as specified in this subsection may result in enforcement action against the licensee under chapter 69.50 RCW and rules under this chapter and may result in the receiver being disqualified to act as a receiver by the WSLCB.

(3) **Who may serve as a receiver.** Any person who meets the requirements of chapter 7.60 RCW and the following additional requirements may serve as a receiver:

(a) Is currently in active status on the preapproved receiver list maintained by the WSLCB; or

(b) Is approved by the WSLCB under the requirements in subsection (5) of this section to serve as a receiver of a marijuana licensee.

(4) Qualifying for the WSLCB's preapproved receiver list.

(a) The following requirements must be met to qualify for the WSLCB's preapproved receiver list:

(i) Submit a complete receiver application with the WSLCB;

(ii) Be a Washington state resident for at least six months prior to the application for preapproval as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the WSLCB; and

(v) Disclose any interests the person has in any marijuana licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business entity that are not actively involved in the management of the receivership.

(c) A receiver placed on the preapproved receiver list maintained by the WSLCB must annually update all information and disclosures required under this subsection to remain eligible to act as a receiver and be on the preapproved receiver list. Annual updates must be made one calendar year after the date the receiver is approved.

(5) Appointing a receiver who is not preapproved by the WSLCB.

(a) Within two days of filing of any action to appoint a receiver, a proposed receiver must:

(i) Submit a complete application with the WSLCB to serve as receiver for the licensee;

(ii) Be a Washington resident for six months prior to appointment as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the WSLCB; and

(v) Disclose any interest the proposed receiver has in any marijuana licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business entity that are not actively involved in the management of the receivership.

(c) If the proposed receiver is denied approval by WSLCB at any time, a substitute receiver may be proposed for WSLCB approval. The substitute receiver must provide all information required by this subsection.

(d) If the proposed receiver is not approved by WSLCB at the time the receiver is appointed by the court, the receiver will not be considered compliant with this section, and may be subject to penalty under chapter 69.50 RCW, or as provided in this chapter and may result in the receiver being disqualified to act as a receiver by the WSLCB.

(6) Limitations on a person's ability to serve as a receiver.

(a) As operators and controllers of licensed marijuana establishments, receivers are subject to the same limits as licensees or any other person. Those limits include, but are not limited to:

(i) No person serving as a receiver of a licensed marijuana producer or licensed marijuana processor shall have a financial interest in, or simultaneously serve as a receiver for, a licensed marijuana retailer; and

(ii) No person shall serve as a receiver for, or be a true party of interest in, more than five marijuana retail licensees or more than three marijuana producer, processor, or producer/processor licensees at the same time.

(b) If the WSLCB determines that a receiver is violating or has violated the restrictions in this subsection, the receiver may be disqualified to act as a receiver by the WSLCB.

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

WAC 314-55-140 Death or incapacity of a marijuana licensee. (1) The appointed guardian, executor, administrator, (~~((receiver,))~~) trustee, or assignee must notify the WSLCB's licensing and regulation division in the event of the death, incapacity, (~~((receivership,))~~) bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The WSLCB may give the appointed guardian, executor, administrator, (~~((receiver,))~~) trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

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

WAC 314-55-185 (~~((Does the))~~) WSLCB (~~((have the))~~) right to inspect (~~((my))~~) premises or vehicles (~~((licensed))~~) associated with a license to produce, process, sell, research, or transport marijuana(~~((?))~~). (1) The following must be available for inspection at all times by an enforcement officer of the WSLCB:

(a) All licensed premises used in the production, processing, storage, transportation, research, or sale of marijuana, (~~((usable))~~) useable marijuana, marijuana concentrates, marijuana-infused products, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business;

(b) Any vehicle assigned for the purpose of transporting marijuana, (~~((usable))~~) useable marijuana, marijuana concentrates, or marijuana-infused products at any licensed location, or while en route during transportation;

(c) Records as outlined in (~~((WAC 314-55-087 and 314-55-310))~~) this chapter; and

(d) Marijuana, ~~((usable))~~ useable marijuana, marijuana concentrates, or marijuana-infused products on the licensed premises for the purpose of analyzing samples (the licensee will be given a receipt for any product removed from the premises for this purpose).

(2) Every person being on a licensed premises or ~~((with))~~ within a transporting vehicle, or having charge thereof, must admit an enforcement officer of the WSLCB demanding to enter therein in pursuance of this section in the execution of his/her duty, and must not obstruct or attempt to obstruct the entry of such officer, or refuse to allow an officer to examine the premises, vehicles, records, and products subject to this section of the licensee.

AMENDATORY SECTION (Amending WSR 16-19-102, filed 9/21/16, effective 10/22/16)

WAC 314-55-410 Cooperatives. (1) A cooperative may be formed by qualifying patients and/or designated providers to share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative. A cooperative must meet the following criteria:

(a) All cooperative members must be at least twenty-one years of age. The designated provider of a qualifying patient under twenty-one years of age may be a member of a cooperative on the qualifying patient's behalf;

(b) All cooperative members must hold valid recognition cards as defined by RCW 69.51A.010;

(c) No more than four qualifying patients or designated providers may become members of a cooperative;

(d) Qualifying patients or designated providers may only participate in one cooperative;

(e) A cooperative member may only grow plants in the cooperative and may not grow plants elsewhere;

(f) Cooperative members must participate in growing plants. Cooperative members must provide nonmonetary resources and assistance in order to participate. A monetary contribution or donation is not considered assistance;

(g) Cooperative members may grow up to the total amount of plants for which each cooperative member is authorized on his or her recognition card. At the location, the qualifying patients or designated providers may possess the amount of ~~((usable))~~ useable marijuana that can be produced with the number of plants permitted, but no more than seventy-two ounces;

(h) Cooperative members may not sell, donate, or otherwise provide marijuana, marijuana concentrates, ~~((usable))~~ useable marijuana, or other marijuana-infused products to a person who is not a member of the cooperative;

(i) A cooperative may not be located within a one mile radius of a marijuana retailer;

(j) A cooperative must be located ~~((in))~~ at the domicile of one of the cooperative members. Only one cooperative may be located per property tax parcel; and

(k) To obscure public view of the premises, outdoor marijuana production must be enclosed by a sight obscure wall or fence at least eight feet high.

(2) People who wish to form a cooperative must register the location with the WSLCB. The location registered is the only location where cooperative members may grow or pro-

cess marijuana. The following is required to register a cooperative:

(a) Submit a completed Marijuana Cooperative Registration Form;

(b) Submit copies of each person's recognition card who is seeking to be part of the registered cooperative;

(c) Submit a deed, lease, rental agreement, or other document establishing ownership or control to the property where the cooperative is to be located. If the property is leased or rented, a sworn statement from the property owner granting permission to engage in a cooperative must also be submitted that includes a telephone number and address where the owner can be contacted for verification;

(d) Submit a sketch outlining the location where the marijuana is planned to be grown.

(3) WSLCB will contact the primary contact listed for each registered cooperative on an annual basis to ensure validity of recognition cards and to confirm the status, whether active or inactive, of the cooperative. If the WSLCB finds that the cooperative no longer meets the criteria required under this section, the WSLCB may not renew the cooperative registration.

(4) WSLCB may inspect a cooperative between the hours of 8:00 a.m. and 8:00 p.m. unless otherwise agreed upon by cooperative members and WSLCB staff.

~~((4))~~ (5) If a person or persons seeking to register the cooperative fails to meet the requirements of a registered cooperative as provided in this section, the WSLCB will deny the cooperative registration.

~~((5))~~ (6) If the WSLCB finds a registered cooperative violated the requirements of this section, the WSLCB will revoke the cooperative's registration.

~~((6))~~ (7) A person may request an administrative hearing to contest a denial of registration, nonrenewal, or a revocation of a cooperative's registration under ~~((subsections (4) and (5) of))~~ this section as provided in chapter 34.05 RCW.

~~((7) Cooperative members purchasing plants from licensed producers.~~

~~(a) Members of a cooperative registered by the WSLCB may purchase marijuana plants to be grown in the cooperative from a licensed marijuana producer.~~

~~(b) Members of a cooperative who wish to purchase plants from a licensed producer must:~~

~~(i) Provide proof of identification in the form of a state-issued identification card or other valid government-issued identification, a valid recognition card, and a copy of the letter from the WSLCB confirming the person is a member of a registered cooperative;~~

~~(ii) Contact a licensed producer they wish to purchase from at least twenty-four hours in advance of arriving at the licensed producer's place of business to ensure the producer has plants available for sale and to allow for the required waiting period under WAC 314-55-083 to pass prior to physically taking possession of marijuana plants; and~~

~~(iii) Personally go to the licensed producer to complete the purchase and transfer of any marijuana plants purchased.~~

~~(c) The physical transfer of marijuana plants between licensed producers and members of a cooperative must take place on the premises of the licensed producer. Deliveries of~~

marijuana plants by a licensed producer to members of a cooperative are prohibited.)

NEW SECTION

WAC 314-55-417 Sales of immature plants or clones and seeds from licensed producers to members of cooperatives, qualifying patients, and designated providers. This section details the requirements for sales of immature plants or clones and seeds by licensed producers to members of a registered cooperative, qualifying patients, and designated providers.

(1) Medical marijuana patients who enter into the medical marijuana authorization database established and maintained by the department of health, receive a recognition card, and are members of a cooperative that has been granted a registration by the Washington state liquor and cannabis board (WSLCB) may purchase immature plants or clones and seeds to be grown in the cooperative from a licensed marijuana producer.

(2) Qualifying patients and designated providers who hold a valid unexpired recognition card and have been entered into the medical marijuana authorization database established and maintained by the department of health, may purchase immature plants or clones and seeds from a licensed marijuana producer.

(3) Members of a registered cooperative, qualifying patients, and designated providers who wish to purchase immature plants or clones and seeds from a licensed producer must:

(a) Personally go to the licensed producer to complete the purchase and transfer of any marijuana plants purchased; and

(b) Provide the following information to a licensed producer:

(i) Proof of identification in the form of a state-issued identification card or other valid government-issued identification;

(ii) A valid recognition card; and

(iii) If the person purchasing immature plants or clones or seeds is a member of a registered cooperative, a copy of the letter from the WSLCB confirming the person is a member of a registered cooperative.

(4) The physical transfer of marijuana plants between licensed producers and members of a cooperative, qualifying patients, or designated providers must take place on the premises of the licensed producer. Deliveries of marijuana plants by a licensed producer to members of a cooperative, qualifying patients, or designated providers are prohibited.

(5) Members of registered cooperatives, qualifying patients, and designated providers are limited to purchasing no more than the maximum amount that the medical marijuana patient's authorization form allows of any combination of immature plants or clones and seeds in a single sale or cumulative sales within a calendar month from a licensed producer. It is the responsibility of the member of the registered cooperative, qualifying patient, or designated provider to ensure that they possess no more than the maximum number of plants allowed under their authorization forms and as provided in chapter 69.51A RCW.

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

WAC 314-55-525 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses. Group 2 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
General advertising: Violations Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<p>((Advertising violations – Sign exceeding 1,600 square inches; within 1,000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. Chapter 69.50 RCW Chapter 314-55 WAC</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine))</p>
<p>Engaging in conditional retail sales. Chapter 314-55 WAC Chapter 69.50 RCW</p>	<p>5-day suspension or \$1,000 monetary option</p>	<p>10-day suspension or \$2,500 monetary option</p>	<p>30-day suspension</p>	<p>Cancellation of license</p>
<p>Licensee/employee failing to display required security badge. Chapter 314-55 WAC</p>	<p>Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine</p>	<p>Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine</p>	<p>Retailer/transporter: 30-day suspension Producer/processor: All tiers: \$5,000 monetary fine</p>	<p>Cancellation of license</p>
<p>Failure to maintain required security alarm and surveillance systems. Chapter 314-55 WAC</p>	<p>Retailer/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine</p>	<p>Retailer/transporter: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine</p>	<p>Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine</p>	<p>Cancellation of license</p>
<p>Records: Improper recordkeeping. Chapter 314-55 WAC</p>	<p>Retailer/transporter: 5-day suspension or \$1,000 monetary option Producer/processor: \$1,000 monetary fine</p>	<p>Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine</p>	<p>Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine</p>	<p>Cancellation of license</p>
<p>Failure to submit monthly tax((/sales reports and/or)) payments. Chapter 69.50 RCW Chapter 314-55 WAC</p>	<p>Retailer(/transporter): 5-day suspension or \$1,000 monetary option ((Producer/processor: \$1,000 monetary fine))</p>	<p>Retailer: 10-day suspension or \$2,500 monetary option ((Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine))</p>	<p>Retailer: 30-day suspension ((Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine))</p>	<p>Cancellation of license</p>

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<p>Signs: Failure to post required signs. Chapter 69.50 RCW Chapter 314-55 WAC</p>	<p>Retailer/transporter: 5-day suspension or \$500 monetary option Producer/processor: \$500 monetary fine</p>	<p>Retailer/transporter: 10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine</p>	<p>Retailer/transporter: 15-day suspension or \$5,000 monetary option Producer/processor: All tiers: \$5,000 monetary fine</p>	<p>Cancellation of license</p>
<p>Failure to utilize and/or maintain traceability. Chapter 314-55 WAC</p>	<p>5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine</p>	<p>Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine</p>	<p>Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine</p>	<p>Cancellation of license</p>
<p>Violation of transportation requirements. Chapter 314-55 WAC</p>	<p>Retailer: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine</p>	<p>Retailer: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine</p>	<p>Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine</p>	<p>Cancellation of license</p>
<p>Marijuana sold below cost of acquisition, true value, or illegally given away.</p>	<p>Retailer: 5-day suspension or \$1,000 monetary option Producer/processor: \$2,500 monetary fine</p>	<p>Retailer: 10-day suspension or \$5,000 monetary option Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine</p>	<p>Retailer: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine</p>	<p>Cancellation of license</p>
<p><u>Retail sales: Use of an unauthorized money transmitter.</u> Chapter 314-55 WAC</p>	<p><u>5-day suspension or \$1,000 monetary option</u></p>	<p><u>10-day suspension or \$2,500 monetary option</u></p>	<p><u>30-day suspension</u></p>	<p><u>Cancellation of license</u></p>
<p>Retail outlet selling unauthorized products. Chapter 69.50 RCW</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>
<p>Retailer displaying products in a manner visible to the general public from a public right of way. Chapter 69.50 RCW</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>	<p>\$1,000 monetary fine</p>

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Retail sales: Unauthorized marijuana-infused products, internet sales, and accepting returns. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

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

WAC 314-55-530 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions. Group 3 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
True party of interest/ financier violation. Chapter 314-55 WAC	Cancellation of license			
Failure to furnish required documents. Chapter 314-55 WAC	Cancellation of license			
Misuse or unauthorized use of marijuana license (operating outside of license class). Chapter 69.50 RCW Chapter 314-55 WAC	Retailer/transporter: 10-day suspension or \$5,000 monetary fine Producer/processor: Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Cancellation of license		
Misrepresentation of fact. Chapter 314-55 WAC	Cancellation of license			
Unauthorized change of business name. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option Producer/processor: All tiers: \$500 monetary penalty	10-day suspension or \$1,500 monetary option Producer/processor: All tiers: \$1,500 monetary fine	30-day suspension or \$5,000 monetary option Producer/processor: All tiers: \$5,000 monetary fine	Cancellation of license
Operating/floor plan: Violations of a WSLCB approved operating plan. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option Producer/processor: All tiers: \$1,000 monetary fine	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
((Failing to gain WSLCB approval for changes in existing ownership. Chapter 69.50 RCW Chapter 314-55 WAC	30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory))			
Failure to respond to administrative violation notice and/or failure to pay fines and penalties. Chapter 314-55 WAC	\$1,000 monetary penalty	Cancellation of license		
Failure to maintain required insurance. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$2,500 monetary fine Producer/processor: Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Retailer/transporter: 30-day suspension or \$15,000 monetary option Producer/processor: Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine	Cancellation of license	

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-55-081 Who can apply for a marijuana retailer license?

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

WAC 314-55-082 Insurance requirements. Marijuana licensees ~~((shall provide))~~ must obtain insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the WSLCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance ~~((and if necessary,))~~ or commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. The limits of liability insurance shall not be less than one million dollars.

(a) This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants.

(b) The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising

out of the licensee's premises/operations, products, and personal injury. ~~((The limits of liability insurance shall not be less than one million dollars.))~~

(2) Insurance carrier rating: The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on ~~((all general liability, umbrella, and excess))~~ insurance policies required under this section. All policies shall be primary over any other valid and collectable insurance.

AMENDATORY SECTION (Amending WSR 18-05-001, filed 2/7/18, effective 3/10/18)

WAC 314-55-155 Advertising requirements and promotional items—Coupons, giveaways, etc. The following provisions apply in addition to the requirements and restrictions in RCW 69.50.369.

(1) **Advertising generally.** The following requirements apply to all advertising by marijuana licensees in Washington state.

(a) All marijuana advertising and labels of ~~((usable))~~ useable marijuana, marijuana concentrates, and marijuana-

infused products sold in the state of Washington must not contain any statement, or illustration that:

- (i) Is false or misleading;
- (ii) Promotes over consumption;
- (iii) Represents the use of marijuana has curative or therapeutic effects;
- (iv) Depicts a child or other person under legal age to consume marijuana, or includes:

(A) The use of objects, such as toys, inflatables, movie characters, cartoon characters suggesting the presence of a child, or any other depiction or image designed in any manner to be likely to be appealing to youth or especially appealing to children or other persons under legal age to consume marijuana; or

(B) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(b) No marijuana licensee shall place or maintain, or cause to be placed or maintained, an advertisement of a marijuana business or marijuana product, including marijuana concentrates, (~~usable~~) useable marijuana, or marijuana-infused product:

(i) In any form or through any medium whatsoever within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older unless the one thousand minimum distance requirement has been reduced by ordinance in the local jurisdiction where the licensed retailer is located and the licensed retailer is located within one thousand feet of a restricted location listed in this paragraph;

(ii) On or in a private vehicle, public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location;

(c) All advertising for marijuana businesses or marijuana products, regardless of what medium is used, must contain text stating that marijuana products may be purchased or possessed only by persons twenty-one years of age or older. Examples of language that conforms to this requirement include, but are not limited to: "21+," "for use by persons 21 and over only," etc.

(d) A marijuana licensee may not engage in advertising or marketing that specifically targets persons residing out of the state of Washington.

(2) **Outdoor advertising.** In addition to the requirements for advertising in subsection (1) of this section, the following restrictions and requirements apply to outdoor advertising by marijuana licensees:

(a) Except for the use of billboards as authorized under RCW 69.50.369 and as provided in this section, licensed marijuana retailers may not display any outdoor signage other than two separate signs identifying the retail outlet by the licensee's business name or trade name, stating the location of the business, and identifying the nature of the business. Both signs must be affixed to a building or permanent structure and each sign is limited to sixteen hundred square inches.

(i) All text on outdoor signs, including billboards, is limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business.

(ii) No outdoor advertising signs, including billboards, may contain depictions of marijuana plants or marijuana products. Logos or artwork that do not contain depictions of marijuana plants or marijuana products as defined in this section are permissible.

(A) A depiction of a marijuana plant means an image or visual representation of a cannabis leaf, plant, or the likeness thereof that explicitly suggests or represents a cannabis leaf or plant.

(B) A depiction of a marijuana product means an image or visual representation of (~~usable~~) useable marijuana, marijuana-infused products, or marijuana concentrates, or an image that indicates the presence of a product, such as smoke, etc.

(iii) Stating the location of the business may include information such as the physical address or location, directional information, web site address, email address, or phone number of the licensed business.

(iv) Identifying the nature of the business may include information related to the operation of the business, what the business is engaged in, or the goods the business offers for sale.

(v) Double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign so long as the sign is contained in or affixed to a single structure.

(b) No marijuana licensee may use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana business.

(c) Outdoor advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located at an adult only facility.

(d) The restrictions in this section and RCW 69.50.369 do not apply to outdoor advertisements at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but must not be placed there more than fourteen days before the event, and that does not advertise any marijuana product other than by using a brand name, such as the business or trade name or the product brand, to identify the event. Advertising at adult only facilities must not be visible from outside the adult only facility.

(e) A sign affixed to the licensed premises or in the window of a licensed premises indicating the location is open for business, closed for business, the hours of operation, that the licensed location has an ATM inside, or other similar informational signs not related to the products or services of the marijuana business are not considered advertising for the purposes of this section.

(f) "Adopt-a-Highway" signs erected by the Washington state department of transportation under a current valid sponsorship with the department of transportation are not considered advertising for the purposes of this section.

(3) Advertising placed on windows within the premises of a licensed marijuana retail store facing outward must meet the requirements for outdoor advertising as provided in RCW 69.50.369 and this section.

(4) Promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise are banned. For the purposes of this section, a "giveaway" does not include representative samples of products (edible products and topicals only) carried by a licensed retailer that are not infused with marijuana and are offered to customers on licensed marijuana retail premises for sampling purposes only.

(5) Marijuana retail licensees holding a medical marijuana endorsement may donate product to qualifying patients or designated providers who hold a valid recognition card. Retail licensees may not advertise "free" or "donated" product.

(6) Except for outdoor advertising under subsection (2) of this section, all advertising must contain the following warnings that must be in type size at least ten percent of the largest type used in the advertisement:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product.";

(d) "For use only by adults twenty-one and older. Keep out of the reach of children."

(7) For the purposes of this section, the following definitions apply:

(a) "Adult only facility" means:

(i) A location restricted to persons age twenty-one and older by the WSLCB or classified by the WSLCB as off limits to persons under twenty-one years of age; or

(ii) A venue restricted to persons age twenty-one and older and where persons under twenty-one years of age are prohibited from entering or remaining, including employees and volunteers.

(b) "Billboard" means a permanent off-premises sign in a fixed location used, in whole or in part, for the display of off-site commercial messages with a minimum size of five feet in height by eleven feet in width.

(c) "Off-premises sign" means a sign relating, through its message and content, to a business activity, product, or service not available on the premises upon which the sign is erected.

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

WAC 314-55-310 Transportation license. (1) A transportation license allows the licensee to physically transport or deliver marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses within Washington state. The application fee for the transportation license is two hundred fifty dollars and the annual fee is one thousand three hundred dollars.

(2) Applicants for the transportation license must submit the following information:

(a) Personal/criminal history forms for all true parties of interest (see WAC 314-55-035);

The criminal history background check will consist of completion of a personal/criminal history form provided by the WSLCB and submission of fingerprints to a vendor approved by the WSLCB. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Documents showing the right to the physical location to be licensed (purchase and sale agreement or lease in the name of the applicant);

(c) Copies of the current UTC common carrier permits. All vehicles and trailers must also be permitted by UTC as common carriers;

(d) Corporate information form or limited liability information form as applicable;

(e) Proof of insurance.

(i) Licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the licensees. Licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the WSLCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(ii) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(iii) Insurance carrier rating: The insurance required in (e)(i) of this subsection shall be issued by an insurance company authorized to do business within the state of Washington. Insurance must be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(iv) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

(3) **Transport manifest.** A complete printed transport manifest on a form provided by the WSLCB containing all information required by the WSLCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection if requested by an employee of the WSLCB or local law enforcement:

(a) Copies of transportation manifests for all deliveries;

(b) A transportation log documenting the chain of custody for each delivery to include driver(s) and vehicle(s) associated with each delivery;

(c) Bank statements and canceled checks for any accounts relating to the licensed business;

(d) Accounting and tax records related to the licensed business;

(e) Records of all financial transactions related to the licensed business, including invoices, contracts and/or agreements for services performed or received that relate to the licensed business;

(f) All employee records, to include training.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the transportation licensee or an employee of the transportation licensee who is at least twenty-one years of age may transport product. All drivers must carry a valid Washington driver's license with the proper endorsements when operating a vehicle in the transportation of product. All passengers in the vehicle transporting marijuana or marijuana products must be employees of the transportation licensee who are at least twenty-one years of age;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the WSLCB pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must be delivered or returned to the shipper within forty-eight hours from the time of pickup;

(f) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartment of a van or box truck. A secured area is defined as an area where solid or locking metal partitions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting marijuana, ~~((usable))~~ **useable** marijuana, marijuana concentrates, or marijuana-infused products shall be considered an extension of the licensed premises and subject to inspection by enforcement officers of the WSLCB. Vehicles assigned for transportation may be

stopped and inspected by a WSLCB enforcement officer at any licensed location, or while en route during transportation.

WSR 18-22-056
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed October 31, 2018, 10:34 a.m., effective December 1, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changes to cannabis rules in chapter 314-55 WAC as a result of legislation passed during the 2018 legislative session.

Citation of Rules Affected by this Order: New WAC 314-55-109.

Statutory Authority for Adoption: RCW 69.50.342, 69.50.345.

Adopted under notice filed as WSR 18-17-184 on August 22, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 31, 2018.

Jane Rushford
Chair

NEW SECTION

WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing. (1) As provided in RCW 69.50.326 Licensed marijuana producers and licensed marijuana processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) Has a THC level of 0.3 percent or less; and

(b) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established in this section.

(2) Licensed marijuana producers and licensed marijuana processors may use a CBD product obtained from a source not licensed under this chapter and chapter 69.50 RCW as an additive for the purpose of enhancing the CBD concentration of any product authorized for production, processing, and sale under this chapter. However, useable marijuana, except marijuana that is an intermediate product that

will be converted into a marijuana-infused product or a marijuana concentrate, may not be treated or otherwise adulterated in any way including the addition of a CBD product consistent with the rules of this chapter. Except as allowed under this section, CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed under this chapter. The testing requirements for CBD products derived from marijuana produced by marijuana licensees are provided in WAC 314-55-102. The testing requirements in this section are required in addition to quality assurance testing otherwise required under this chapter for marijuana products.

(3) **Traceability requirements.** A licensee must enter CBD products obtained from a source not licensed under this chapter into the state traceability system and keep the information in the traceability system completely up to date, consistent with marijuana and marijuana product recordkeeping and traceability requirements in WAC 314-55-083. A licensee must keep CBD products obtained from a source not licensed under this chapter labeled and quarantined in an area separate from marijuana and marijuana products under video surveillance consistent with the requirements for controlled areas in WAC 314-55-083(3) until the CBD products successfully pass quality assurance testing or are destroyed due to failure of tests as provided in this section. At no time during the quarantine period can the product be handled or moved under any circumstances, except for purposes of deducting samples as required under this section, and is subject to auditing by the WSLCB or its designee(s). CBD products obtained from a source not licensed under this chapter that fail quality assurance testing as provided in this section must not be added to any marijuana product and must be disposed of consistent with WAC 314-55-097 and the disposal logged into the traceability system consistent with WAC 314-55-083.

(4) **Testing requirements.** The following sample deduction and testing requirements apply to CBD products obtained from a source not licensed under this chapter. Such products must successfully pass quality assurance testing prior to being added to any marijuana product. Samples that fail quality assurance testing and the corresponding products that the samples were deducted from must be disposed of consistent with WAC 314-55-097.

(a) **Sample size and deduction requirements.** Licensed producers, licensed processors, certified labs, and their employees must adhere to the minimum sampling protocols as provided in this section. Samples must be deducted in a way that is most representative of the product the sample is deducted from. The minimum sample size for the testing requirements under this section for CBD products is one percent of the product as packaged by the manufacturer of the CBD product but in no case shall the sample be less than two grams. Licensees, certified labs, and their employees may not adulterate or change in any way the representative sample before the sample is tested.

(i) All samples must be collected/deducted 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.

(ii) Persons collecting samples must wash their hands prior to collecting a sample, wear appropriate gloves, and must use sanitary utensils and storage devices when collecting samples.

(iii) Samples must be placed in a sanitary plastic or glass container and stored in a location that prevents the propagation of pathogens and other contaminants, such as a secure, low-light, cool and dry location.

(iv) The licensee must maintain the CBD products from which the sample was deducted in a secure, low-light, cool, and dry location to prevent the products from becoming contaminated or degraded prior to the CBD products being added or incorporated into marijuana products after successful passage of testing requirements.

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

(A) The unique identifier for the product generated by the state traceability system;

(B) The name of the certified lab receiving the sample;

(C) The license number and business or trade name of the licensee sending the sample;

(D) The date the sample was collected; and

(E) The weight of the sample.

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

(b) **Required fields of testing.**

(i) **Potency testing.** Potency testing is required to confirm the product is less than 0.3 percent THC, contains detectable levels of CBD, and to determine the levels of THC, THC-A, CBD, and CBD-A in the product. Synthetic cannabinoids as defined in RCW 69.50.204 are prohibited under RCW 69.50.401 and any test result that suggests the presence of a synthetic cannabinoid must be immediately reported to the WSLCB.

(A) Certified labs must test and report the following cannabinoids to the WSLCB in the state traceability system when testing for potency:

(I) THCA;

(II) THC;

(III) Total THC;

(IV) CBDA;

(V) CBD; and

(VI) Total CBD.

(B) Calculating total THC and total CBD.

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

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

(D) The following potency results fail quality assurance testing for the purposes of this section and the sample and corresponding product from which the sample was deducted must be disposed of consistent with this section and WAC 314-55-097:

(I) The CBD product tests above 0.3 percent THC;

(II) The CBD product does not contain any detectable amounts of CBD or CBD-A; and

(III) The sample test results indicate that a substance is present that is not THC, CBD, or inert substance which the THC or CBD is dissolved into.

(ii) **Pesticide screening.**

(A) Certified third-party labs must screen for any pesticides that are not allowed and are designated as having the potential for misuse on a list created, maintained, and periodically updated by the department of health in consultation with the Washington state department of agriculture and the WSLCB.

(B) If the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed for use or application on marijuana under this chapter and is above the action levels provided in WAC 314-55-108, that sample and corresponding product from which the sample was deducted has failed quality assurance testing. A sample that tests at or above the action levels for pesticides consistent with WAC 314-55-108 fails pesticide testing requirements for the purposes of this section. A sample and corresponding product from which the sample was deducted that fails quality assurance testing under this section must be destroyed consistent with WAC 314-55-097.

(C) Certified third-party labs must also screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified third-party labs may also screen for additional pesticides not specifically required under this section and per the DOH list, however, any sample that tests at or above the action level for any pesticide(s) as established in WAC 314-55-108 fails the testing requirements under this section and must be disposed of consistent with WAC 314-55-097.

(iii) **Heavy metal screening.** For the purposes of heavy metal screening, a sample fails quality assurance testing and must be disposed of consistent with WAC 314-55-097 if it meets or exceeds the following limits:

Metal	Limit, µg/daily dose (5 grams)
Inorganic arsenic	10.0
Cadmium	4.1
Lead	6.0
Mercury	2.0

(iv) **Residual solvents screening.** Certified labs must test for the solvents listed in the table below at a minimum. Except as otherwise provided in this subsection, a sample and corresponding product from which the sample was deducted fail quality assurance testing for residual solvents and must be disposed of consistent with WAC 314-55-097 if the results meet or exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three sol-

vents, 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.

Solvent	ppm
Acetone	5,000
Benzene	2
Butanes	5,000
Cyclohexane	3,880
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

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

(v) **Microbiological screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for microbiological screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

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

(vi) **Mycotoxin screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for mycotoxin screening and must be disposed of consistent with WAC 314-55-097 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.

(5) **Test results reporting requirements.** Certified labs must report all test results as required by this section into the state traceability system within twenty-four hours of completion of the tests.

(6) **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 requesting the retest. Potency retesting will generally not be authorized.

(7) **Remediation.** Producers and processors may remediate failed products so long as the remediation method does not impart any toxic or deleterious substance to the CBD products obtained from a source outside the regulated system. Remediation solvents or methods used on the 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 product; or consumer upon request. The product(s) the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated CBD products obtained from a source outside the regulated system may be sold, transported, or used in the processing of marijuana products until the completion and successful passage of quality assurance testing as required in this section.

(8) A licensee or certified lab that violates any of the provisions of this section is subject to disciplinary action, including possible summary suspension or revocation of the producer license, processor license, producer/processor license, or lab certification.

WSR 18-22-060
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed October 31, 2018, 1:38 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The agency removed the outdated language in WAC 182-550-6300. The agency has created a new chapter 182-555 WAC to establish updated definitions, eligibility requirements, provider requirements, covered services, and documentation requirements for medical nutrition therapy provided by a registered dietitian for clients age twenty and younger.

Citation of Rules Affected by this Order: New WAC 182-555-0100, 182-555-0200, 182-555-0300, 182-555-0400, 182-555-0500 and 182-555-0600; and amending WAC 182-550-6300.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-18-021 on August 24, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 6, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 6, Amended 1, Repealed 0.

Date Adopted: October 31, 2018.

Wendy Barcus
Rules Coordinator

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

WAC 182-550-6300 Outpatient nutritional counseling. ~~((1) The medicaid agency will cover nutritional counseling services only for eligible medicaid clients age twenty and under referred during an early and periodic screening, diagnosis and treatment screening to a certified dietitian.~~

~~((2) Except for children under the children's medical program, the agency will not cover nutritional counseling for clients under the medically indigent and other state-only funded programs.~~

~~((3) The agency will pay for nutritional counseling for the following conditions:~~

~~((a) Inadequate or excessive growth, such as failure to thrive, undesired weight loss, underweight, major change in weight to height percentile, and obesity;~~

~~((b) Inadequate dietary intake, such as formula intolerance, food allergy, limited variety of foods, limited food resources, and poor appetite;~~

~~((c) Infant feeding problems, such as poor suck/swallow reflex, breast-feeding difficulties, lack of developmental feeding progress, inappropriate kinds or amounts of feeding offered, and limited caregiver knowledge or skills;~~

~~((d) Chronic disease requiring nutritional intervention, such as congenital heart disease, pulmonary disease, renal disease, cystic fibrosis, metabolic disorder, and gastrointestinal disease;~~

~~((e) Medical conditions requiring nutritional intervention, such as iron deficiency anemia, familial hyperlipidemia, and pregnancy;~~

~~((f) Developmental disability, such as increasing the risk of altered energy and nutrient needs, oral motor or behavioral feeding difficulties, medication nutrient interaction, and tube feedings; or~~

~~((g) Psycho-social factors, such as behavior suggesting eating disorders.~~

~~((4) The agency will pay for maximum of twenty sessions, in any combination, of assessment/evaluation and/or nutritional counseling in a calendar year.~~

~~((5) The agency will require each assessment/evaluation or nutritional counseling session be for a period of twenty-five to thirty minutes of direct interaction with a client and/or the client's caregiver.~~

~~((6) The agency will pay the provider for a maximum of two sessions per day per client.)) See chapter 182-555 WAC for medical nutrition therapy.~~

Chapter 182-555 WAC

MEDICAL NUTRITION THERAPY

NEW SECTION

WAC 182-555-0100 General. The medical nutrition therapy program ensures that clients have access to medically necessary outpatient medical nutrition therapy and associated follow-ups.

NEW SECTION

WAC 182-555-0200 Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter:

"Enteral nutrition" - See WAC 182-554-200.

"Medical nutrition therapy" - Means an interaction between the registered dietitian (RD) and the client or client's guardian for the purpose of evaluating and making recommendations regarding the client's nutritional status.

"Nutrition assessment" - Means the collection and documentation of information such as food or nutrition-related history; biochemical data, medical tests and procedures; anthropometric measurements, nutrition-focused physical findings and client history.

"Nutrition care process" - Means a systematic approach to providing high-quality nutrition care. Provides a framework for the registered dietitian to individualize care, taking into account the client's needs and values and evidence available to make decisions.

"Nutrition-related diagnosis" - Means a diagnosis within the scope of practice for an RD to diagnose and treat as defined by the Academy of Nutrition and Dietetics.

"Registered dietitian" - Means a dietitian who is registered with the Academy of Nutrition and Dietetics and who is certified by the Washington state department of health (DOH).

NEW SECTION

WAC 182-555-0300 Eligibility. The medicaid agency covers medical nutrition therapy for clients who are:

- (1) Age twenty and younger; and
- (2) Referred to a registered dietitian for medical nutrition therapy by a physician, physician assistant (PA), or an advanced registered nurse practitioner (ARNP).

NEW SECTION

WAC 182-555-0400 Provider requirements. Medical nutrition therapy services must be delivered by a registered dietitian (RD) who:

- (1) Has a current core provider agreement with the medicaid agency; and
- (2) Has a national provider identifier (NPI).

NEW SECTION

WAC 182-555-0500 Covered services. (1) The medicaid agency covers medically necessary medical nutrition

therapy when related to a nutrition-related diagnosis for eligible clients, as described under WAC 182-555-0300.

(2) The agency covers medical nutrition therapy, nutrition assessment, and counseling for conditions that are within the scope of practice for a registered dietitian (RD) to evaluate and treat.

NEW SECTION

WAC 182-555-0600 Documentation requirements. In addition to the health care record requirements found in WAC 182-502-0020, the medical nutrition therapy provider must maintain the following documentation in the client's file:

(1) Referral from the provider, as described under WAC 182-555-0300;

(2) The medical nutrition therapy provider assessment following the nutrition care process:

- (a) Nutrition assessment;
 - (b) Nutrition diagnosis, including the problem, etiology, signs, and symptoms (PES) statement;
 - (c) Nutrition intervention;
 - (d) Nutrition monitoring and evaluation.
- (3) Any correspondence with the referring provider;
- (4) Information on associated medical conditions; and
- (5) Information concerning the medical need.

WSR 18-22-063

PERMANENT RULES

GAMBLING COMMISSION

[Filed October 31, 2018, 3:11 p.m., effective December 1, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This change is to fix an inadvertent error made in fee simplification rules package #2. This change clarifies recordkeeping requirements for bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in a previous license year.

Citation of Rules Affected by this Order: Amending WAC 230-10-330 Recordkeeping requirements for bingo licensees with gross gambling receipts less than one hundred fifty thousand dollars in their previous license year, agricultural fairs, and other organizations.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 18-10-114 on May 2, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 31, 2018.

Ashlie Laydon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-05-029, filed 2/9/18, effective 7/1/18)

WAC 230-10-330 Recordkeeping requirements for bingo licensees with gross gambling receipts less than one hundred fifty thousand dollars in their previous license year, agricultural fairs, and other organizations. Licensees must immediately account for all income from bingo games. Bingo licensees with gross gambling receipts less than one hundred fifty thousand dollars in their previous license year, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair must follow the recordkeeping requirements in WAC 230-07-125 or any of the receipting methods for bingo income required for ~~((Class D or above licensees))~~ bingo licensees with gross gambling receipts over one hundred fifty thousand dollars in their previous license year.

WSR 18-22-065

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed November 1, 2018, 9:13 a.m., effective December 2, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The university is updating the WSU Vancouver campus parking and traffic rules including the expansion of rules regarding bicycles and other unmotorized vehicles.

Citation of Rules Affected by this Order: New WAC 504-19-370; and amending WAC 504-19-100, 504-19-350, 504-19-520, 504-19-560, 504-19-600, 504-19-650, 504-19-865, and 504-19-930.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 18-18-096 on September 5, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 8, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 8, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 8, Repealed 0.

Date Adopted: October 31, 2018.

Deborah L. Bartlett, Director
Procedures, Records, and Forms and
University Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

WAC 504-19-100 Definitions. The definitions in this section are applicable within the context of this chapter.

(1) Campus. Describes all property owned, leased, and/or controlled by WSUV which is or may hereafter be dedicated mainly to the educational, research, recreational, parking, or other activities of WSUV.

(2) Day. Unless otherwise specified, the term "day" refers to a calendar day.

~~((3) Disability parking. See persons with disability.~~

~~((4))~~ (3) Disability zone. A parking zone designated for exclusive use by persons with disability and identified with a sign bearing the associated international symbol.

~~((5))~~ (4) Fire zone. An area needed for emergency access to buildings, fire hydrants, or fire equipment. Such areas include, but are not limited to, areas with adjacent curbs or rails painted red.

~~((6) Holiday. See university holiday.~~

~~((7))~~ (5) Illegal use of permit. A parking violation in which a parking ticket is issued under the following circumstances:

(a) Use of a parking permit or indicator on a vehicle other than the specified vehicle identified by a license number on the permit.

(b) Use of a parking permit or indicator obtained under false pretenses.

(c) Use of a modified parking permit or indicator.

(d) Use and/or retention of a parking permit or indicator by person(s) ineligible, or no longer eligible, for such permit as described and authorized in this chapter.

~~((8))~~ (6) Impound. To take and hold a vehicle in legal custody, either by use of a wheel lock and/or towing.

~~((9))~~ (7) Indicator. A vinyl, plastic, or paper instrument displayed adjacent to a parking permit which defines the parking areas available to a permit holder.

~~((10))~~ (8) Loading zone. A loading dock or an area signed "loading zone" adjacent to a facility or in a parking area. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times unless signed otherwise.

~~((11))~~ (9) Moped. Any two-wheeled or three-wheeled motor vehicle with an engine displacement of 50cc or less.

~~((12))~~ (10) Motorcycle. Any two-wheeled or three-wheeled motor vehicle with an engine displacement greater than 50cc.

~~((13))~~ (11) Motor vehicle. All motor-driven conveyances except wheelchairs. Also referred to as "vehicle" in this chapter.

~~((14))~~ (12) No parking zone. Any area not specifically marked and/or signed for parking. Such areas include, but are

not limited to, areas with adjacent curbs or rails painted yellow or red.

~~((15))~~ (13) Officer. Any parking or police official employed by the university who is designated by the parking administrator or police department head to issue parking tickets, to place or remove wheel locks, or to cause vehicles to be towed under this chapter.

~~((16))~~ (14) Owner. The person registered with any state as the present owner of a vehicle in the most current registration record available to the university, the owner's expressed representative, or any transferee not designated in such records, provided that the parking administrator or police department head has received actual written notice of the transfer.

~~((17))~~ (15) Park/parking. This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.

~~((18))~~ (16) Parking administrator. The manager in charge of the parking department or designee.

~~((19))~~ (17) Parking appeals committee. Any person or persons appointed to consider parking violations and the application of fees, fines, and sanctions. Said person or persons are appointed by the vice chancellor whose responsibilities include supervision of the parking department or designee.

~~((20))~~ (18) Parking department. The university department which is charged with the responsibility of managing, operating, planning, and maintaining parking facilities and enforcing the parking regulations for the WSUV campus.

~~((21))~~ (19) Parking meter. A single fixed device that typically requires payment and limits the amount of time a vehicle can park in a single space. Also referred to as "meter" in this chapter. A parking meter is not a parking payment device.

~~((22))~~ (20) Parking payment device. A machine that requires payment and vends a parking permit and/or a paid receipt. Parking payment devices may be located in various places on campus. A parking payment device is not a parking meter.

~~((23))~~ (21) Parking permit. A vinyl, plastic, paper, or other instrument sanctioned by the parking department that is displayed from a vehicle and authorizes parking in specified areas. Also referred to as "permit" in this chapter.

~~((24))~~ (22) Parking ticket. The first notice of a parking violation which is usually placed in a visible location on a motor vehicle.

~~((25))~~ (23) Pay parking facility. A location where parking is provided and payment is made on-site via a parking payment device, cashier, or other means other than a parking meter.

~~((26))~~ (24) Pedestrian mall. A space that is designed primarily for pedestrian use, but with limited authorized use of motor vehicle and other motorized and nonmotorized conveyances.

~~((27))~~ (25) Persons with disability. For the purposes of this chapter, ~~((persons))~~ individual with ~~((disability))~~ disabilities shall refer to a person or persons with disability or disabilities who qualify for a state-issued ~~((persons))~~ individual with ~~((disability))~~ disabilities parking identification and permit.

~~((28))~~ (26) Service vehicle. A vehicle used to provide a service for WSUV or a tenant or contractor of WSUV (e.g., a university-owned vehicle or a privately owned vehicle with a valid service vehicle authorization displayed).

~~((29))~~ (27) Service zone. Parking spaces or area designated for the use of service vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones for a maximum of fifteen minutes, except for vehicles that display a service indicator issued for an extended time. Service zones are restricted at all times unless signed otherwise.

~~((30))~~ (28) Staff. For the purposes of these regulations, "staff" includes all nonstudent employees of the university, and the nonstudent employees of other entities located on or regularly doing business on campus. Teaching assistants, research assistants, and other students employed by the university or other entities located on or regularly doing business on campus are not "staff." They are considered as students for the purpose of these rules.

~~((31))~~ (29) Standing. "Standing" is the stopping of a vehicle with the driver remaining in it.

~~((32))~~ (30) Storage of a vehicle. Impounded vehicles are held in storage until released. During such time they are subject to storage fees.

~~((33))~~ (31) Student. The term "student" includes all persons who are not staff, who are taking courses at the university, enrolled full-time or part-time, pursuing undergraduate, graduate, professional studies, or auditing one or more classes.

~~((34))~~ (32) Summer session. The summer session includes all summer sessions beginning on the first day of the earliest session and ending on the last day of the latest session.

~~((35))~~ (33) University. Refers to Washington State University Vancouver.

~~((36))~~ (34) University holiday. A day regarded by the university as an official university holiday.

~~((37))~~ (35) Unpaid. A full or partial outstanding balance due. This definition includes parking tickets which are pending appeal.

~~((38))~~ (36) Vacation. A period of time when classes or final exams are not in session. Except for holidays that fall within this period, the business offices of WSUV typically are open during this time.

~~((39))~~ (37) Visitors. Persons who are not staff or students and who only visit the campus on an occasional basis.

~~((40))~~ (38) Wheel lock. A device used to temporarily immobilize a motor vehicle. Wheel locked vehicles are considered to be impounded in place and subject to storage fees.

~~((41))~~ (39) Wheel lock-eligible list. The current list of wheel lock-eligible vehicles as maintained by the parking department. A vehicle remains on the wheel lock-eligible list until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((42))~~ (40) Wheel lock-eligible vehicle. Any vehicle on which three or more parking tickets more than thirty days old are unpaid and which parking tickets were issued during the time the vehicle was registered to or otherwise held by the

owner. The vehicle remains wheel lock-eligible until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((43))~~ (41) WSUV. Refers to Washington State University Vancouver.

AMENDATORY SECTION (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

WAC 504-19-350 Use of areas for emergency, maintenance, events, or construction~~((or special needs))~~. (1) WSUV reserves the right to close any campus parking area at any time it is deemed necessary for maintenance, safety, events, construction, or ~~((to meet special needs. WSUV public safety will provide notice to users when possible))~~ emergencies.

(2) The public safety or parking department may authorize the towing of vehicles parked in areas that are designated to be used for emergencies, maintenance, events, or construction. Towing is at the owner's expense.

(3) Public safety and maintenance personnel performing official duties may deviate from these regulations as required to conduct emergency procedures.

NEW SECTION

WAC 504-19-370 Vehicle storage. The storage of vehicles, including motorcycles and mopeds, is prohibited on campus unless otherwise authorized by the parking department.

Reviser's note: The unnecessary underscoring 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.

AMENDATORY SECTION (Amending WSR 12-11-024, filed 5/8/12, effective 6/8/12)

WAC 504-19-520 Parking permits—Form and display. All parking permits must be displayed in the approved position on the vehicle with permit numbers and relevant dates visible. Vehicles with permits which are not displayed in accordance with the provisions of this section are subject to parking tickets for the violation of improperly displaying a permit, or for the violation of no parking permit if a valid permit cannot be verified from the exterior of the vehicle.

(1) Autos and trucks:

(a) ~~((Hanging))~~ Daily permits~~((, both annual and daily,))~~ must be displayed ~~((by hanging the permit from the rear view mirror post or laying the permit on the dashboard with the proof of payment and valid dates visible from the exterior of the vehicle))~~ as instructed on the permit.

(b) ~~((Permits))~~ Annual and semester permits ~~((mounted solely by suction cup and permit decals directly affixed to the windshield))~~ must be displayed on the ~~((front windshield at the lower))~~ left ~~((corner))~~ side (driver's side) of the windshield. Permits must be mounted completely by means of their own design. No additional substances may be used to adhere the permit to the windshield unless approved by the parking department.

(2) Motorcycles and mopeds: Motorcycle and moped permits must be mounted completely by means of their own adhesive and prominently displayed on the left rear side of the vehicle or on top of the rear tail light.

AMENDATORY SECTION (Amending WSR 12-11-024, filed 5/8/12, effective 6/8/12)

WAC 504-19-560 Other parking permits—Availability and use. (1) Visitor permits. Visitor permits may be used only by bona fide visitors as defined by this chapter. Use by any other person constitutes illegal use of a parking permit. Visitor permits are valid in any zone and parking spaces signed for visitors only. Visitor permits are not valid at meters or restricted spaces.

(2) Golden cougar permits. Golden cougar permits are special ~~((visitor))~~ permits that are issued to retired staff in recognition of their service without additional cost. They are issued on an annual basis and are valid in any zone that is designated and approved by the parking department. Staff who are employed by the university or other entities located on campus after formal retirement are not eligible to use a golden cougar permit in lieu of a regular paid zone permit.

(3) President's associates decals. President's associates decals are issued to eligible members of the Washington State University foundation. Use of these decals for parking shall be in accordance with a separate agreement between WSU and the WSU foundation. However, WSU faculty, staff, and students may not use a president's associates decal or any other parking benefit instrument in lieu of a paid zone permit.

(4) Conference permits. Conference permits are available to visitors who participate in conferences held on the WSUV campus. They are available on a daily basis only. Conference permits are valid as marked on the issued permit.

(5) Motorcycle permits. Motorcycle permits are valid within boundaries of areas specifically posted and/or marked for motorcycle permits.

(6) Construction permits. A construction permit is issued to personnel who are working on a construction site on campus. Construction permits are assigned to a specific parking area.

(7) Carpool. Upon application to WSUV parking services, a bona fide carpool as defined by the campus policies and procedures is given preference in the assignment of parking zones, and issued a permit that facilitates the carpool. Obtaining or using a carpool permit under false pretenses constitutes the illegal use of a permit.

(8) Commercial permits. Commercial permits are issued to vendors, suppliers, and service representatives of outside companies performing a service for the university. Commercial permits are valid in zones and areas indicated on the permit.

(9) Departmental permits. Departmental parking permits are available for use by department employees who need to use their personal vehicles for university business. Departmental permits are available in different forms and are valid at parking meters, service zones, orange, green, red, and gray permit zones, and pay parking facilities. Departmental permits are not valid in reserved spaces. The use of departmental

permits for anything other than official departmental business is prohibited by the State Ethics Act.

AMENDATORY SECTION (Amending WSR 12-11-024, filed 5/8/12, effective 6/8/12)

WAC 504-19-600 Parking ~~((permits))~~ for ~~((persons))~~ individuals with ~~((disability))~~ disabilities. (1) The provisions of this chapter cover ~~((the purchase and display of parking permits))~~ disability parking and the payment of fees and fines associated with parking for ~~((persons))~~ individuals with ~~((disability))~~ disabilities.

(2) For the purpose of this chapter, ~~((persons))~~ individuals with ~~((disability))~~ disabilities shall refer to ~~((a person or persons))~~ individuals with ~~((disability))~~ disabilities who qualify for a state-issued ~~((persons))~~ individual with ~~((disability))~~ disabilities parking identification and permit as provided in WAC 308-96(b). Use of disability accommodation parking at ~~((WSU Vancouver))~~ WSUV also requires payment for parking in the form of a WSUV parking permit or receipt of payment.

(3) The university uses the state ~~((persons))~~ individual with ~~((disability))~~ disabilities parking permit system to determine eligibility for ~~((a university persons with))~~ disability parking ~~((permit))~~. ~~((Persons desiring to purchase a university persons with disability parking permit must present a valid state issued persons with disability parking identification and permit.))~~

(4) Unless otherwise authorized, ~~((long term))~~ parking in spaces designated for ~~((persons))~~ individuals with ~~((disability))~~ disabilities requires a ~~((valid university persons with disability parking permit))~~ state-issued disability parking placard or license plate and a WSUV parking permit or proof of payment to park on campus. University semester and annual parking permits for ~~((persons))~~ individuals with ~~((disability))~~ disabilities are available at the gray zone rate. Daily and temporary parking permits are available at the regular rates.

(5) Persons with a ~~((university persons with disability parking permit))~~ state-issued disability parking placard or license plate and a WSUV parking permit or proof of payment may park in ~~((a persons with disability parking space))~~ parking spaces designated for individuals with disabilities and any other, nonrestricted permit space within a parking permit zone.

(6) Persons with a ~~((university persons with disability parking permit))~~ state-issued disability parking placard or license plate and a WSUV parking permit or proof of payment may not park in restricted spaces with the exception of ~~((persons))~~ individuals with ~~((disability))~~ disabilities parking spaces.

(7) Unless otherwise posted, any university parking permit to include a ~~((persons with disability parking permit))~~ state-issued disability parking placard or license plate is not valid in lieu of payment of regular posted fees in pay parking lots and facilities.

(8) A state-issued ~~((persons))~~ individuals with ~~((disability))~~ disabilities license plate, placard, or permit is valid ~~((in lieu of a university persons with disability parking permit))~~ in

parking zones during times when a university permit is not required.

(9) The university intends to retain control of access to the pedestrian malls on campus. For that reason a ~~((university persons with disability parking permit is required in lieu of a state-issued persons with disability license plate, placard, or permit))~~ state-issued disability parking placard or license plate and a WSUV parking permit or proof of payment is required as authorization to use a pedestrian mall to access marked ~~((persons))~~ individuals with ~~((disability))~~ disabilities parking spaces within the confines of a pedestrian mall.

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.

AMENDATORY SECTION (Amending WSR 12-11-024, filed 5/8/12, effective 6/8/12)

WAC 504-19-650 Parking fees and fines. (1) Schedules for parking fees, parking administrative fees, late payment fees, parking fines and sanctions, parking meter rates, prorate and refund schedules, and the effective date thereof are submitted to the president or his/her designee and to the board of regents for approval by motion, provided however, that increases in fees and fines do not exceed limits established by the board of regents. Increases in fees and fines that do not exceed limits established by the board of regents are not submitted to the board of regents so long as the board of regents has delegated authority to the president or his designee to approve all such fees and fines. The schedules described above for all parking fees and fines are thereafter posted in the public area of the parking department office and posted on the parking department's web site.

~~((2))~~ Before purchasing a permit, the balance of any fees and fines owed to the parking department must be paid in full.

~~((2))~~ (3) Payments. Parking fees and fines may be paid at the parking department by cash, check, approved payment card, or money order, and online through the WSUV parking services payment portal web site. A payroll deduction plan is available for eligible university employees and eligible graduate students.

~~((3))~~ (4) The annual fee for any shorter period relative to all permits shall be prorated according to the published schedule.

~~((4))~~ (5) The proper fee must be paid for all vehicles parked in parking meter spaces unless otherwise authorized.

~~((5))~~ (6) Staff members whose work schedules qualify them for nighttime differential pay may purchase a permit for one-half the regular fee. Verification is required.

~~((6))~~ (7) Refunds. Annual permits being relinquished may be returned to the parking department for a pro rata refund in accordance with university policy. Identifiable remnants of the permit must be returned. The balance of any fees and fines owed the parking department is deducted from any refund due. Refunds for temporary permits are not granted. Refunds for pretax payroll deductions cannot be granted pursuant to federal tax laws.

~~((7))~~ (8) The parking department makes a wide array of options available in advance to university departments for use by their visitors, guests, and employees for the purpose of

conducting departmental business. However, when necessary, university departments that can establish in writing that a parking ticket issued by the parking department was received as a result of parking any vehicle for the purpose of conducting official state business, or while conducting official business with the university or an entity located at the university are assessed a parking fee assessment (PFA) in lieu of the parking fine. Such requests for PFAs are signed by a department fiscal custodian. A PFA consists of the maximum daily parking fee plus an additional administrative fee for failing to purchase and provide the necessary parking permit or fee in advance or at the time of parking. University departments are encouraged to avoid additional administrative fees associated with PFAs by purchasing and storing pre-paid parking permits and by making them available as the department deems necessary. Nothing in this rule allows a university employee to receive, or attempt to receive, any benefit associated with his or her personal expenses in violation of the State Ethics Act. All questionable employee conduct regarding the application of this section is reported to, and investigated by, the university internal auditor. This section applies only to parking tickets issued pursuant to this chapter.

AMENDATORY SECTION (Amending WSR 08-08-049, filed 3/27/08, effective 7/1/08)

WAC 504-19-865 General. (1) Pursuant to the provisions of this chapter, an officer shall cause a vehicle to be wheel locked, or towed, or both, if:

- (a) The vehicle is on the wheel lock-eligible list; or
- (b) The vehicle displays a lost, stolen, or counterfeit parking permit.
- (2) Any vehicle may be towed away at owner's/operator's expense if the vehicle:
 - (a) Has been immobilized by wheel lock for more than twenty-four hours; or
 - (b) Is illegally parked in a marked tow-away zone; or
 - (c) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or
 - (d) Cannot be immobilized with a wheel lock device; or
 - (e) Is illegally parked in a disability space; or
 - (f) Is parked in an area designated to be used for emergencies, maintenance, events, or construction; or
 - (g) Is otherwise illegally parked on the executive authority of the parking department or the university police department.
- (3) The driver and/or owner of a towed vehicle shall pay towing and storage expenses.
- (4) Any vehicle immobilized by use of the wheel lock device in excess of twenty-four hours is assessed a storage fee for each calendar day or portion thereof, beyond the first twenty-four hours.
- (5) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(6) No vehicle impounded by towing or wheel lock devices shall be released until the following fines are paid in cash or with an approved payment card:

- (a) All unpaid parking ticket fines and late fees against said vehicle and any other vehicle registered to the owner;
- (b) A wheel lock fee; and
- (c) All towing and storage fees.

(7) A person wishing to challenge the validity of any fines or fees imposed under this chapter may appeal such fines or fees as provided in WAC 504-19-860. However, in order to secure release of the vehicle, such person must pay the amount of such fines or fees as a bond which shall be refunded to the extent the appeal is successful.

(8) An accumulation of six unpaid violations during any twelve-month period, exclusive of overtime at parking meter violations, and overtime in time zone violations, subjects the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

AMENDATORY SECTION (Amending WSR 09-11-069, filed 5/14/09, effective 7/1/09)

WAC 504-19-930 Bicycles, skateboards, scooters, and roller blades/skates. (1) The riding and use of bicycles, skateboards, scooters, and roller blades/skates is prohibited from all building plazas, ~~((and))~~ interior building spaces, stairways, steps, ledges, benches, planting areas, any other fixtures, and in any other posted area.

(2) Bicycles, skateboards, scooters, and roller blades/skates may be ridden and used on sidewalks when a bike path is not provided. Operators must move at a safe speed and yield to pedestrians at all times. Reckless or negligent operation of bicycles, skateboards, scooters, and roller blades/skates on any part of campus is prohibited.

(3) ~~((Bicycles, skateboards, and roller blades/skates may not be ridden on or over stairways, steps, ledges, benches, planting areas, or any other fixtures.))~~ Electric-assisted bicycles must be used in human propulsion only mode on pedestrian malls and sidewalks.

(4) Motorized foot scooters must be used in a human propulsion only mode on sidewalks.

~~((4))~~ (5) Bicyclists must obey all traffic rules of the road when operating a bicycle in roadways.

~~((5))~~ (6) Bicycles may be secured only at bicycle racks and facilities designed for such purpose.

(7) Bicycles that are not secured at university-provided bicycle racks or bicycle storage facilities may be impounded at the owner's expense.

(8) Abandoned and inoperable bicycles. Internal policies regarding abandoned and inoperable bicycles, including the impoundment of bicycles at the WSUV campus, may be established upon approval by the vice chancellor or designee whose responsibilities include supervision of the parking department.

WSR 18-22-066
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 1, 2018, 9:25 a.m., effective December 2, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-106-0905(3) to correct an eligibility error for medical care services (MCS) that occurred during the implementation of the community first choice (CFC) program. At the time of implementing the CFC program, the department changed the eligibility for medical personal care to exclude nursing facility level of care, which inadvertently changed eligibility for MCS.

Citation of Rules Affected by this Order: Amending WAC 388-106-0905.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 18-19-050 on September 14, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 1, 2018.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-03-038, filed 1/12/15, effective 2/12/15)

WAC 388-106-0905 Am I eligible to receive medical care services (MCS) residential care services? You are eligible to receive MCS-funded residential care services if:

(1) You meet financial eligibility requirements for medical care services (MCS), described in WAC 182-508-0005;

(2) You are not eligible for services under COPES, or MPC; and

(3) You are assessed in CARE and meet the functional criteria outlined in WAC (~~388-106-0210(2))~~ 388-106-0210(3) or WAC 388-106-0355(1).

WSR 18-22-068
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 1, 2018, 10:04 a.m., effective December 2, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-106-0045 and 388-106-0047 in order to clarify that client services may be authorized prior to the client's signature on the service summary and that services are not required to be terminated when the department is unable to obtain the client's signature on the service summary.

Citation of Rules Affected by this Order: Amending WAC 388-106-0045 and 388-106-0047.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 18-19-049 on September 14, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 1, 2018.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-04-020, filed 1/22/16, effective 2/22/16)

WAC 388-106-0045 When will the department authorize my long-term care services? The department will authorize long-term care services when you:

(1) Are assessed using CARE;

(2) Are found financially and functionally eligible for services including, if applicable, the determination of the amount of participation toward the cost of your care and/or the amount of room and board that you must pay;

(3) Have given (~~written~~) consent for services and approved your plan of care; and

(4) Have chosen a provider(s), qualified for payment.

AMENDATORY SECTION (Amending WSR 16-04-020, filed 1/22/16, effective 2/22/16)

WAC 388-106-0047 When can the department terminate or deny long-term care services to me? (1) The department will deny or terminate long-term care services if

you are not eligible for long-term care services pursuant to WAC 388-106-0210, 388-106-0277, 388-106-0310, or 388-106-0610.

(2) The department may deny or terminate long-term care services to you if, after exhaustion of standard case management activities and the approaches delineated in the department's challenging cases protocol, which must include an attempt to reasonably accommodate your disability or disabilities, any of the following conditions exist:

(a) After a department representative reviews with you your rights and responsibilities as a client of the department, per WAC 388-106-1300 and 388-106-1303, you refuse to accept those long-term care services identified in your plan of care that are vital to your health, welfare or safety;

(b) You choose to receive services in your own home and you or others in your home demonstrate behaviors that are substantially likely to cause serious harm to you or your care provider;

(c) You choose to receive services in your own home and hazardous conditions in or immediately around your home jeopardize the health, safety, or welfare of you or your provider. Hazardous conditions include but are not limited to the following:

- (i) Threatening, uncontrolled animals (e.g., dogs);
- (ii) The manufacture, sale, or use of illegal drugs;
- (iii) The presence of hazardous materials (e.g., exposed sewage, evidence of a methamphetamine lab).

(3) The department ~~((with))~~ may terminate long-term care services if you do not sign and return your service summary document within sixty days of your assessment completion date.

WSR 18-22-069

PERMANENT RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2018-04—Filed November 1, 2018, 11:02 a.m., effective December 17, 2018]

Effective Date of Rule: December 17, 2018.

Purpose: Amend WAC 284-17-423 to link a producer's license expiration to the end of their birth month, not their date of birth, and amend WAC 284-17-443 to clarify producer appointments and affiliations.

Citation of Rules Affected by this Order: Amending WAC 284-17-423 and 284-17-443.

Statutory Authority for Adoption: RCW 48.02.060 and 48.17.005.

Adopted under notice filed as WSR 18-19-098 on September 19, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 1, 2018.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 09-02-073, filed 1/6/09, effective 7/1/09)

WAC 284-17-423 Term of initial and reinstated individual license. (1) Initial and reinstated individual licenses are valid from their date of issuance until the ~~((date))~~ end of the licensee's next ~~((birthday anniversary))~~ birth month plus one year. Additional licenses issued to the same active licensee will be on the same renewal cycle as the first license issued to that licensee.

(2) The renewal date of a business entity license is based on the date of application. The license is valid for two years. Additional licenses issued to the same active licensee will be on the same renewal cycle as the first license issued to that licensee.

AMENDATORY SECTION (Amending WSR 11-04-067, filed 1/28/11, effective 2/28/11)

WAC 284-17-443 Renewal of appointments or affiliations. (1) ~~((At least sixty days prior to the renewal date, an appointment or affiliation renewal notice will be sent to the insurer or business entity via email.~~

~~((2)))~~ When the appointment or affiliation renewal is available online, the insurer or business entity may access and review the list ((online, make any changes, and must remit the)) of their appointments or affiliations, remove any licensees from their list, and complete the renewal process by remitting the finalized list and correct fees via electronic submission to the commissioner. New appointments or affiliations may not be added until after the renewal process has been completed.

~~((3)))~~ (2) The online appointment or affiliation renewal and payment of fees must be completed no later than the renewal date.

WSR 18-22-073

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 1, 2018, 2:06 p.m., effective December 2, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-339-025 Exemptions for blood establishment registration (blood establishments), the department of health (department) has adopted an amendment to WAC 246-339-025 in order to align with the statutory language in chapter 70.335 RCW. The adopted amendment

removes the term "and distributes" to provide greater clarification as to which hospitals licensed under chapter 70.41 or 71.12 RCW are exempt from the department's blood establishments' registration requirements under chapter 70.335 RCW.

Citation of Rules Affected by this Order: Amending WAC 246-339-025.

Statutory Authority for Adoption: RCW 43.70.040 and chapter 70.335 RCW.

Adopted under notice filed as WSR 18-17-169 on August 21, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 8, 2018.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 17-14-026, filed 6/23/17, effective 7/24/17)

WAC 246-339-025 Exemptions for blood establishment registration. A blood establishment is exempt from the requirements of this chapter if it meets one or more of the following:

(1) Hospitals licensed under chapter 70.41 or 71.12 RCW unless the hospital collects ~~((and distributes))~~ blood directly from donors for the purpose of allogeneic transfusions.

(2) Organizations that collect source plasma for the production of plasma derivatives by fractionation.

(3) Cases of individual patient medical need, as determined by a qualified health care provider, such as:

(a) An autologous or directed donation as defined in WAC 246-339-010; and

(b) An out-of-state blood establishment that supplies blood products for allogeneic transfusion based upon a request from a Washington state registered blood establishment in order to meet individual patient need, as determined by a qualified health care provider.

WSR 18-22-075
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed November 2, 2018, 8:16 a.m., effective December 3, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The amendment to this rule will add the requirement that all licensed land surveyors must read the Survey Recording Act (chapter 58.09 RCW) and minimum standards for land boundary surveys and geodetic control surveys and guidelines for the preparation of land descriptions (chapter 332-130 WAC) as part of their professional development hours, and must attest that they have read them at the time of renewal.

Citation of Rules Affected by this Order: Amending WAC 196-16-110 and 196-16-120.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 18-14-045 on June 28, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 2, 2018.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-11-119, filed 5/19/06, effective 7/1/06)

WAC 196-16-110 Requirements. ~~((Starting on July 1, 2006,))~~ All licensed professional land surveyors wishing to maintain lawful practice must accumulate fifteen PDH per year of a two-year renewal cycle. All renewals for licensure as a professional land surveyor ~~((occurring on or after July 1, 2007))~~ are subject to audit by the board.

On and after January 1, 2019, all licensed professional land surveyors must attest to reading chapters 58.09 RCW (Survey Recording Act) and 332-130 WAC (Minimum standards for land boundary surveys and geodetic control surveys and guidelines for the preparation of land descriptions) at the time of renewal.

AMENDATORY SECTION (Amending WSR 06-11-119, filed 5/19/06, effective 7/1/06)

WAC 196-16-120 Units. Qualifying activities will accrue PDH as follows:

- 1. College hours:
 - a. Completion of 1 college semester hour 45 PDH
 - b. Completion of 1 college quarter hour 30 PDH
- 2. 1 Continuing education unit 10 PDH
- 3. For publication or presentation of each:
 - a. Authored technical paper or article 10 PDH
 - b. Authored book 30 PDH
- 4. Membership in professional/technical societies or government committees or boards. (Not to exceed 5 PDH/year) 2 1/2 PDH
- 5. For each hour of attendance at professional or technical society meetings with an informational program. (Not to exceed 5 PDH/year) 1 PDH
- 6. For each hour of attendance at meetings or hearings of the board. (Not to exceed 7 1/2 PDH/year) 1 PDH
- 7. For each hour of preparation and subsequent presentation (*) of a professional development program at seminars, professional/technical meetings, conventions or conferences. (Not to exceed 10 PDH/year) (*) *This credit does not apply to full-time faculty* 1 PDH
- 8. For each hour of participation in committees of organizations whose purpose is to develop codes, standards, examinations and regulations. 1 PDH
- 9. For each hour of participation in an activity involving substantial and organized peer interaction, excluding time spent during regular employment. (Not to exceed 5 PDH/year) 1 PDH
- 10. For each hour of participation in organized courses, including employer provided courses, on first aid/safety, technical or management skills. 1 PDH
- 11. For each hour of participation in sessions, or courses sponsored by technical or professional societies, organizations or the board. 1 PDH
- 12. Each hour of self-study. (Not to exceed 5 PDH/year) 1 PDH
- 13. For reading chapters 58.09 RCW and 332-130 WAC. 2 PDH
- 14. Completion of CFedS program. 30 PDH

Purpose: To give professional engineer and land surveyor licensees the ability to use electronic signatures when submitting documents required to have a signature. The amendment to the stamp design will make it easier for licensees to upload documents requiring a stamp to local jurisdictions. The adopted new section WAC 196-33-600 will outline the meaning of "signature" or "signed" as it is used in chapters 18.43, 18.210 RCW, and Title 196 WAC. It will include criteria for handwritten, digital and electronic representations of a signature and their requirements.

Citation of Rules Affected by this Order: Amending WAC 196-23-070, 196-33-400, and 196-33-600.

Statutory Authority for Adoption: RCW 18.43.035, 18.210.050, 18.210.060.

Adopted under notice filed as WSR 18-12-066 on June 1, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 2, Repealed 0.

Date Adopted: November 2, 2018.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-10-009, filed 4/24/08, effective 7/1/08)

WAC 196-23-070 Signature. The terms "signature or signed," as used in chapter 18.43 RCW and/or Title 196 WAC, (~~shall~~) means the following:

(1) A handwritten identification or a digital representation of your handwritten identification that represents the act of putting (~~one's~~) your name on a document to attest to its validity. The handwritten or digital identification must be:

(a) Original and written by hand, or a scanned image of an original, handwritten identification;

(b) Permanently affixed to the document(s) being certified;

(c) Applied to the document by the identified licensee; and

(d) Placed directly over the seal/stamp of the licensee.

(2) A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. The digital identification may include a scanned or digitized signature. The digital identification must be:

(a) Unique to the licensee using it;

(b) Capable of independent verification;

WSR 18-22-076

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed November 2, 2018, 8:19 a.m., effective December 3, 2018]

Effective Date of Rule: Thirty-one days after filing.

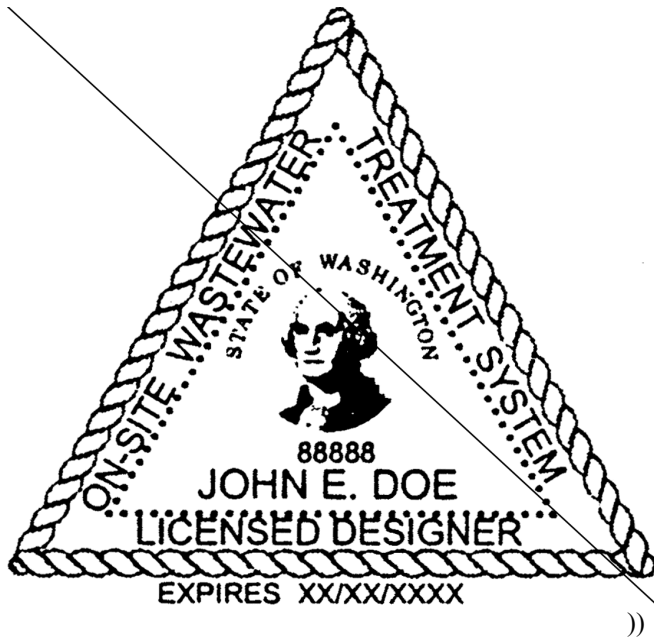
- (c) Under the exclusive control of the licensee using it; and
- (d) Linked to a document in such a manner that the digital identification is invalidated if any data in the document is changed.

AMENDATORY SECTION (Amending WSR 01-11-102, filed 5/21/01, effective 6/21/01)

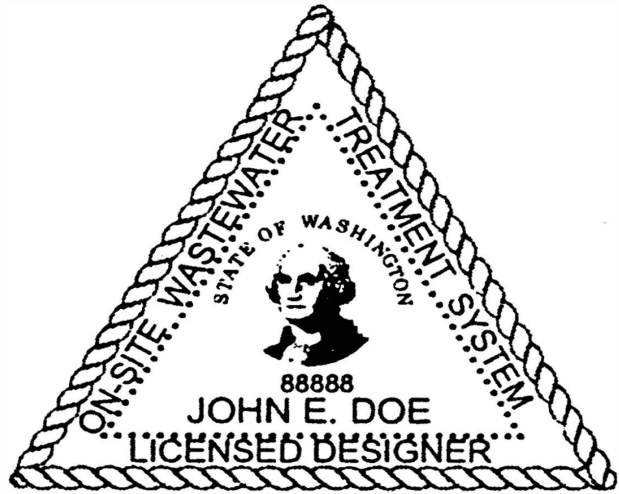
WAC 196-33-400 Seals and stamps. All individuals licensed in accordance with chapter 18.210 RCW shall procure a seal/stamp that conforms to the design as authorized by the board. It is the responsibility of the licensee to maintain control over the use of his/her stamp/seal. The impression or image of the seal/stamp shall conform to the below-illustrated design and be of a size that assures full legibility of the following required information:

- (1) State of Washington;
- (2) Licensed on-site wastewater treatment system designer;
- (3) License number;
- (4) Licensee's name as shown on license(;
- (5) Date of license expiration)).

((



))



NEW SECTION

WAC 196-33-600 Signature. The term "signature or signed," as used in chapters 18.43 and 18.210 RCW and/or Title 196 WAC, shall mean the following:

- (1) A handwritten identification or a digital representation of your handwritten identification that represents the act of putting your name on a document to attest to its validity. The handwritten or digital identification must be:
 - (a) Original and written by hand, or a scanned image of an original, handwritten identification;
 - (b) Permanently affixed to the document(s) being certified;
 - (c) Applied to the document by the identified licensee; and
 - (d) Placed directly over the seal/stamp of the licensee.
- (2) A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. The digital identification may include a scanned or digitized signature. The digital identification must be:
 - (a) Unique to the licensee using it;
 - (b) Capable of independent verification;
 - (c) Under the exclusive control of the licensee using it; and
 - (d) Linked to a document in such a manner that the digital identification is invalidated if any data in the document is changed.

WSR 18-22-080**PERMANENT RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed November 2, 2018, 1:18 p.m., effective December 3, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The employment security department (ESD) is responsible for implementing the paid family and medical leave program in accordance with Title 50A RCW. Rule making will be done in several distinct phases. In phase 2, ESD is establishing rules on: (1) Employer responsibilities; (2) small business assistance; and (3) penalties. This rule making also includes some aspects of voluntary plans.

Citation of Rules Affected by this Order: New WAC 192-01-001, 192-500-010, 192-500-015, 192-500-020, 192-500-025, 192-500-030, 192-500-035, 192-500-040, 192-510-045, 192-510-065, 192-510-066, 192-530-035, 192-530-070, 192-540-010, 192-540-020, 192-540-025, 192-540-030, 192-540-040, 192-540-050, 192-550-010, 192-550-020, 192-550-030, 192-550-040, 192-550-050, 192-550-080, 192-560-010, 192-560-020, 192-560-030, 192-570-010, 192-570-020 and 192-800-002; and amending WAC 192-530-060.

Statutory Authority for Adoption: RCW 50A.04.215.

Adopted under notice filed as WSR 18-17-116 on August 16, 2018.

Changes Other than Editing from Proposed to Adopted Version: In WAC 192-500-030 (1)(a), the word "means" was changed to "mean." The change is meant to resolve an accidental typographical error.

In WAC 192-510-066 (2)(a), the words "Current quarter balance" were changed to "Most recently completed quarter's premium balance." This change is necessary to clarify that the payment is applied to the quarterly principle rather than to any interest or fees that may have been incurred.

WAC 192-540-030 (1)(c), (d) and (e) was stricken due to stakeholder feedback indicating that this requirement would result in an overly burdensome imposition to employers.

In WAC 192-540-030 (1)(f), which is now WAC 192-540-030 (1)(c), the words "and the associated hours" were added. This change incorporated WAC 192-540-[030] (1)(g) and clarifies that all hours for which wages were paid in a quarter should be reported for that quarter.

WAC 192-540-030 (1)(g) was stricken and its contents added to another subsection for conciseness.

In WAC 192-540-040(2), the phrase "full-time" was removed for conciseness.

A final cost-benefit analysis is available by contacting Christina Streuli, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-791-6710, TTY 711, email cstreuli@esd.wa.gov, web site https://www.opentownhall.com/portals/289/forum_home?phase=open.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 31, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 2, 2018.

Matthew J. Buelow
Policy and Rules Manager
Paid Family and Medical Leave

Chapter 192-01 WAC**EMPLOYMENT SECURITY RULE GOVERNANCE**NEW SECTION

WAC 192-01-001 Rule governance statement. The employment security department administers several distinct programs in Titles 50 and 50A RCW through the Washington Administrative Code. The provisions in chapters 192-04 through 192-499 WAC apply to the Employment Security Act in Title 50 RCW and other programs administered by the employment security department, except for the paid family and medical leave program. Chapter 192-500 WAC and thereafter (chapters 192-500 through 192-999 WAC) apply to the paid family and medical leave program in Title 50A RCW.

Chapter 192-500 WAC**DEFINITIONS**NEW SECTION

WAC 192-500-010 Employer. (1) An "employer" is:

(a) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter;

(b) The state, state institutions, and state agencies;

(c) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; and

(d) A franchisee.

(2) "Employer" does not include the United States of America.

(3) For the purposes of paid family and medical leave, the term employer is used for both employer and employer agent.

(4) This section does not apply to any self-employed person or federally recognized tribe that has not elected coverage under Title 50A RCW.

NEW SECTION

WAC 192-500-015 Employer agent. (1) An "employer agent" is a designated representative that is authorized to conduct business on behalf of the employer.

(2) In order to represent an employer before the department, the employer or employer agent must submit a signed power of attorney form to the department.

(3) The employer is responsible for all acts taken or failures to act by the employer agent on the employer's behalf.

NEW SECTION

WAC 192-500-020 Calendar quarter. "Calendar quarter" means the period of three consecutive calendar months ending on March 31st, June 30th, September 30th, or December 31st.

NEW SECTION

WAC 192-500-025 Terms meaning deliver. (1) Unless otherwise specified, the terms "mail," "provide," "file," "submit," and "send" are interchangeable and mean to properly transmit, deliver, or distribute:

- (a) By email or other electronic services; or
- (b) In another format approved by the department.

(2) This section does not apply to appeals filed under Title 50A RCW.

NEW SECTION

WAC 192-500-030 Willful. "Willful" and "willfully" mean a knowing and intentional act or omission, unless otherwise defined in Title 50A RCW.

NEW SECTION

WAC 192-500-035 Interested parties. (1) In all determinations, cases, and appeals adjudicated under Title 50A RCW the employment security department is an "interested party."

(2) Other interested parties in family or medical leave determinations related to the state plan and appeals include:

- (a) The employee or former employee; and
- (b) An employer or former employer of that employee that is required to provide information to the department related to the determination or appeal in question.

(3) Other interested parties in family or medical leave determinations related to a voluntary plan include:

- (a) The employer or former employer; and
- (b) An employee or former employee that is required to provide information to the department related to the determination or appeal in question.

(4) Other interested parties in a determination related to a small business assistance grant include the employer requesting the grant.

NEW SECTION

WAC 192-500-040 Aggrieved person. An "aggrieved person" is any interested party who receives an adverse decision from:

- (1) The department for which the department has provided notice of appeal;
- (2) The office of administrative hearings; or
- (3) The commissioner's review office.

Chapter 192-510 WAC**ASSESSING AND COLLECTING PREMIUMS**NEW SECTION

WAC 192-510-045 How will the department assess the size of employers for calendar years 2019 and 2020?

(1) For the purposes of premium assessment for calendar year 2019, the department will determine the size of all employers by reviewing the number of employees reported pursuant to WAC 192-540-030 for the first calendar quarter. Employers that report fifty or more employees will be required to pay the employer share of the premium for all calendar quarters in calendar year 2019.

(2) On September 30, 2019, the department will average the number of employees reported over the quarters for which reporting exists to determine employer size for calendar year 2020.

NEW SECTION

WAC 192-510-065 When can an employer deduct premiums from employees? (1) An employer may not deduct more than the maximum allowable employee share of the premium from wages paid for a pay period.

(2) If an employer fails to deduct the maximum allowable employee share of the premium from wages paid for a pay period, the employer is considered to have elected to pay that portion of the employee share under RCW 50A.04.115 (3)(d) for that pay period. The employer cannot deduct this amount from a future paycheck of the employee for a different pay period.

NEW SECTION

WAC 192-510-066 How are premium payments applied? (1) A payment received with a premium assessment will be applied to the quarter for which the premium assessment is filed. A payment exceeding the legal fees, penalties, interest and premiums due for that quarter will be applied to any other debt as provided in subsection (2) of this section. If no debt exists, a refund will be issued for any premium overpayments of fifty dollars or more. Premium overpayments of less than fifty dollars will be credited to future premium assessments.

(2) Payments received will be applied in the following order of priority:

- (a) Most recently completed quarter's premium balance;
- (b) Any previous quarter premium balance starting with the oldest quarter;
- (c) Then beginning with the oldest quarter in which a balance is owed:
 - (i) Penalties;
 - (ii) Fees; and
 - (iii) Interest charges.

Chapter 192-530 WAC

VOLUNTARY PLANS

NEW SECTION

WAC 192-530-035 When must an employer with a voluntary plan provide benefit payments? An employer with an approved voluntary plan must send the first benefit payment to the employee within thirty calendar days of the first day of leave, or the receipt of a properly completed application for benefits, whichever is later. Subsequent payments must be sent on the established regular pay schedule at no longer than monthly intervals. Failure to adhere to these requirements may result in the termination of the voluntary plan by the department.

AMENDATORY SECTION (Amending WSR 18-12-032, filed 5/29/18, effective 6/29/18)

WAC 192-530-060 What happens at the end of a voluntary plan? (1) If the employer chooses to withdraw from a voluntary plan due to a legally required increase in the benefit amounts or any change in the rate of employee premiums, the employer must ((notify)) provide notice to the department at least thirty ((calendar days before the withdrawal. Notification of withdrawal shall be submitted to the department online or in another format approved by the department.

((2)) days prior to the date that the change goes into effect. The plan will be considered withdrawn on the date of the change. The employer must remit any deductions from the wages of an employee remaining in the possession of the employer to the department within thirty days of the effective date of the withdrawal.

(2)(a) If the employer chooses to withdraw from a voluntary plan for any other reason, the employer must provide notice to the department at least thirty days prior to the end of a calendar quarter. The plan will be considered withdrawn on the first day of the following calendar quarter.

(b) If notice is provided less than thirty days prior to the end of a quarter, the plan will be considered withdrawn on the first day of the second calendar quarter following notice of the withdrawal.

(c) The employer must remit any deductions from the wages of an employee remaining in the possession of the employer to the department within thirty days of the effective date of the withdrawal.

(3) If the department ((has terminated)) terminates an employer's ((participation in a)) voluntary plan, the department will notify the employer of the effective date and the reason for termination. The department will calculate the amount owed by the employer and send an invoice for payment. The amount due will consist of all moneys in the plan, including premiums paid by the employer, premiums paid by the employees, moneys owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these moneys. The amount will be due immediately. Any balance owed will not start collecting interest until thirty calendar days after the date of the invoice.

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

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

(b) For employees currently receiving paid family or medical leave benefits on the effective date of a voluntary plan withdrawal, the employer will have the option to:

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

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

(c) On the effective date of a voluntary plan termination or withdrawal, employees currently taking family or medical leave under this chapter are, if otherwise eligible, entitled to the job protection provisions of RCW 50A.04.600(5) until the duration of leave ends.

(5) Employers are required to notify employees of any plan withdrawal or termination within five business days of notification by the department of the effective date of termination or withdrawal.

NEW SECTION

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

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

Chapter 192-540 WAC

EMPLOYER RESPONSIBILITIES

NEW SECTION

WAC 192-540-010 When must an employer send notice to employees who may need paid family and medical leave? (1) Employers must provide a written notice of employee rights to any employee when an employer becomes aware that the employee is taking family leave, medical leave, or a combination of both for a duration of more than

seven consecutive days of work. The employer must use a notice provided by the department.

(2) The notice must be sent to the employee by the fifth business day after the employee's seventh consecutive missed day of work due to family or medical leave, or by the fifth business day after the employer becomes aware that the employee's absence is due to family or medical leave, whichever is later.

NEW SECTION

WAC 192-540-020 What are the employer requirements for posting notice in a work place? (1) Employers must post and keep posted a notice regarding pertinent provisions of Title 50A RCW and filing of complaints in a common area, such as a break room or other area where such notices are customarily posted.

(2) Employers must use a standard notice that the department makes available or a notice developed by the employer, which must be approved by the department. The notice developed by the employer must be submitted to the department and contain the following:

- (a) Information on how an employee may file a claim;
- (b) Information about filing a complaint against an employer;
- (c) Responsibilities for premium payments;
- (d) Information including rights to the paid family and medical leave program as provided by the state or the employer's voluntary plan; and
- (e) The minimum and maximum provisions available for paid family or medical leave, including:
 - (i) Weekly benefit amount;
 - (ii) Maximum weeks available under paid family or medical leave; and
 - (iii) How long the benefit is available after the employee applies.

(3) Employers can be audited to determine if a proper notice with pertinent information is displayed.

(4) Failure to post this notice may result in a penalty of one hundred dollars for each instance in which the department determines the employer has willfully failed to comply with this requirement. The department will deposit any penalties collected in accordance with this section into the paid family and medical leave enforcement account.

NEW SECTION

WAC 192-540-025 Is notice required if an employer reduces the portion of employee premiums it is electing to pay? An employer that elects to pay all or a portion of its employees' premiums, must give written notice at least one pay period in advance of any reduction to its elected payment.

NEW SECTION

WAC 192-540-030 What are employers required to report to the department? (1) Each calendar quarter, every employer must file a complete report with the department. The report must include each employee's:

- (a) Full name;

- (b) Social Security number; and

- (c) Wages paid during that quarter and the associated hours.

(2) The report must include the total amount of premiums deducted from all employees' wages, if any, during the calendar quarter.

(3) If an employee does not have a Social Security number but does have an individual taxpayer identification number (ITIN), the ITIN qualifies as a Social Security number. If the employee later obtains a Social Security number, the employer should use the Social Security number when filing the report of the employee's wages.

NEW SECTION

WAC 192-540-040 How should employers report hours worked for each calendar quarter? Each calendar quarter, employers must report to the department the number of hours worked by each employee. Employers must include the following hours in the report.

(1) **Hourly employees.** Report the total number of hours worked by each employee.

(2) **Employees on salary.** Report forty hours for each week in which a salaried employee worked.

(3) **Vacation pay, sick leave pay, paid time off.** Report the number of hours an employee is on paid leave. Do not report hours for a cash out of leave.

(4) **Overtime.** Report the number of hours actually worked for which overtime pay or compensatory time is provided, without regard to the amount of wages or compensation paid.

(5) **Commissioned or piecework employees.** Report the actual number of hours worked by employees paid by commission or by piecework. If there are no reliable time keeping records, report a full-time commissioned or piecework employee at forty hours worked for each week in which any of their duties were performed.

(6) **Wages in lieu of notice.** Report the actual number of hours for which an employee was paid.

(7) **Faculty employees.**

(a) To be considered full time, faculty members of community and technical colleges must meet the definition of "full time" as defined in RCW 28B.50.489.

(i) For full-time faculty members, report thirty-five hours per week.

(ii) For part-time faculty members, multiply thirty-five hours by the percentage that is equal to the percentage of hours worked in relation to a full-time faculty member consistent with RCW 28B.50.4891.

Example: A technical college deems a teaching workload of fifteen hours per week to be full time. An instructor teaches a workload of twelve hours per week. Twelve divided by fifteen is eighty percent. Eighty percent of thirty-five is twenty-eight. Report twenty-eight hours per week.

(b) Part-time faculty members may overcome the presumption of hours established by this formula by providing the department with sufficient evidence of hours worked that exceeds the hours reported by employer.

(8) **Severance pay.** Do not report hours for severance pay.

(9) **Payment in kind.** Report the actual hours worked for performing services which are compensated only by payment in kind.

(10) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, round the total to the next higher whole number.

(11) **Practice, preparation, and rehearsal time.** If an employee who is part of a performing group is paid for a performance but is also required by the employer to attend practice, preparation, and rehearsal on an organized group basis, report the hours spent in the required practice, preparation, and rehearsal as well as the performance.

(12)(a) **On-call and standby hours.** Report the number of actual hours for which an employee receives wages for being on call or on standby with the employer. Do not report hours for which an employee is scheduled to check in before work, and if not required to work, has no further obligations.

(b) For the purpose of this section, "on-call" and "standby" hours are defined as paid hours when employees must comply with employer requirements, such as maintaining physical or mental status, remaining in a specified location, or being required to report to work within a specific time frame.

NEW SECTION

WAC 192-540-050 When are employers required to submit quarterly reports to the department? The quarterly reports referenced in WAC 192-540-030 must be submitted by the last day of the month following the end of the calendar quarter being reported. If a reporting date falls on a Saturday, Sunday, or a legal holiday, the reports will be due on the next business day.

Chapter 192-550 WAC

PENALTIES AND AUDITS

NEW SECTION

WAC 192-550-010 What happens if an employer fails to submit required reports? (1) An employer that willfully fails to file a complete and timely report under WAC 192-540-030 through 192-540-050 is subject to penalties under RCW 50A.04.090.

(2) The department will send a warning letter for an employer's first incomplete or untimely report. For a second or subsequent occurrence within five years of the date of the last occurrence, the department will assess penalties under the following schedule:

- (a) 2nd occurrence: \$75.00
- (b) 3rd occurrence: \$150.00
- (c) 4th and subsequent occurrences: \$250.00

(3) After five years without a warning letter or occurrence, prior occurrences will not count and the employer shall receive a warning letter instead of a penalty on the next occurrence.

NEW SECTION

WAC 192-550-020 What happens if an employer willfully fails to remit required payments? (1) An employer that willfully fails to remit payment for premiums in full when due is subject to penalties under RCW 50A.04.090 in addition to accruing interest under WAC 192-550-030.

(2) The total amount of the penalty will be equal to the entire balance of premiums not remitted and any interest accrued on those delinquent premiums.

Example: If an employer owes \$300 in premium payments and \$20 in interest, the penalty for willfully failing to remit payment will equal \$320, for a sum total due and owing of \$640.

NEW SECTION

WAC 192-550-030 How will the department calculate interest on delinquent payments? (1) When an employer fails to remit payment by the due date, the remaining unpaid balance shall accrue interest at a rate of one percent, compounded monthly, until payment is received in full.

(2) The department will issue a notice to employers whose payments are delinquent. The notice will include the total amount due for all applicable premiums, penalties, and interest under Title 50A RCW.

NEW SECTION

WAC 192-550-040 Can employer interest be waived? (1) An employer may submit to the department an interest waiver request that includes all relevant facts, including all available proof, as to why it is requesting a waiver under RCW 50A.04.140.

(2) At its discretion, the department may waive interest if it finds that the interest was caused by the department's own error or the department's inability to decide the issue.

NEW SECTION

WAC 192-550-050 Audit procedures. (1) The department may inspect and audit employer files and records as needed to ensure compliance with Title 50A RCW. Audits may take place at the discretion of the department.

(2) Employers must provide all requested information to the department within ten business days or a time frame agreed to by the department.

(3) If the department discovers violations for the time frame being audited, the department may expand the audit to include prior and subsequent quarters, up to the most recently completed calendar quarter.

NEW SECTION

WAC 192-550-080 What happens if an employer fails to provide requested information to the department for an audit? Employers must provide all requested documentation as it pertains to the paid family and medical leave program. If an employer fails or refuses to provide necessary payroll or other wage information during an audit, the depart-

ment may determine payroll and wage information for the purposes of premium assessment based on information otherwise available to the department. This may include information from the same employer, similar employers, labor market information, information provided to other state or local agencies, or the best information otherwise available to the department.

Chapter 192-560 WAC
SMALL BUSINESS ASSISTANCE

NEW SECTION

WAC 192-560-010 Which businesses are eligible for small business assistance grants? (1) Employers determined to have one hundred fifty or fewer employees in the state that are assessed the employer share of the premium are eligible to apply for small business assistance grants.

(2) Employers determined to have fewer than fifty employees are only eligible to apply for a small business assistance grant if they opt to pay the employer share of the premiums. The employer will be assessed the employer share of the premium for a minimum of three years after any grant is received. An employer may provide notice for opting out after the three-year period.

(3) An employer may request only one grant for each period of paid family or medical leave taken by an employee. Submissions under (a) and (b) of this subsection do not qualify as grant applications and therefore do not count against the employer's limit of ten applications per year.

(a) An employer that qualifies for a grant under RCW 50A.04.230 (3)(b) for an amount that is less than one thousand dollars may submit documentation of significant additional wage-related costs incurred after filing the initial grant application in an attempt to qualify for additional grant funds.

(b) An employer may submit a revised application for a grant under RCW 50A.04.230 (3)(c) in an attempt to qualify for additional grant funds.

(4) An employer must apply for the grant no later than four months following the last day of the employee's paid family or medical leave.

NEW SECTION

WAC 192-560-020 What is the application process for a small business assistance grant? (1) Applications for small business assistance grants must be submitted online or in another format approved by the department. To be approved, an application must contain:

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

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

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

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

(2) Incomplete applications will not be reviewed and will not count against an employer's limit of ten applications per year under RCW 50A.04.230(4).

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

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

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

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

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

NEW SECTION

WAC 192-560-030 What are significant additional wage-related costs for the purposes of small business assistance grants? Significant additional wage-related costs are added expenses incurred by the small business due to an employee's use of leave and include:

(1) Paying additional wages to an existing employee;

(2) Outsourcing costs;

(3) Certification;

(4) Equipment purchases; or

(5) Other costs that the department, in its discretion, determines are appropriate.

Chapter 192-570 WAC

DISPUTE RESOLUTION

NEW SECTION

WAC 192-570-010 Conference and conciliation.

(1)(a) The department will engage employers in conference and conciliation when the employer fails to make all required:

(i) Premium payments;

(ii) Payments on penalties assessed by the department for the failure to submit required reports; or

(iii) Payments on penalties assessed by the department for violations related to voluntary plans.

(b) "Conference and conciliation" for the purpose of this chapter means to encourage an amicable resolution of disputes between the employer and the department prior to the issuance of a warning letter.

(2) The department will promptly attempt to contact the employer to engage in conference and conciliation when appropriate under subsection (1) of this section. If the department does not receive a response from the employer by the deadline given, the department will attempt the contact again, for a total of two attempts. A warning letter will be sent to the employer if no contact can be made.

(3)(a) Through conference and conciliation employers will be given an opportunity to provide information and to explain their reasons for failing to meet the department's requirements in subsection (1) of this section. The department will not issue a warning letter if:

(i) The employer provides good cause;

(ii) The department determines that the good cause provided prevented compliance; and

(iii) The parties agree to an approved repayment schedule.

(b) "Good cause" for the purpose of this section means:

(i) Death or serious illness of one or more persons directly responsible for discharging the employer's duties under Title 50A RCW;

(ii) Destruction of the employer's place of business or business records not caused by, or at the direction of, the employer; or

(iii) Fraud or theft against the employer.

(4) The burden of proof is on the employer to provide all pertinent facts and evidence or documentation for the department to determine good cause.

(5) Conference and conciliation is only available to employers that meet the requirements of RCW 50A.04.080, 50A.04.090, and 50A.04.655. Those employers that do not meet these requirements will be issued a warning letter without entering conference and conciliation. Penalties and interest will be assessed thereafter under Title 50A RCW and the rules adopted pursuant thereto.

(6) The department will issue a warning letter when:

(a) The employer does not comply with the approved repayment schedule; or

(b) A resolution is not reached through conference and conciliation.

NEW SECTION

WAC 192-570-020 Complaints regarding unlawful acts. (1) It is unlawful for an employer to discriminate against any employee for a reason specified in RCW 50A.04.085. When the department receives notification from an employee that discrimination may have occurred the department will investigate the allegation and issue a determination. The determination will include any remedies available under RCW 50A.04.100.

(2) Nothing in the chapter shall be construed to prohibit a private right of action under all applicable laws.

Chapter 192-800 WAC

PRACTICE AND PROCEDURE

NEW SECTION

WAC 192-800-002 Untimely appeals. Late appeals will be sent to the office of administrative hearings to determine if the appellant had good cause to file a late appeal.

WSR 18-22-095 PERMANENT RULES

OFFICE OF FINANCIAL MANAGEMENT

[Filed November 5, 2018, 8:49 a.m., effective December 6, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the rule is to establish a clear and fair process to ensure that statutory requirements related to the submission of data into the statewide all-payer health care claims data base (WA-APCD), release of data out of WA-APCD, use of the data released from WA-APCD and destruction of data once the use has been fulfilled.

Citation of Rules Affected by this Order: New WAC 82-75-700, 82-75-705, 82-75-710, 82-75-715, and 82-75-720.

Statutory Authority for Adoption: RCW 43.371.070.

Adopted under notice filed as WSR 18-19-075 (supplemental notice to WSR 18-15-062) on September 18, 2018.

Changes Other than Editing from Proposed to Adopted Version: Changes were made based on comments received from the original notice, which were incorporated in the rules published for the supplemental notice. No changes were made based on comments received from the supplemental notice. Changes from the original notice are detailed in the supplemental notice and the concise explanatory statement, available on the office of financial management WA-APCD web site.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 5, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 5, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 5, Amended 0, Repealed 0.

Date Adopted: November 5, 2018.

Roselyn Marcus
Assistant Director
Legal and Legislative Affairs

AUDITS

NEW SECTION

WAC 82-75-700 Purpose of audits. There are two primary areas for which audits may be performed to ensure compliance with laws and rules related to the WA-APCD.

(1) Audits may be performed to determine if data suppliers are in compliance with the requirements for the submission of data to the WA-APCD including, but not limited to:

(a) Compliance with the data submission guide including, but not limited to, accuracy of financial fields;

(b) Data integrity, as opposed to data quality checks that the data vendor performs using thresholds and variances;

(c) Finding data that is missing or being withheld from submission into the WA-APCD; and

(d) Documenting the process for determining the number of Washington covered persons for each line of business in order to ensure that data suppliers are not artificially creating

lines of business with small numbers of covered lives in order to meet the minimum threshold for exclusion to report.

(2) Audits can be performed to determine whether requestors who receive data from the WA-APCD are in compliance with the data release requirements or agreements, whether provided datasets or licenses to the data enclave including, but not limited to:

(a) For physical datasets, compliance with data use agreements, confidentiality agreements, compliance with collecting, storing, analyzing, and destroying the data; and

(b) For data enclave licenses, compliance with data use agreements, confidentiality agreements, compliance with analyzing, storing, destroying, and user license access to the data.

(3) For purposes of this section, the following definitions apply:

(a) "Data quality checks" means the extent to which data is missing or the data conforms with the data format requirements; and

(b) "Data integrity checks" means the completeness and validity of the submitted data, whether the submitted values are consistent with the instructions and intent of the data submission guide.

NEW SECTION

WAC 82-75-705 When an audit may be commenced.

(1) The office may initiate a random audit to ensure compliance with data release requirements. A data requestor may not be subject to a random audit more frequently than once every three years.

(2) The office may initiate an audit of a data supplier or data requestor upon notice that one of the following events has occurred:

(a) Reports from the data vendor that there is a material change, without justification or a reasonable basis for the change provided by the data supplier, in the number of claims submitted from a data supplier. Before submitting a report under this subsection, the data vendor should have worked with the data supplier to cure any inadvertent data submission issues.

(b) Reports from the data vendor that certain types of claims are missing for a data supplier.

(c) Notice that the data requestor or data user is publishing data in reports that are not compliant with data use agreements. Violations of the data use agreements are subject to penalties in accordance with the process set forth in chapter 82-75 WAC.

(d) Notice that the data requestor or data user is publishing PFI or PHI not in compliance with state or federal requirements.

(e) Other occurrence that could indicate that the data supplier or data requestor is not in compliance with the requirements in law or rule regarding the WA-APCD.

NEW SECTION

WAC 82-75-710 Audit process. (1) Once the office determines an audit will be conducted, either as a random audit or based on a triggering event set forth in WAC 82-75-705(2), the office shall provide written notice to the subject

of the audit at least thirty days before the start of the audit. The notice must include the name of the company or individuals who will be conducting the audit and the subject of the audit, including the time period for which the audit covers, which time period must be no longer than the prior three years. If the audit is the result of a triggering event, the notice will include information regarding the triggering event. The notice will also include information regarding the audit entrance conference that has been scheduled to take place within fourteen days before the audit will begin. The notice will include the location, date and time and contact person for the entrance conference and such other information as required. The office will work with the subject of the audit to ensure sufficient time is provided between providing the written notice, the date of the entrance conference, and the start of the audit.

(2) The subject of the audit is required to cooperate with the auditor, providing the information as requested. If there is a dispute during the audit, the issue should be brought to the attention of the WA-APCD program director, who will resolve the dispute. Both the auditor and the subject of the audit will be provided an opportunity to present its issues regarding the dispute, either in writing or in person. The WA-APCD program director may engage a mediator to help resolve the dispute.

(3) The auditor will be required to prepare an audit report. A draft of the audit report shall be provided to the subject of the audit for review and comments. The subject of the audit should be provided no less than thirty days to provide comment to the draft report.

(4) After receiving and reviewing any comments, and revising the draft audit report as deemed necessary, the auditor shall schedule an exit conference with the subject of the audit to review the audit and final audit report. The subject of the audit shall be provided an opportunity to submit comments or responses to the findings in the audit. The auditor shall provide a deadline, not less than thirty days after the exit conference for submission of any response to the audit.

(5) The auditor shall issue a final audit report no later than thirty days after the deadline for submission of any response. The report shall be provided to the office and the subject of the audit. The final report shall include any response provided by the subject of the audit. The office shall publish the final report on the agency web site.

(6) The auditor shall be required to sign a confidentiality/nondisclosure agreement if the auditor will have access to any confidential or proprietary information.

NEW SECTION

WAC 82-75-715 Audit guide. (1) The office shall develop the audit guide with input from the data vendor, lead organization, and stakeholders. The audit guide shall include, but is not limited to, the following topics:

(a) The audit standards that will be used for all audits to ensure compliance with generally accepted auditing practices;

(b) The process that will be used to select an auditor, including the auditor qualifications, process to identify and address conflicts of interest;

(c) Specific contract terms that should be included in any contract with an auditor including retention and destruction process for working papers.

(2) The office shall develop a process to allow for stakeholder review and comment on drafts of the audit guide and all subsequent changes to the guide. Prior to final adoption, the DPC shall be given an opportunity to review and provide comments on the draft audit guide to the office. The office shall have final approval authority over the adoption of the audit guide and all subsequent changes.

(3) The office shall conduct an annual review of the audit guide. The office will post notice that the review is being conducted and provide a time period for stakeholder to submit comments and changes to the audit guide. The office will follow the process developed pursuant to subsection (2) of this section for review and comment on draft changes to the guide.

(4) The office shall notify data suppliers before changes to the audit guide are final. Notification shall occur no less than one hundred twenty calendar days prior to the effective date of any change.

(5) The version of the audit guide that is in effect must be posted on the OFM web site. Notice should be given through the office listserv when a new audit guide is posted.

NEW SECTION

WAC 82-75-720 Audit findings of a violation. (1) If the audit finds that any person has violated laws, rules or data use agreements, the WA-APCD program director shall require an investigation be conducted in accordance with WAC 82-75-615. If the investigation determines that a violation or violations have occurred, the office will take appropriate action as set forth in chapter 82-75 WAC.

(2) In addition to any other penalties authorized by law or rule, the audited party may be required to pay the cost of the audit if, after an investigation conducted pursuant to chapter 82-75 WAC, a violation is found. The subject of the audit may contest the requirement to pay the cost of the audit or the amount requested using the appeal process set forth in chapter 82-75 WAC for the appeal of penalties.

WSR 18-22-103
PERMANENT RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed November 6, 2018, 8:06 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The Spokane Regional Clean Air Agency (SRCAA) amended Regulation I, Article X: Fees and Charges; Sections 10.02, 10.04, 10.05 and 10.07. Amendments to Sections 10.02 and 10.05 are to update text for clarification and statutory citing related to the Public Records Act, chapter 42.56 RCW. Updates to Section 10.04 are for clarification purposes. Amendments to Section 10.07 are to update the fee structure for notice of construction (NOC) and notice of intent (NOI) applications, to move the program towards full cost recovery.

Amendments to Section 10.02(C) clarify that the public records fees are excluded from the SRCAA round up to the nearest \$1 fee calculation because fees are based on state statute and not set by SRCAA. Amendments to Section 10.04 update title information. Section 10.05 amendments are to comply with 2017 legislative amendments that updated the fee structure in the Public Records Act. Revisions to NOC/NOI application fee structure in Section 10.07 will allow for more equitable distribution of fees depending on the complexity of the application. The fee structure revisions allow SRCAA to move the NOC/NOI program towards full cost recovery, as allowed by the Washington Clean Air Act. NOC/NOI structure updates include base fee classifications, designating number of staff review and processing hours included in base fee, developing hourly fee charged when staff review and processing hours exceed base fee hours, and clarification edits that fees are for new and modified NOC/NOI.

Citation of Rules Affected by this Order: Amending SRCAA Regulation I, Article X: Fees and Charges, Sections 10.02, 10.04, 10.05 and 10.07.

Statutory Authority for Adoption: RCW 70.94.141.

Other Authority: Chapter 70.94 RCW.

Adopted under notice filed as WSR 18-19-030 on September 13, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 1, 2018.

Margee Chambers
 Rule Writer
 SIP Planner

Amendatory Sections
 Spokane Regional Clean Air Agency (SRCAA)
 Regulation I, Article X: Fees and Charges, Sections 10.02, 10.04, 10.05 and 10.07.

SECTION 10.02 FEES AND CHARGES REQUIRED

(A) Additional Fee for Failure to Pay. Any fee assessed under Article X shall be paid within forty-five (45) days of assessment. Failure to pay an assessed fee in full within ninety (90) days of assessment will result in the imposition of an additional fee equal to three (3) times the amount of the original fee assessed.

(B) Revenues Collected per RCW 70.94.161. Revenues collected per RCW 70.94.161 shall be deposited in the oper-

ating permit program dedicated account and shall be used exclusively for the program.

(C) Method of Calculating Fees in Article X. Invoice totals will be rounded-up to the nearest one (1) dollar, except for ~~((photocopy and postage))~~ public records fees per Section 10.05(A).

(D) Periodic Fee Review. The Board shall periodically review all agency fees in the Fee Schedule and determine if the total projected fee revenue to be collected is sufficient to fully recover direct and indirect program costs. If the Board determines that the total projected fee revenue significantly exceeds or is insufficient for the program costs, then the Board shall amend the Fee Schedule to more accurately recover program costs. Any proposed fee revisions shall include opportunity for public review and comment.

SECTION 10.04 ((RESERVED)) FEE WAIVER (Repealed 10/7/10, Res. 10-15)

SECTION 10.05 GENERAL ADMINISTRATIVE FEES

(A) ~~((Photocopy))~~ Public Records Fees. ~~((A fee of \$0.15 per page for photocopies shall be charged (RCW 42.56.120)))~~ The Agency charges the standard fees and costs authorized in RCW 42.56.120.

~~((B) Postage. The actual cost of postage shall be charged for all material requested to be mailed [RCW 42.56-070 (7)(a)]-))~~

~~((C))~~ (B) Other Services. For other administrative services requested and performed by Agency staff, which are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the Agency for time and materials expended in providing the service.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane Regional Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL (NOC) AND FOR NOTICE OF INTENT (NOI) TO INSTALL AND OPERATE A TEMPORARY STATIONARY SOURCE

(A) NOC and ~~((Notice of Intent))~~ NOI Fees.

(1) NOC/NOI Class, Base Fee, Fee for Additional NOC/NOI Review Hours, SEPA Fee, and Fee Determination.

~~((a))~~ For each project required by Regulation I, Article V, to file a NOC or a ~~((Notice of Intent, the applicant))~~ NOI application, the owner or operator ~~((shall))~~ must pay ~~((a base fee per the Fee Schedule. Base fee classes are listed below))~~ the following applicable fees in (b) through (d) below:

(a) NOC/NOI Class. Each NOC/NOI application will be assigned a Class, as follows:

1. Class I - ~~((Notice of Intent, Notice of Intent))~~ NOI to install and operate portable stationary sources and temporary stationary sources include the following:

Article IV Source/Source Category Description
<u>Asphalt plant</u>
<u>Concrete production operation/ready mix plant</u>
<u>Rock crusher</u>

((Article IV Source/Source Category Description	((Article IV, Exhibit R Category
Asphalt plant	15
Concrete batch plant/ready mix plant	22
Rock crusher))	36))

2. Class II - ~~((Simple NOC-))~~ Simple NOCs include the following:

Article IV Source/Source Category Description
<u>Coffee roaster</u>
<u>Degreaser/solvent cleaner (not subject to 40 CFR Part 63, Subpart T) subject to Article IV</u>
<u>Dry cleaner (non halogenated solvent)</u>
<u>Evaporator subject to Article IV</u>
<u>Gasoline dispensing facility with maximum annual gasoline throughput ≤ 1.5 million gallons</u>
<u>Graphic art system, including lithographic and screenprinting operation, subject to Article IV</u>
<u>Material handling operation that exhausts > 1,000 and < 10,000 acfm to the ambient air</u>
<u>Organic vapor collection system within commercial or industrial facility that is subject to Article IV</u>
<u>Rock, asphalt, or concrete crusher</u>
<u>Spray booth/surface coating operation that exhausts < 10,000 acfm to the ambient air</u>
<u>Sterilizer subject to Article IV</u>
<u>Wood furniture stripping operation subject to Article IV</u>

((Article IV Source/Source Category Description	((Article IV, Exhibit R Category
Boiler and other fuel-burning equipment	27
Coffee roaster	20
Concrete batch plant/ready mix plant	22
Dry cleaner	23
Emergency generator	52
Gasoline dispensing facility	28
Lithographic printing/screen printing	9.e.5
Material handling that exhausts > 1,000- acfm	24
Rock crusher	36
Spray booth/surface coating operation	57
Stationary internal combustion engine	53
Sterilizer	9.e.8
Stump/wood waste grinder))	54))

3. Class III - ((Standard NOC:)) Standard NOCs include the following:

<u>Article IV Source/Source Category Description</u>
<u>Soil and groundwater remediation operation subject to Article IV</u>
<u>Bakery subject to Article IV</u>
<u>Bed lining or undercoating operation subject to Article IV</u>
<u>Boiler and other fuel-burning equipment with maximum per unit heat input < 100 MMBtu/hr</u>
<u>Brick and clay products manufacturing operations</u>
<u>Burn out, kiln, and curing oven</u>
<u>Chrome plating operation</u>
<u>Concrete production operation</u>
<u>Dry cleaner (halogenated solvent)</u>
<u>Gasoline dispensing facility with maximum annual gasoline throughput > 1.5 million gallons</u>
<u>Grain handling; seed, pea and lentil processing facility</u>
<u>Incinerator/crematory</u>
<u>Internal combustion engine used for standby, back-up operations rated > 500 bhp</u>
<u>Internal combustion engine, other than engines used for standby or backup operation rated > 100 bhp</u>
<u>Material handling operation that exhausts > 10,000 acfm to the ambient air</u>
<u>Metal casting facility/foundry</u>
<u>Metal plating or anodizing operation</u>
<u>Metallurgical processing operation</u>
<u>Mill; lumber, plywood, shake, shingle, woodchip, veneer operation, dry kiln, wood products, grain, seed, feed, or flour</u>
<u>Plastic and fiberglass operations using > 55 gallons per year of all VOC and toxic air pollutant containing materials</u>
<u>Spray booth/surface coating operation that exhausts > 10,000 acfm to the ambient air</u>
<u>Storage tank for organic liquid with capacity > 20,000 gallons</u>
<u>Stump/woodwaste grinder</u>
<u>Tire recapping operation</u>

<u>((Article IV Source/Source Category Description</u>	<u>((Article IV, Exhibit R-Category</u>
<u>Soil and groundwater remediation operation</u>	<u>9.e.7</u>
<u>Burn out oven</u>	<u>43</u>
<u>Chrome plating</u>	<u>35</u>
<u>Incinerator/crematory))</u>	<u>34))</u>

4. Class IV - ((Complex NOC:)) Complex NOCs include the following:

<u>Article IV Source/Source Category Description</u>
<u>Asphalt plant</u>
<u>Boiler and other fuel-burning equipment with maximum per unit heat input > 100 MMBtu/hr</u>
<u>Bulk gasoline and aviation gas terminal, plant, or terminal</u>
<u>Cattle feedlot subject to Article IV</u>
<u>Chemical manufacturing operation</u>
<u>Composting operation</u>
<u>Natural gas transmission and distribution facility</u>
<u>Paper manufacturing operation, except Kraft and sulfite paper mills</u>
<u>Petroleum refinery</u>
<u>Pharmaceutical production operation</u>
<u>Refuse systems</u>
<u>Rendering operation</u>
<u>Semiconductor manufacturing operation</u>
<u>Sewerage systems</u>
<u>Wholesale meat/fish/poultry slaughter and packing plant</u>

<u>((Article IV Source/Source Category Description</u>	<u>((Article IV, Exhibit R-Category</u>
<u>Asphalt plant</u>	<u>15</u>
<u>Composting</u>	<u>21</u>
<u>Refuse systems</u>	<u>48</u>
<u>Rendering</u>	<u>49</u>
<u>Sewerage systems))</u>	<u>50))</u>

5. ((b)) For sources/source categories not listed in Section 10.07 (A)(1)(a), each NOC/NOI ((Notice of Intent and NOC)) application ((review)) will be assigned to Class I, II, III or IV by the Control Officer on a case-by-case basis.

(b) Base fee. A base fee must be paid to the Agency with the submission of each completed NOC/NOI application. The base fee applicable for each NOC/NOI Class is listed in the Fee Schedule.

1. For each NOC/NOI application, the base fee covers staff time spent in reviewing and processing the application up to the listed number of base-fee hours provided in the Fee Schedule for each class of NOC/NOI.

((e)) 2. For sources with one or more emission points under one NOC application, as allowed in Article V, Section 5.02.G, a separate base fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units will be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units.

(c) Fee for Additional NOC/NOI Review Hours. When the staff time hours spent reviewing and processing a NOC/NOI application exceeds the listed number of base-fee hours

provided in the Fee Schedule for the applicable class of NOC/NOI, an additional fee will be charged. The additional fee is calculated by multiplying the total staff time spent in reviewing and processing the NOC/NOI application that exceeds the listed number of review hours (rounded up to the nearest half-hour) by the hourly rate as listed in the Fee Schedule.

(d) SEPA Review Fee. Where submittal of an Environmental Checklist, is required per the State Environmental Policy Act (SEPA) Chapter 197-11 WAC is required in association with a NOC or a NOI, and SRCAA is the lead agency, the applicant must pay a SEPA review fee as listed in the Fee Schedule. The SEPA review fee must be paid with the submission of the Environmental Checklist to the Agency.

(e) Fee Determinations.

1. The base fee is calculated by multiplying the number of base-fee hours for the NOC/NOI class by the hourly rate listed in the Fee Schedule.

2. Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and NOI Program Costs}}{\text{Total NOC and NOI Program Hours}}$$

3. Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) recent fiscal years, rounded-up to the nearest one (1) dollar.

(2) Fees for Replacement or Substantial Alteration of Control Technology and for Changes to an Order of Approval or Permission to Operate.

(a) The following NOC applications or requested changes to an Order of Approval or Permission to Operate must pay a fee as listed in the Fee Schedule. The fee will be assessed each time a request is submitted and will be invoiced to the owner or operator with the final determination.

1. NOC applications for replacement or substantial alteration of control technology under WAC 173-400-114.

2. An owner or operator requesting a modification, revision, and/or change in conditions of an approved Order of Approval or Permission to Operate, under Article V, Section 5.10.C, shall pay a revision fee as listed in the Fee Schedule. The revision fee will be assessed each time a request is submitted and will be invoiced to the owner or operator, or both with the final determination.)

(b) The ((revision)) fee is calculated by adding all the applicable fees described below:

1. Minimum Fee. The minimum fee, as listed in the Fee Schedule, will be assessed for all NOCs reviewed under WAC 173-400-114 and revision request reviews. The minimum fee includes the first three (3) hours of staff time spent in reviewing and processing the request; and

2. Hourly Fee. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the request beyond the first three (3) hours covered in 10.07 (A)(2)(b)1. (rounded-up to the nearest half-hour), by the hourly rate as listed in the Fee Schedule.

(c) Fee Determinations.

1. Flat Fee. The revision flat fee is calculated by multiplying three (3) hours by the hourly rate listed in the Fee Schedule.

2. Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and NOI Program Costs}}{\text{Total NOC and NOI Program Hours}}$$

Total NOC and NOI Program Hours

3. Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) recent fiscal years, rounded-up to the nearest one (1) dollar.

~~(((3) Additional Fees (for each application).~~

~~(a) SEPA Review Fee. Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an Addendum to, or adoption of, an existing environmental document per the State Environmental Policy Act (SEPA) Chapter 197-11 WAC is required, in association with a NOC or a Notice of Intent, the applicant shall pay a SEPA or EIS review fee per the Fee Schedule.~~

~~(b) Toxics Review Fee. For any new source of air pollution which requires review per Chapter 173-460 WAC, a toxic air pollutant review fee shall be paid. For sources with one or more emission points under one NOC application, as allowed in Article V, Section 5.02.G, a separate toxic air pollutant review fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units. The toxic air pollutant review fee shall be as follows:~~

~~1. Small Quantity Emission Rate (SQER). For a new source using WAC 173-460-080 (2)(b), SQER, to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070 & WAC 173-460, the applicant shall pay a SQER review fee per the Fee Schedule.~~

~~2. Dispersion Modeling. For a new source using dispersion screening models (e.g., EPA SCREEN or TSCREEN) under WAC 173-460-080 (2)(a) to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, the applicant shall pay a dispersion modeling review fee per the Fee Schedule.~~

~~3. Advanced Modeling. For a new source using more refined dispersion models (e.g., EPA ISC3) under WAC 173-460-080 (2)(a) to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070; or for a new or modified source using a second-tier analysis under WAC 173-460-090 or a risk management decision under WAC 173-460-100 to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, the applicant shall pay the advanced modeling review fee per the Fee Schedule.~~

~~(c) New Source Performance Standards (NSPS) Review Fee. Applicants of any new air pollution source subject to WAC 173-400-115 (NSPS) and 40 CFR Parts 60 shall pay a NSPS review fee per the Fee Schedule.~~

~~(d) National Emission Standard for Hazardous Air Pollutants (NESHAP) Review Fee. Applicants of any new air pollution source subject to WAC 173-400-075 (NESHAP) and 40 CFR Parts 61 and 63 shall pay a NESHAP fee per the Fee Schedule.~~

~~(e) Best Available Control Technology (BACT) Review Fee:~~

~~1. Generic BACT. Where no BACT review is required (e.g., the applicant demonstrates there is an established~~

and/or recognized BACT standard for the source category type), a BACT review fee is not applicable.

~~2. Non-Generic BACT Review. A non-generic BACT review is one where a generic BACT standard is not applicable and a top-down BACT review is not required. Applicants of any new air pollution source subject to a non-generic BACT review shall pay a non-generic BACT review fee per the Fee Schedule.~~

~~3. Top-Down BACT Review (as described in EPA's Draft New Source Review Workshop Manual from October 1990 and as summarized here). A top-down BACT review requires the ranking of available control technologies in descending order of control effectiveness. Applicants of any new air pollution source subject to a top-down BACT review shall pay a top-down BACT review fee per the Fee Schedule.)~~

(B) Payment of Fees.

(1) Upon Submission of Application. The base fee and SEPA fee (if applicable) ~~((shall))~~ must be paid at the time the NOI/NOC application is submitted to the Agency. Review of the NOI/NOC application will not commence until the ~~((applicable))~~ base fee and SEPA fee (if applicable) is received.

(2) After Application.

(a) Complete Applications. The Agency will invoice the owner, operator, or both, for ~~((all other applicable fees))~~ Fees for Additional NOC/NOI Review Hours, if applicable. The fees ~~((shall))~~ must be paid whether the application is approved or denied.

(b) Incomplete Applications.

1. If an owner, operator, or both, notifies the Agency in writing that an application will not be completed or cancels the application; or the application remains incomplete for more than three (3) months; the Agency will invoice the owner, operator, or both, for payment of applicable fees.

2. Applications not accompanied by the base fee and SEPA fee (if applicable) will be considered incomplete. If information requested by the Agency is not provided, the application will be considered incomplete and review of the application will be suspended. Review of the application will commence, or recommence, when all required fees and information requested by the Agency is received. An application will be cancelled if it remains incomplete for more than eighteen (18) months from initial receipt. For review of the cancelled application to resume, the applicant must pay all outstanding invoice fees ~~((;))~~ (if applicable), and resubmit the ~~((applicable))~~ base fee and SEPA fee (if applicable).

(C) Compliance Investigation Fee. When a compliance investigation is conducted per Article V, Section 5.12, the compliance investigation fee shall be assessed per the Fee Schedule. The fee shall be assessed for each emissions unit, or group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of calculations can be used to characterize emissions from each of the emissions units.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Spokane Regional Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 18-22-106
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)

[Filed November 6, 2018, 9:28 a.m., effective December 7, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The developmental disabilities administration (DDA) is amending chapter 388-829C WAC, Companion homes, to make several policy updates to how residential habilitation services are delivered in the companion home setting. These amendments are necessary because these rules have not been updated in seven or more years. Substantive changes to the companion home rules address the following subjects: The application and certification processes to become a companion home provider; the process for determining the provider's daily rate; provider responsibilities while using respite; the process for determining a companion home client's annual respite allocation; when a companion home provider may request additional respite hours; the effect of additional respite hours on the provider's daily rate; violations of the room and board agreement; requiring an individual financial plan; transferring client funds; protecting clients from water hazards; records the provider must maintain; and informal dispute resolution processes. Most of the chapter has been rewritten to clarify requirements and some sections have been repealed and their content added to other sections.

Citation of Rules Affected by this Order: New WAC 388-829C-042, 388-829C-044, 388-829C-061, 388-829C-062, 388-829C-063, 388-829C-064, 388-829C-065, 388-829C-066, 388-829C-131, 388-829C-231, 388-829C-232, 388-829C-233, 388-829C-234, 388-829C-275, 388-829C-305, 388-829C-315, 388-829C-325, 388-829C-345, 388-829C-449, 388-829C-492 and 388-829C-494; repealing WAC 388-829C-005, 388-829C-060, 388-829C-090, 388-829C-120, 388-829C-130, 388-829C-190, 388-829C-210, 388-829C-220, 388-829C-240, 388-829C-260, 388-829C-300, 388-829C-420, 388-829C-430, 388-829C-440, 388-829C-445, 388-829C-470 and 388-829C-500; and amending WAC 388-829C-010, 388-829C-020, 388-829C-030, 388-829C-040, 388-829C-050, 388-829C-070, 388-829C-080, 388-829C-110, 388-829C-140, 388-829C-150, 388-829C-160, 388-829C-170, 388-829C-180, 388-829C-200, 388-829C-230, 388-829C-250, 388-829C-270, 388-829C-280, 388-829C-290, 388-829C-310, 388-829C-320, 388-829C-330, 388-829C-340, 388-829C-350, 388-829C-360, 388-829C-370, 388-829C-380, 388-829C-390, 388-829C-400, 388-829C-410, 388-829C-450, 388-829C-460, 388-829C-480, and 388-829C-490.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.10.020, 71A.12.040.

Adopted under notice filed as WSR 18-17-155 on August 21, 2018.

Changes Other than Editing from Proposed to Adopted Version: DDA removed subsection (1)(h) from WAC 388-829C-044, which required a companion home provider to submit a background check form to DDA. The form is now completed electronically through the department's new online background check system, so the provider does not

have to submit a paper form to DDA. The information in the form is still required as part of a companion home provider's application.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 21, Amended 34, Repealed 17.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 21, Amended 34, Repealed 17.

Date Adopted: November 5, 2018.

Cheryl Strange
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 18-23 issue of the Register.

WSR 18-22-116
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 6, 2018, 11:22 a.m., effective December 7, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: eRules Phase 6: Chapter 296-305 WAC, Safety standards for firefighters; chapter 296-800 WAC, Safety and health core rules; chapter 296-802 WAC, Employee medical and exposure records; chapter 296-833 WAC, Temporary housing for workers; chapter 296-843 WAC, Hazardous waste operations; chapter 296-848 WAC, Arsenic; chapter 296-849 WAC, Benzene; chapter 296-855 WAC, Ethylene oxide; and chapter 296-856 WAC, Formaldehyde.

The purpose of adopting this rule making is to have a consistent format across all department of occupational safety and health (DOSH) rules. The updated format will provide easy access to rules from smart phones and tablet users. It will also provide easy navigation in PDF documents, as well as easier referencing by replacing bullets and dashes with numbers and letters. No rule requirements were changed as a result of this rule-making adoption. References, formatting and minor housekeeping changes were made throughout the chapter in this rule making. See below for a list of changes being adopted as proposed:

- No changes in requirements as a result of this rule making.
- Consistent format for all DOSH safety and health rules.
- Easy to access rules for smart phone and table [tablet] users.
- Easy navigation in PDF files provided through bookmarks in the rules.
- Easier referencing by replacing bullets and dashes with numbers and letters.
- Enhanced rule update efficiency for customers through electronic postings.
- "Housekeeping" corrections such as correcting dead links and obsolete references.
- Applying "plain talk" principles such as changing passive language to active for better clarity.
- Definitions sections moved to the beginning of several chapters, requiring the repeal of old sections and creation of new sections.

Citation of Rules Affected by this Order: New WAC 296-800-099 Definitions, 296-802-099 Definitions, 296-843-099 Definitions, 296-848-099 Definitions, 296-849-030 Definitions, 296-855-099 Definitions and 296-856-099 Definitions; repealing WAC 296-800-370 Definitions, 296-802-900 Definitions, 296-843-300 Definitions, 296-848-500 Definitions, 296-849-190 Definitions, 296-855-500 Definitions and 296-856-500 Definitions; and amending WAC 296-305-01003 Scope and application, 296-305-01005 Definitions, 296-305-01007 Variance and procedure, 296-305-01501 Injury and illness reports for firefighters, 296-305-01503 Accident/incident investigation, 296-305-01505 Accident prevention program, 296-305-01507 Fire department health and safety officer, 296-305-01509 Management's responsibility, 296-305-01511 Employee's responsibility, 296-305-01513 Safe place standards, 296-305-01515 First-aid training and certification, 296-305-01517 First-aid kits, 296-305-02001 Personal protective equipment and protective clothing, 296-305-02002 Structural firefighting clothing (SFF), 296-305-02004 Protection ensemble for structural firefighting, 296-305-02012 Body armor, 296-305-02017 Personal alert safety system (PASS) protection, 296-305-02019 Life safety ropes, harnesses, and hardware protection, 296-305-02501 Emergency medical protection, 296-305-03002 Hazardous materials, 296-305-04001 Respiratory equipment protection, 296-305-04501 Automotive fire apparatus design and construction, 296-305-04503 Automotive fire apparatus equipment, 296-305-04505 Automotive apparatus operational rules, 296-305-04507 Fire apparatus maintenance and repair, 296-305-04510 Aerial apparatus, 296-305-05000 Incident management, 296-305-05002 Fire suppression, 296-305-05004 Occupational exposure to heat and cold stress, 296-305-05013 Aircraft rescue and firefighting, 296-305-05101 Technical rescue general requirements, 296-305-05103 Technical rescue training, 296-305-05105 Technical rescue standard operating procedure, 296-305-05107 Technical rescue incident response planning, 296-305-05109 Technical rescue equipment, 296-305-05111 Technical rescue safety, 296-305-05113 Technical rescue operational specialties, 296-305-05502 Training and member development, 296-305-06001 Fire service equipment, 296-305-06003 Testing fire service equipment, 296-305-06006 Ground ladders,

296-305-06008 Electrical, 296-305-06503 General requirements, 296-305-06505 Sanitation, disinfection, cleaning, and storage areas, 296-305-06507 Sleeping areas, 296-305-06509 Apparatus areas, 296-305-06511 Indoor air quality, 296-305-06513 Refueling areas, 296-305-06515 Hose drying towers, 296-305-06517 Drill tower training facilities, 296-305-06519 Fire station equipment and tools, 296-305-07001 Wildland fire operations, 296-305-07002 Wildland fire personnel accountability, 296-305-07004 Heat-related illness prevention for wildland firefighters, 296-305-07006 Equipment for wildland firefighting, 296-305-07008 Aircraft operations for fighting wildland fires, 296-305-07010 Training for wildland firefighting, 296-305-07012 Personal protective clothing and equipment for wildland firefighting, 296-305-07014 Apparatus standards for wildland firefighting, 296-305-07016 Falling and equipment in forest lands, 296-305-07018 Occupant restraints and enclosures for wildland firefighting, 296-305-08000 Appendices, 296-800-100 Introduction, 296-800-110 Employer responsibilities: Safe workplace—Summary, 296-800-11005 Provide a workplace free from recognized hazards, 296-800-11010 Provide and use means to make your workplace safe, 296-800-11015 Prohibit employees from entering, or being in, any workplace that is not safe, 296-800-11020 Construct your workplace so it is safe, 296-800-11025 Prohibit alcohol and narcotics from your workplace, 296-800-11030 Prohibit employees from using tools and equipment that are not safe, 296-800-11035 Establish, supervise, and enforce rules that lead to a safe and healthy work environment that are effective in practice, 296-800-11040 Control chemical agents, 296-800-11045 Protect employees from biological agents, 296-800-120 Rule, 296-800-12005 Employee responsibilities, 296-800-130 Safety committees/safety meetings—Summary, 296-800-13020 Establish and conduct safety committees, 296-800-13025 Follow these rules to conduct safety meetings, 296-800-140 Accident prevention program, 296-800-14005 Develop a formal, written accident prevention program, 296-800-14020 Develop, supervise, implement, and enforce safety and health training programs that are effective in practice, 296-800-14025 Make sure your accident prevention program is effective in practice, 296-800-150 Rule summary, 296-800-15005 Make sure that first-aid trained personnel are available to provide quick and effective first aid, 296-800-15020 Make sure appropriate first-aid supplies are readily available, 296-800-15030 Make sure emergency washing facilities are functional and readily accessible, 296-800-15035 Inspect and activate your emergency washing facilities, 296-800-15040 Make sure supplemental flushing equipment provides sufficient water, 296-800-160 Summary, 296-800-16002 Compliance duties owed to each employee, 296-800-16005 Do a hazard assessment for PPE, 296-800-16010 Document your hazard assessment for PPE, 296-800-16015 Select appropriate PPE for your employees, 296-800-16020 Provide PPE to your employees, 296-800-16025 Train your employees to use PPE, 296-800-16030 Retrain employees to use PPE, if necessary, 296-800-16035 Document PPE training, 296-800-16040 Require your employees to use necessary PPE on the job, 296-800-16045 Keep PPE in safe and good condition, 296-800-16050 Make sure your employees use appropriate eye and face protection, 296-800-16055 Make sure your employees use appropriate

head protection, 296-800-16060 Make sure your employees use appropriate foot protection, 296-800-16065 Make sure your employees use appropriate hand protection, 296-800-16070 Make sure your employees are protected from drowning, 296-800-180 Safety data sheets (SDSs) as exposure records, 296-800-18005 Preserve exposure records for at least ~~((30))~~ thirty years, 296-800-18010 Inform current employees of exposure records, 296-800-18015 Provide access to exposure records, 296-800-18020 Transfer records when ceasing to do business, 296-800-190 Summary/rule, 296-800-19005 Provide a safety bulletin board in your workplace, 296-800-200 Job safety and health law poster, 296-800-20005 Post and keep a job safety and health law poster in your workplace, 296-800-21005 Provide and maintain adequate lighting, 296-800-220 Housekeeping, drainage, and storage—Summary, 296-800-22005 Keep your workplace clean, 296-800-22010 Sweep and clean your workplace to minimize dust, 296-800-22015 Keep your workplace free of obstacles that interfere with cleaning, 296-800-22020 Control pests in your workplace, 296-800-22022 Make sure floors are maintained in a safe condition, 296-800-22025 Keep your workroom floors dry, when practical, 296-800-22030 Provide proper drainage, 296-800-22035 Store things safely, 296-800-22040 Control vegetation in your storage areas, 296-800-230 Summary, 296-800-23005 Provide safe drinking (potable) water in your workplace, 296-800-23010 Clearly mark the water outlets that are not fit for drinking (nonpotable), 296-800-23015 Make sure that systems delivering not-fit-for drinking (nonpotable) water prevent backflow into drinking water systems, 296-800-23020 Provide bathrooms for your employees, 296-800-23025 Provide convenient and clean washing facilities, 296-800-23040 Make sure eating areas are safe and healthy, 296-800-23045 Follow these requirements if you provide food service to your employees, 296-800-23050 Dispose of garbage and waste safely, 296-800-23055 Remove garbage and waste in a way that does not create a health hazard, 296-800-23060 Provide a separate lunchroom if employees are exposed to toxic substances if they are allowed to eat and drink on the job site, 296-800-23065 Provide showers when required for employees working with chemicals, 296-800-23070 Provide change rooms when required, 296-800-23075 Make sure any work clothes you provide are dry, 296-800-240 Summary, 296-800-24005 Prohibit tobacco smoke in your office work environment, 296-800-250 Summary, 296-800-25005 Provide fixed stairs where required, 296-800-25010 Provide stairs that minimize hazards, 296-800-25015 Provide handrails and stair railings, 296-800-260 Summary, 296-800-26005 Guard or cover floor openings and floor holes, 296-800-26010 Protect open-sided floors and platforms, 296-800-270 Summary, 296-800-27005 Do not overload floors or roofs, 296-800-27010 Make sure that floors are safe, 296-800-27015 Make sure floors can support equipment that moves or has motion, 296-800-27020 Post approved load limits (weight limits) for floors, 296-800-280 Basic electrical rules, 296-800-28005 Inspect all electrical equipment your employees use to make sure the equipment is safe, 296-800-28010 Make sure all electrical equipment is used for its approved or listed purpose, 296-800-28015 Make sure electrical equipment used or located in wet or damp locations is designed for such use,

296-800-28020 Make sure electrical equipment that is not marked is not used, 296-800-28022 Identify disconnecting means, 296-800-28025 Maintain electrical fittings, boxes, cabinets and outlets in good condition, 296-800-28027 Working space around electrical equipment, 296-800-28030 Maintain all flexible cords and cables in good condition and use safely, 296-800-28035 Guard electrical equipment to prevent your employees from electrical hazards, 296-800-28040 Make sure electrical equipment is effectively grounded, 296-800-28045 Make sure electrical equipment has overcurrent protection, 296-800-300 Summary—Portable fire extinguishers, 296-800-30005 Provide portable fire extinguishers in your workplace, 296-800-30010 Select and distribute portable fire extinguishers in your workplace, 296-800-30015 Make sure that portable fire extinguishers are kept fully charged, in operable condition, and left in their designated places, 296-800-30020 Inspect and test all portable fire extinguishers, 296-800-30025 Train your employees to use portable fire extinguishers, 296-800-310 Summary, 296-800-31005 Provide an adequate number of exit routes, 296-800-31010 Make sure that exit routes are large enough, 296-800-31015 Make sure that exit routes meet their specific design and construction requirements, 296-800-31020 Make sure that each exit route leads outside, 296-800-31025 Provide unobstructed access to exit routes, 296-800-31030 Exit doors must be readily opened from the inside, 296-800-31035 Use side-hinged doors to connect rooms to exit routes, 296-800-31040 Provide outdoor exit routes that meet these requirements, 296-800-31045 Minimize danger to employees while they are using emergency exit routes, 296-800-31050 Mark exits adequately, 296-800-31053 Provide adequate lighting for exit routes and signs, 296-800-31055 Maintain the fire retardant properties of paints or other coatings, 296-800-31060 Maintain emergency safeguards, 296-800-31065 Maintain exit routes during construction and repair, 296-800-31067 Provide doors in freezer or refrigerated rooms that open from the inside, 296-800-31070 Install and maintain an appropriate employee alarm system, 296-800-31075 Establish procedures for sounding emergency alarms, 296-800-31080 Test the employee alarm system, 296-800-320 Summary, 296-800-32010 Make sure equipment involved in a work-related accident is not moved, 296-800-32015 Assign people to assist the department of labor and industries, 296-800-32020 Conduct a preliminary investigation for all serious injuries, 296-800-32025 Document the preliminary investigation findings, 296-800-330 Releasing accident investigation reports, 296-800-340 Protecting the identity of the source of confidential information, 296-800-360 Rule, 296-800-36005 Comply with standards national organizations or of federal agencies when referenced in WISHA rules, 296-800-370 Definitions, 296-802-200 Keep employee medical and exposure records, 296-802-20005 Keep employee medical records, 296-802-20010 Keep employee exposure records, 296-802-20015 Keep analyses of medical or exposure records, 296-802-300 Inform employees about records, 296-802-30005 Inform current employees about their medical and exposure records, 296-802-400 Provide employees access to records and analyses, 296-802-40005 Provide access to employee medical records, exposure records, and analyses, 296-802-40010 Provide employee medical records,

296-802-40015 Provide employee exposure records, 296-802-500 Respond to medical record access orders, 296-802-50005 Respond to WISHA access orders for employee medical records, 296-802-50010 Content of WISHA written access orders, 296-802-600 Transfer and disposal of employee medical, 296-802-60005 Transfer or dispose of employee medical and exposure records when you go out of business, 296-833-200 Shelter location and structure requirements, 296-833-20005 Provide and maintain sufficient grounds and open areas in temporary housing sites, 296-833-20010 Follow these design and equipment requirements for shelters, 296-833-300 Employers must provide utilities, 296-833-30005 Provide electricity and lighting to temporary housing areas, 296-833-30010 Provide adequate water, 296-833-30015 Provide toilet facilities, 296-833-30020 Follow local regulations for sewage disposal, 296-833-400 Service facilities: Food preparation, dining, bathing, laundry and handwashing, 296-833-40005 Provide service buildings for laundry, handwashing and bathing, 296-833-40010 Provide cooking, food-handling, and dining facilities, 296-833-500 Waste disposal and pest control, 296-833-50005 Follow proper waste disposal procedures, 296-833-50010 Control insects, rodents, and other pests, 296-833-600 Employee first aid and communicable disease reporting, 296-833-60005 Provide first-aid facilities, 296-833-60010 Report communicable diseases, 296-843-100 Scope, 296-843-110 Evaluations and inspections, 296-843-11005 Complete a preliminary site evaluation before allowing employees to enter the site, 296-843-11010 Conduct ongoing evaluations of safety and health hazards, 296-843-120 Health and safety plan (HASP), 296-843-12005 Develop and maintain a written site-specific health and safety plan (HASP), 296-843-130 Sampling and monitoring, 296-843-13005 Conduct monitoring for health and safety hazards during initial site entry, 296-843-13010 Evaluate employee exposure to hazardous substances during clean-up operations, 296-843-140 Site control, 296-843-14005 Establish site control, 296-843-150 Worker and equipment decontamination, 296-843-15005 Establish and implement decontamination procedures before any worker or equipment enters a contaminated area, 296-843-15010 Provide showers and changing rooms, 296-843-15015 Provide washing facilities, 296-843-160 Emergency response for hazardous waste sites, 296-843-16005 Establish an emergency response plan for anticipated emergencies before beginning hazardous waste operations, 296-843-170 Employee exposure controls, 296-843-17005 Control employee exposure to site health and safety hazards, 296-843-180 Drum and container handling, 296-843-18005 Handle drums and containers safely, 296-843-18010 Handle drums and containers suspected of containing shock-sensitive (explosive) wastes safely, 296-843-18015 Maintain worker safety in drum and container opening areas, 296-843-18020 Ship and transport drums and containers safely, 296-843-190 Personal protective equipment (PPE), 296-843-19005 Provide and use appropriate PPE, 296-843-200 Training, briefings, and information, 296-843-20005 Inform workers, contractors and subcontractors about the hazardous waste site, 296-843-20010 Train workers, supervisors and managers before work begins on the site, 296-843-20015 Provide additional training to your managers and supervisors, 296-

843-20020 Training for postemergency response, 296-843-20025 Make sure your employees receive written documentation of training, 296-843-20030 Provide refresher training to employees, 296-843-20035 Use qualified trainers, 296-843-210 Medical surveillance, 296-843-21005 Provide medical surveillance for your employees, 296-843-220 Record-keeping and information access, 296-843-22005 Make your records accessible, 296-843-22010 Keep medical surveillance records for your employees, 296-848-100 Scope, 296-848-200 Basic rules, 296-848-20010 Preventive practices, 296-848-20025 Washing facilities, 296-848-20060 Exposure evaluations, 296-848-20070 Notification, 296-848-20090 Exposure records, 296-848-300 Training, exposure monitoring, and medical monitoring, 296-848-30005 Training, 296-848-30007 Communication of hazards, 296-848-30010 Periodic exposure evaluations, 296-848-30030 Medical evaluations, 296-848-30080 Medical records, 296-848-400 Exposure control areas, 296-848-40005 Exposure control plan, 296-848-40020 Exposure controls, 296-848-40025 Exposure control areas, 296-848-40030 Clean-up facilities and lunchrooms, 296-848-40040 Personal protective equipment (PPE), 296-848-40045 Respirators, 296-848-60010 Health information about inorganic arsenic, 296-848-60020 Medical guidelines, 296-849-100 Scope, 296-849-110 Basic rules, 296-849-11010 Communication of hazards, 296-849-11020 Exposure control areas, 296-849-11030 Exposure evaluations, 296-849-11040 Personal protective equipment (PPE), 296-849-11050 Training, 296-849-11065 Exposure monitoring observation, 296-849-11070 Notification, 296-849-11090 Exposure records, 296-849-120 Exposure and medical monitoring, 296-849-12010 Periodic exposure evaluations, 296-849-12030 Medical evaluations, 296-849-12050 Medical removal, 296-849-12080 Medical records, 296-849-130 Rules for exposure control areas, 296-849-13005 Exposure control plan, 296-849-13020 Exposure controls, 296-849-13045 Respirators, 296-849-60010 Health information about benzene, 296-849-60020 Medical guidelines for benzene, 296-855-100 Scope, 296-855-200 Basic rules, 296-855-20010 Preventive practices, 296-855-20020 Exposure control areas, 296-855-20040 Personal protective equipment (PPE), 296-855-20050 Exposure evaluations, 296-855-20060 Notification, 296-855-20070 Exposure records, 296-855-20080 Documentation records, 296-855-20090 Training, 296-855-300 Exposure and medical monitoring, 296-855-30010 Periodic exposure monitoring, 296-855-30030 Medical evaluations, 296-855-30080 Medical records, 296-855-400 Exposure control, 296-855-40010 Exposure control plan, 296-855-40030 Exposure controls, 296-855-40040 Respirators, 296-855-420 Communication of hazards, 296-856-100 Scope, 296-856-200 Basic rules, 296-856-20010 Preventive practices, 296-856-20020 Training, 296-856-20030 Personal protective equipment (PPE), 296-856-20040 Employee protective measures, 296-856-20050 Exposure evaluations, 296-856-20060 Notification, 296-856-20070 Exposure records, 296-856-300 Exposure and medical monitoring, 296-856-30010 Periodic exposure evaluations, 296-856-30020 Medical and emergency evaluations, 296-856-30030 Medical removal, 296-856-30040 Multiple LHCP review, 296-856-30050 Medical records, 296-856-400 Exposure control areas, 296-856-40010 Exposure controls, 296-

856-40020 Establishing exposure control areas, 296-856-40030 Respirators, 296-856-420 Communication of hazards, and 296-856-42010 Hazard communication—General.

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

Adopted under notice filed as WSR 18-17-148 on August 21, 2018.

Changes Other than Editing from Proposed to Adopted Version: Corrected typo in note under WAC 296-800-21005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 7, Amended 353, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 6, 2018.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01003 Scope and application. (1) The rules of this chapter (~~shall~~) apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).

(2) The provisions of this chapter apply to all firefighters and their work places, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a firefighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.

(3) In the development of this document many consensus standards of the industry were considered and evaluated as to adaptability to the Washington state fire service industry. Where adaptable and meaningful, the firefighter safety elements of these standards were incorporated into this WAC. Chapter 296-305 WAC, (~~shall~~) must be considered as the firefighter safety standards for the state of Washington.

(4) The provisions of this chapter cover existing requirements that apply to all fire departments. All fire departments (~~shall~~) must have in place their own policy statement and operating instructions that meet or exceed these requirements. This chapter contains state and/or federal performance criteria that fire departments (~~shall~~) must meet.

(5) Unless specifically stated otherwise by rule, if a duplication of regulations, or a conflict exists between the rules regulating wildland firefighting and other rules in the chapter, only the rules regulating wildland firefighting ~~((shall))~~ will apply to wildland firefighting activities and equipment.

(6) The provisions of this chapter ~~((shall))~~ must be supplemented by the provisions of the general safety and health standards of the department of labor and industries. In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter ~~((shall))~~ must apply.

(7) Industrial fire brigades are covered under the provisions of chapter 296-811 WAC, Fire brigades.

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-305-01005 Definitions. Unless the context indicates otherwise, words used in this chapter ~~((shall))~~ will have the meaning given in this section.

Accident((+)). An unexpected event that interrupts or interferes with the orderly progress of the fire department operations and may or may not include personal injury or property damage.

Accountability (tracking) system((+)). A system of firefighter accountability that provides for the tracking and inventory of all members.

ACGIH((+)). American Conference of Governmental Industrial Hygienists.

ACM((+)). Asbestos-containing material; any material containing more than 1 percent asbestos.

Aerial devices((+)). Fire apparatus-mounted aerial ladders, elevated platforms, and water towers.

ANSI((+)). American National Standards Institute.

Apparatus((+)). A mobile piece of fire equipment such as a pumper, aerial, tender, automobile, etc.

Approved((+((+))).

(a) A method, equipment, procedure, practice, tool, etc., which is sanctioned, consented to, confirmed or accepted as good or satisfactory for a particular purpose or use by a person, or organization authorized to make such a judgment.

~~((2))~~ **Means** (b) Approved by the director of the department of labor and industries or his/her authorized representative: Provided, however, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of chapter 296-800 WAC ~~((shall))~~ must apply.

Asbestos((+)). Includes chrysotile, amosite, crocidolite, tremolite, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered.

Belt((+)). See ladder belt and escape belt.

Bloodborne pathogens((+)). Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Blowup (wildfire)((+)). Sudden increase in fire intensity or rate of spread sufficient to preclude direct control or to

upset existing control plans. Often accompanied by violent convection and may have other characteristics of a fire storm.

CBRN((+)). Chemical, biological, radiological, and nuclear.

Chief((+)). The employer representative highest in rank who is responsible for the fire department's operation.

Cold zone((+)). The control zone of an incident that contains the command post and such other support functions as are deemed necessary to control the incident.

Combat scene((+)). The site where the suppression of a fire or emergency exists.

Confined space((+)). A space that is all of the following: ~~((1))~~ **Is** (a) Large enough and arranged so an employee can bodily enter and perform assigned work; and

~~((2))~~ **Has** (b) Limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

~~((3))~~ **Is** (c) Not designed for continuous employee occupancy.

Containment((+)). The actions taken to keep a material in its container (e.g., stop the release of the material or reduce the amount being released.)

Contaminated((+)). The presence or the reasonably anticipated presence of nuisance materials foreign to the normal atmospheres, blood, hazardous waste, or other potentially infectious materials on an item or surface.

Contaminated laundry((+)). Laundry which has been soiled with blood or other potentially infectious materials or may contain contaminated sharps.

Contamination((+)). The process of transferring a hazardous material from its source to people, animals, the environment, or equipment, which may act as a carrier.

dBA((+)). A measure of noise level expressed as decibels measured on the "A" scale.

Decontamination((+((+))).

(a) The physical or chemical process of reducing and preventing the spread of contamination from persons or equipment used at a hazardous materials incident.

~~((2))~~ (b) The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Direct attack((+)). Any treatment applied directly to burning fuel such as wetting, smothering, or chemically quenching the fire or by physically separating the burning from unburned fuel.

Director((+)). The director of the department of labor and industries, or his/her designated representative.

Disinfection((+)). A procedure which inactivates virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (example: Bacterial endospores) on inanimate objects.

Disturb/disturbance((+)). Refers to activities that disrupt the matrix of, crumble or pulverize, or generate visible debris from ACM or PACM.

Dive rescue (public safety diving)((+)). The act of searching for or rescuing a viable or presumably viable person(s), while working in water using underwater apparatus

which supplies compressed breathing gas at the ambient pressure.

Double-layer woven clothing(†)₂ Clothing worn in two layers allowing air to reach the skin. For example, coveralls worn on top of regular work clothes.

Drill tower(†)₂ A structure which may or may not be attached to the station and which is principally used for training firefighters in fire service techniques.

Drinking water(†)₂ Potable water that is suitable to drink. Drinking water packaged as a consumer product and electrolyte-replenishing beverages (i.e., sports drinks) that do not contain caffeine are acceptable.

Driver/operator(†)₂ A person having satisfactorily completed the fire department's "requirements of driver/operator" of a specific piece of fire apparatus.

Emergency(†)₂ A sudden and unexpected event calling for immediate action.

Emergency incident(†)₂ A specific emergency operation.

Emergency medical care(†)₂ The provision of treatment to, and/or transportation of, patients which may include first aid, cardiopulmonary resuscitation, basic life support, advanced life support, and other medical procedures that occur prior to arrival at a hospital or other health care facility.

Emergency operations(†)₂ Activities of the fire department relating to rescue, fire suppression, emergency medical care, and special operations, including response to the scene of an incident and all functions performed at the scene.

Employee(†)₂ An employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is their personal labor for an employer under this chapter whether by way of manual labor or otherwise. Also see "Member."

Employer(†)₂ Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.

Employer representative(†)₂ A fire department officer authorized by the chief or director of the fire department to act in his/her behalf.

Engine (pumper)(†)₂ A piece of apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.

Escape belt(†)₂ A device that fastens around the waist only and is intended to be used by the wearer only as an emergency self-rescue device.

Escape rope(†)₂ A single-purpose emergency self-escape (self-rescue) rope, not classified as a life safety rope.

Exclusion zone(†)₂ The control zone designated to exclude all unauthorized personnel, responders, and equipment.

Note: Examples of exclusion zones could be holes in floors, explosive devices, or collapse hazards.

Extended attack(†)₂ Suppression activity for a wildfire that has not been contained or controlled by initial attack or contingency forces and for which more firefighting resources are arriving, en route, or being ordered by the initial attack incident commander.

Extended attack incident(†)₂ A wildland fire that has not been contained or controlled by initial attack forces and for which more firefighting resources are arriving, en route, or being ordered by the initial attack incident commander. Extended attack implies that the complexity level of the incident will increase beyond the capabilities of initial attack incident command.

Fire apparatus(†)₂ A fire department emergency vehicle used for rescue, fire suppression, or other specialized functions.

Fire boat(†)₂ A fire department watercraft having a permanent, affixed firefighting capability.

Fire department(†)₂ An organization or consortium of organizations providing any or all of the following: Rescue, fire suppression, and other related activities. For the purposes of this standard the term "Fire Department" (~~shall~~) includes any public, private, or military organization engaging in this type of activity.

Fire department facility(†)₂ Any building or area owned, operated, occupied, or used by a fire department on a routine basis. This does not include locations where a fire department may be summoned to perform emergency operations or other duties, unless such premises are normally under the control of the fire department.

Firefighter(†)₂ A member of a fire department whose duties require the performance of essential firefighting functions or substantially similar functions.

Fire retardant(†)₂ Any material used to reduce, stop or prevent the flame spread.

Fire suppression training(†)₂ Training received by firefighters on the drill ground, drill tower, or industrial site to maintain the firefighter's proficiency.

Fly(†)₂ Extendible sections of ground or aerial ladders.

Full body harness(†)₂ See life safety harness.

Gross decontamination(†)₂ The initial phase of the decontamination process during which the amount of surface contaminant is significantly reduced.

Ground jack(†)₂ Heavy jacks attached to frame of chassis of aerial-equipped apparatus to provide stability when the aerial portion of the apparatus is used.

Guideline(†)₂ An organizational directive that establishes a standard course of action.

Halyard(†)₂ Rope used on extension ladders for the purpose of raising or lowering fly section(s). A wire cable may be referred to as a halyard when used on the uppermost fly section(s) of three or four section extension ladders.

Harness(†)₂ See life safety harness.

Hazard communication program(†)₂ A procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees. See (~~WAC 296-901-140 Hazard communication~~) chapter 296-901 WAC.

Hazard control zones((+))₂

Cold zone: The control zone of an incident that contains the command post and such other support functions as are deemed necessary to control the incident.

Note: The cold zone established the public exclusion or clean zone. There are minimal risks of human injury or exposure in this zone.

Exclusion zone: The control zone designated to exclude all unauthorized personnel, responders, and equipment.

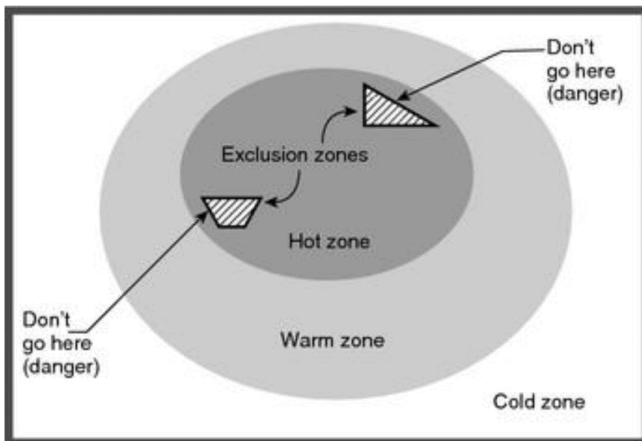
Note: Examples of exclusion zones could be holes in floors, explosive devices, or collapse hazards.

Hot zone: The control zone immediately surrounding the hazard area, which extends far enough to prevent adverse effects to personnel outside the zone. The hot zone is presenting the greatest risk to members and will often be classified as an IDLH atmosphere.

Warm zone: The control zone outside the hot zone where personnel and equipment decontamination and the hot zone support takes place.

Note: The warm zone is a limited access area for members directly aiding or in support of operations in the hot zone. Significant risk of human injury (respiratory, exposures, etc.) can still exist in the warm zone.

Hazard Zones:



Hazards((+))₂ The characteristics of facilities, equipment, systems, property, hardware or other objects and those areas of structures or buildings posing a hazard greater than normal to the general occupancy or structures.

Hazardous area((+))₂ The immediate area where members might be exposed to a hazard.

Hazardous atmosphere((+))₂ An atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (escape unaided from a permit-required confined space), injury or acute illness caused by one or more of the following:

((*) (a) Flammable gas, vapor, or mist in excess of 10% of its lower flammable limit (LFL);

((*) (b) Airborne combustible dust at a concentration that meets or exceeds its LFL;

((*) (c) Atmospheric oxygen concentration below 19.5% or above 23.5%;

((*) (d) Atmospheric concentration of any substance which may exceed a permissible exposure limit. For additional information about atmospheric concentration, see chapter 296-62 WAC, Parts F, G, and I, General occupational health standards and chapter 296-841 WAC, Airborne contaminants.

Hazardous condition((+))₂ The physical condition or act which is causally related to accident occurrence. The hazardous condition is related directly to both the accident type and the agency of the accident.

Hazardous material((+))₂ A substance (solid, liquid, or gas) that when released is capable of creating harm to people, the environment, and property.

Hazardous substances((+))₂ Substances that present an unusual risk to persons due to properties of toxicity, chemical activity, corrosivity, etiological hazards of similar properties.

Health and safety officer((+))₂ The member of the fire department assigned and authorized as the administrator of the fire department health and safety program.

Heat-related illness((+))₂ A medical condition resulting from the body's inability to cope with a particular heat load, and includes, but is not limited to, heat cramps, heat rash, heat exhaustion, fainting, and heat stroke.

Hose bed((+))₂ Portion of fire apparatus where hose is stored.

Hose tower((+))₂ A vertical enclosure where hose is hung to dry.

Hot zone((+))₂ The control zone immediately surrounding the hazard area, which extends far enough to prevent adverse effects to personnel outside the zone. The hot zone is the area presenting the greatest risk to members and will often be classified as an IDLH atmosphere.

Ice rescue((+))₂ The rescue of a person(s) who is afloat within an opening in the frozen surface or on the frozen surface of a body of water.

Identify((+))₂ To select or indicate verbally or in writing using recognized standard terms. To establish the identity of; the fact of being the same as the one described.

IDLH((+))₂ Immediately dangerous to life and health.

Imminent hazard (danger)((+))₂ An act or condition that is judged to present a danger to persons or property and is so immediate and severe that it requires immediate corrective or preventative action.

Incident command system (ICS)((+))₂ A system that includes: Roles, responsibilities, operating requirements, guidelines and procedures for organizing and operating an on-scene management structure.

Incident commander((+))₂ The person in overall command of an emergency incident. This person is responsible for the direction and coordination of the response effort.

Incident safety officer((+))₂ The person assigned the command staff function of safety officer in the incident command system.

Incipient (phase) fire((+))₂ The beginning of a fire; where the oxygen content in the air has not been significantly reduced and the fire is producing minute amounts of water vapor, carbon dioxide, carbon monoxide and other gases; the room has a normal temperature and can be controlled or

extinguished with a portable fire extinguisher or small hose, e.g., a kitchen stove fire.

Indirect attack((+)). A method of suppression in which the control line is located some considerable distance away from the fire's active edge. Generally done in the case of a fast-spreading or high-intensity fire and to utilize natural or constructed firebreaks or fuelbreaks and favorable breaks in the topography. The intervening fuel is usually backfired; but occasionally the main fire is allowed to burn to the line, depending on conditions.

Industrial fire brigade((+)). An organized group of employees whose primary employment is other than fire-fighting who are knowledgeable, trained and skilled in specialized operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

Initial action((+)). The actions taken by the first resources to arrive at a wildfire or wildland fire use incident. Initial actions may be size up, patrolling, monitoring, holding action or aggressive initial attack.

Initial attack((+)). A planned response to a wildfire given the wildfire's potential fire behavior. The objective of initial attack is to stop the fire and put it out in a manner consistent with firefighter and public safety and values to be protected.

Initial fire suppression training((+)). The training of firefighters in recognizing sources and locations of potential fires and the method of fire suppression to be used.

Initial stages((+)). Tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

Injury((+)). Physical damage suffered by a person that requires treatment by a practitioner of medicine (a physician, nurse, paramedic or EMT) within one year of the incident regardless of whether treatment was actually received.

Interior structural firefighting((+)). The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. See structural firefighting.

Known rescue((+)). A situation of compelling evidence where a member sees, hears, or is directly told of a trapped and viable victim by an occupant who has escaped or is a credible witness.

Ladder belt((+)). A device that fastens around the waist only and is used as a positioning device for a person on a ladder.

Life safety or rescue rope((+)). Rope dedicated solely for the purpose of constructing lines for supporting people during rescue, firefighting, or other emergency operations, or during training evolutions.

Life safety harness((+)). A configuration of connected straps to distribute a fall arresting force over at least the thighs, shoulders and pelvis, with provisions for attaching a lanyard, lifeline, or deceleration devices.

Live fire((+)). Any unconfined open flame or device that can propagate fire to the building, structure, or other combustible materials.

Live fire training((+)). Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of firefighters under actual fire conditions.

Locking in((+)). The act of securing oneself to a ladder by hooking a leg over a rung and placing top of foot against the other leg or against the ladder.

May((+)). A permissive use or an alternative method to a specified requirement.

Mayday((+)). The nationally adopted "call for help" term used to indicate that an emergency responder is in a situation of imminent peril where they are in need of immediate help.

Member((+)). A person involved in performing the duties and responsibilities of a fire department under the auspices of the organization. A fire department member may be a full-time or part-time employee or a paid or unpaid volunteer, may occupy any position or rank within the fire department, and engages in emergency operations. Also see Employee.

Mobile attack((+)). The act of fighting wildland fires from a moving engine.

Must. Mandatory.

NFPA((+)). National Fire Protection Association.

NIMS((+)). The National Incident Management System.

NIOSH((+)). National Institute of Occupational Safety and Health.

Nonskid((+)). The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.

Occupational exposure((+)). Means reasonably anticipated skin, eye, mucous membrane or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

Officer((+)).

((+)) (a) Person in charge of a particular task or assignment.

((+)) (b) A supervisor.

OSHA((+)). Occupational Safety and Health Administration.

Other potentially infectious materials (OPIM)((+))

(a) The following body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

((+)) (b) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

((+)) (c) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

Outrigger((+)). Manually or hydraulically operated metal enclosures and jacks which are extended and placed in contact with the ground to give the apparatus a wide, solid base to support different loads.

Overhaul((+)). A firefighting term involving the process of final extinguishment after the main body of a fire has been knocked down. All traces of fire must be extinguished at this time.

PACM((+)). Presumed asbestos-containing material. Thermal system insulation and surfacing material found in

buildings, vessels and vessel sections constructed no later than 1980.

PASS((+)) Personal alert safety system.

PEL((+)) Permissible exposure limit.

Personal protective equipment (PPE)((+(-)))

(a) The equipment provided to shield or isolate a person from the chemical, physical, and thermal hazards that may be encountered at a hazardous materials incident. Personal protective equipment includes both personal protective clothing and respiratory protection. Adequate personal protective equipment should protect the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

((2)) (b) Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

Platform((+)) The portion of a telescoping or articulating boom used as a working surface.

Positive communication((+)) Visual, audible, physical, safety guide rope, or electronic means which allows for two way message generation and reception.

PPE((+)) Personal protective equipment.

Probable fatality((+(-)))

(a) An occupational injury or illness, which, by the doctor's prognosis, could lead to death.

((2)) (b) An occupational injury or illness, which by its very nature, is considered life threatening.

Protective clothing((+)) Equipment designed to protect the wearer from heat and/or hazardous materials contacting the skin or eyes. Protective clothing is divided into five types:

((1)) (a) Structural firefighting protective clothing;

((2)) (b) Liquid splash-protective clothing;

((3)) (c) Vapor-protective clothing;

((4)) (d) High temperature-protective proximity clothing; and

((5)) (e) Wildland firefighting clothing.

Note: See Protective ensemble.

Protective ensemble((+)) Multiple elements of clothing and equipment designed to provide a degree of protection for firefighters from adverse exposures to the inherent risks of structural firefighting operations and certain other emergency operations. The elements of the protective ensemble are helmets, coats, trousers, gloves, footwear, interface components (hoods), and if applicable, personal alert system (PASS) devices, and self-contained breathing apparatus.

Proximity protective clothing((+)) Radiant reflective protective garments configured as a coat and trousers, or as a coverall, and interface components that are designed to provide protection for the firefighter's body from conductive, convective, and radiant heat.

Pumper((+)) See engine.

Qualified((+)) One who by possession of a recognized degree, certificate or professional standing, or who by knowledge, training or experience has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work or the project.

Rapid intervention crew (RIC)((+)) On-scene team of at least two members designated, dedicated and equipped to

effect an immediate rescue of firefighters if the need arises (also known as RIT).

RCW((+)) Revised Code of Washington.

Rehabilitation((+)) The process of providing mental and medical evaluation, rest, hydration, and nourishment to members who are engaged in emergency operations.

Rescue((+)) Those activities directed at locating endangered persons at an emergency incident and removing those persons from danger.

Rescue craft((+)) Any fire department watercraft used for rescue operations.

Respirator((+)) A device designed to protect the wearer from breathing harmful atmospheres. See respiratory protection.

Respiratory equipment((+)) Self-contained breathing apparatus designed to provide the wearer with a supply of respirable atmosphere carried in or generated by the breathing apparatus. When in use, this breathing apparatus requires no intake of air or oxygen from the outside atmosphere.

((1)) (a) Respirators (closed circuit): Those types of respirators which retain exhaled air in the system and recondition such air for breathing again.

((2)) (b) Respirators (open circuit): Those types of respirators which exhaust exhaled air to the outside of the mask into the ambient air.

((3)) (c) Respirators (demand): Those types of respirators whose input air to the mask is started when a negative pressure is generated by inhalation.

((4)) (d) Respirators (pressure demand): Those types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when the positive pressure is lowered (usually from .018 psi to .064 psi) through the process of inhalation or leakage from the mask.

Respiratory protection((+)) Equipment designed to protect the wearer from the inhalation of contaminants. Respiratory protection is divided into three types:

((1)) (a) Positive pressure self-contained breathing apparatus (SCBA);

((2)) (b) Positive pressure airline respirators;

((3)) (c) Negative pressure air purifying respirators.

Responding((+)) The usual reference to the act of responding or traveling to an alarm or request for assistance.

Risk assessment((+)) To set or determine the possibility of suffering harm or loss, and to what extent.

Rope rescue equipment((+)) Components used to build rope rescue systems including life safety rope, life safety harnesses and auxiliary equipment.

Rope rescue system((+)) A system composed of rope rescue equipment and an appropriate anchor system intended to support people during rescue, firefighting, or other emergency operations, or during training evolutions.

Safe and healthful working environment((+)) The work surroundings of an employee with minimum exposure to unsafe acts and/or unsafe conditions.

Safety net((+)) A rope or nylon strap net not to exceed 6-inch mesh, stretched and suspended above ground level at the base of drill tower, and at such a height that a falling body would be arrested prior to striking the ground.

Scabbard((+)) A guard which will prevent accidental injury and covers the blade and pick of an axe or other sharp instrument when worn by the firefighter.

SCBA((+)) Self contained breathing apparatus.

Service testing((+)) The regular, periodic inspection and testing of apparatus and equipment according to an established schedule and procedure, to insure that it is in safe and functional operating condition.

~~((Shall: Mandatory:))~~

Should((+)) Recommended.

Standard operating procedure or guidelines((+)) An organizational directive that establishes a standard course of action.

Standby firefighters((+)) On-scene members designated to effect an immediate rescue of the initial team operating in the hot zone.

Station (fire station)((+)) Structure in which fire service apparatus and/or personnel are housed.

Structural firefighting((+)) The activities of rescuing, fire suppression, and property conservation involving buildings, enclosed structures, aircraft, vehicles, vessels, or similar properties that are involved in a fire or emergency situation. See interior structural firefighting.

Structural firefighting protective clothing((+)) This category of clothing, often called turnout or bunker gear, means the protective clothing normally worn by firefighters during structural firefighting operations. It includes a helmet, coat, pants, boots, gloves, and a hood. Structural firefighters' protective clothing provides limited protection from heat but may not provide adequate protection from the harmful gases, vapors, liquids, or dusts that are encountered during hazardous materials incidents.

Surf rescue((+)) The rescue of a person(s) who is afloat on the surface or the subsurface retrieval of a person(s) submerged in ocean water or bodies of water that are connected to oceans that either experience a twice daily rise and fall of their surface caused by gravitational pull of the moon or experience a corresponding ebb and flow of water in response to tides with a surf height of 1 foot or greater.

Surface water rescue((+)) The rescue of a person(s) who is afloat on the surface of a body of water. A trained rescuer (surface based swimmer) may dive for submerged victims, limited to the rescuer's ability, with no sustained underwater capability other than a mask, fins, and snorkel in relatively shallow depths and retrieve or mark a victim.

Swift water rescue((+)) The removal of person(s) from threat or harm from water that is moving faster than walking pace (1 Knot, 1.85 km/hr, 1.15 mph).

Tail/running board((+)) Standing space on the side or rear of an engine or pumper apparatus.

Team((+)) Two or more individuals who are working together in positive communication with each other through visual, audible, physical, safety guide rope, electronic, or other means to coordinate their activities and who are in close proximity to each other to provide assistance in case of emergency.

Tillerman((+)) Rear driver of tractor-trailer aerial ladder.

Trench((+)) A narrow excavation made below the surface of the ground. The depth is generally greater than the width, but the width of a trench is not greater than 15 feet.

Turnout clothing((+)) See structural firefighting protective clothing.

Turntable((+)) The rotating surface located at the base of an aerial ladder, or boom, on aerial apparatus.

Uncontrolled fire((+)) Any fire which threatens to destroy life, property, or natural resources; and (a) is not burning within the confines of firebreaks; or (b) is burning with such intensity that it could not be readily extinguished with ordinary tools commonly available.

Urban wildfire((+)) An uncontained fire requiring suppression action, usually spreading through ground cover, vegetative fuels, brush, grass, and landscaping; often threatening residential and commercial structures within an urban environment with access to established roadways and water systems.

Vapor barrier((+)) Material used to prevent or substantially inhibit the transfer of water, corrosive liquids and steam or other hot vapors from the outside of a garment to the wearer's body.

Vapor barrier clothing((+)) Clothing that significantly inhibits or completely prevents sweat produced by the body from evaporating into the outside air. Such clothing includes encapsulating suits, various forms of chemical resistant suits used for PPE, and other forms of nonbreathing clothing.

Variance((+)) An allowed or authorized deviation from specific standard(s) when an employer substitutes measures which afford an equal degree of safety. Variances are issued as temporary or permanent with interim measures issued, when requested, until a determination or decision is made.

Vessel((+)) Means every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, including special-purpose floating structures not primarily designed for or used as a means of transportation on water.

WAC((+)) Washington Administrative Code.

Warm zone((+)) The control zone outside the hot zone where personnel and equipment decontamination and hot zone support take place.

Note: The warm zone is a limited access area for members directly aiding or in support of operations in the hot zone. Significant risk of human injury (respiratory, exposures, etc.) can still exist in the warm zone.

Water rescue((+)) Any incident that involves the removal of victim(s) from any body of water other than a swimming pool. This includes rivers, creeks, lakes, washes, storm drains, or any body of water, whether still or moving.

Wheel blocks (chocks)((+)) A block or wedge placed under a wheel to prevent motion.

Wildland((+)) An area in which development is essentially nonexistent, except for roads, railroads, powerlines, and similar transportation facilities. Structures, if any, are widely scattered.

Wildland fire((+)) Any nonstructure fire that occurs in the wildland.

Wildland firefighting((+)) The activities of fire suppression and property conservation in woodlands, forests, grasslands, brush, and other such vegetation or any combina-

tion of vegetation, that is involved in a fire situation but is not within buildings or structures.

Wildland firefighting enclosure((+)). A fire apparatus enclosure with a minimum of three sides and a bottom.

Wildland urban interface((+)). The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

WISHA((+)). Washington Industrial Safety Health Act.

Work environment((+)). The surrounding conditions, influences or forces to which an employee is exposed while working.

Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control. For the purposes of this code, fireground and emergency scenes are also considered places of employment.

Work/rest ratio((+)). An expression of the amount of rest that is required for each hour an individual is in work status. Current NWCG guidelines require one hour of rest for every two hours in work status.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01007 Variance and procedure. (1) Conditions may exist in operations that a state standard will not have practical use. The director may issue a variance from the requirements of the standard when another means of providing equal protection is provided.

(2) Applications for variances will be reviewed and investigated by the department. Variances granted ((shall)) will be limited to the specific WAC code covered in the application and may be revoked for cause. The variance ((shall)) must remain prominently posted on the premises while in effect.

Note: Variance forms may be obtained from the department upon request. Requests for variance from safety and health standards ((shall)) must be made in writing to the assistant director, Consultation and Compliance Services Division, Department of Labor and Industries, P.O. Box 44600, Olympia, Washington 98504-4600.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01501 Injury and illness reports for firefighters. (1) Notice of injury or illness.

(a) Employees must report work-related injuries or illnesses to their employer before the end of their duty period, but not later than twenty-four hours after the incident.

(b) Exception: In the event that symptoms of an occupational injury or illness are not apparent at the time of the incident, the employee ((shall)) must report the symptoms to ((his/her)) their employer within forty-eight hours after becoming aware of the injury or illness.

(c) Within eight hours after the fatality or probable fatality of any firefighter or employee from a work-related incident or the inpatient hospitalization of any employee as a result of a work-related incident, the employer of any employees so affected, ((shall)) must orally report the fatal-

ity/hospitalization by telephone (1-800-423-7233) or in person, to the nearest office of the department.

(i) This requirement applies to each such fatality or hospitalization which occurs within thirty days of the incident.

(ii) Exception: If any employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this subsection, the employer ((shall)) must make a report within eight hours of the time the incident is reported to any agent or employee of the employer.

(iii) Each report required by this subsection ((shall)) must relate the following information: Establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

(2) Recordkeeping - Written reports; all fire service employers ((shall)) must maintain records of occupational injuries and illnesses. Reportable cases include every occupational death, every occupational illness, or each injury that involves one of the following: Unconsciousness, inability to perform all phases of regular duty-related assignment, inability to work full time on duty, temporary assignment, or medical treatment beyond first aid.

(3) All fire departments ((shall)) must record occupational ((injury)) injuries and illnesses on OSHA Form 300, Log of Work-Related Injuries and Illnesses.

(4) Each employer ((shall)) must post an annual summary of occupational injuries and illnesses for each establishment. This summary ((shall)) must consist of a copy of the year's totals from OSHA Form 300A, Summary of Work-Related Injuries and Illnesses and the following information from that form: Calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. An OSHA Form 300A ((shall)) must be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted. The summary ((shall)) must be completed by February 1 each calendar year. The summary covering the previous calendar year ((shall)) must be posted no later than February 1st, and ((shall)) must remain in place until April 30th.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01503 Accident/incident investigation. (1) After the emergency actions following accidents that cause serious injuries with immediate symptoms or incidents resulting in exposure to occupational disease-causing chemicals or physical agents, a preliminary investigation of the cause ((shall)) must be conducted. The investigation ((shall)) must be conducted by a person designated as qualified by the employer. The fire department ((shall)) must establish a written procedure and a program for investigating, and evaluating the facts, relating to the cause of accidents. The findings of the investigation ((shall)) must be documented by the employer for reference at any following formal investigations.

(2) Equipment involved in an accident resulting in an immediate or probable fatality ((shall)) must not be moved until a representative of the division of occupational safety and health investigates the accident and releases such equipment, except where removal is essential to prevent further accident. When necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

(3) Upon arrival of the department's investigator, the employer ((shall)) must assign personnel to assist the investigator ((such personnel)) as are deemed necessary by the department to conduct the investigation.

(4) The fire department ((shall)) must preserve all records, photographic materials, audio, video, recordings, or other documentation concerning an accident.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01505 Accident prevention program.

(1) All fire departments ((shall)) must develop and implement a written safety program.

(2) Fire department safety programs ((shall)) must have an assigned health and safety officer.

(3) Each employer ((shall)) must develop a formal accident-prevention program, tailored to the needs of the fire department and to the type of hazards involved. The department of labor and industries' consultation and compliance services division may be contacted for assistance in developing appropriate programs.

A safety orientation program describing the employer's safety program ((shall)) must include:

(a) How and when to report injuries, including instruction as to the location of first-aid facilities.

(b) How to report unsafe conditions and practices.

(c) The use and care of required personal protective equipment.

(d) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

(e) Identification of the hazardous gases, chemicals or materials involved, along with the instructions on the safe use and emergency action following accidental exposure.

(f) A description of the employer's total safety program.

(g) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(4) Fire departments ((shall)) must have a safety committee to serve in an advisory capacity to the fire chief. The number of employer-selected members ((shall)) must not exceed the number of employee-elected members.

(5) The frequency of safety meetings ((shall)) must be determined by the safety committee, but ((shall)) must not be less than one hour per calendar quarter, however, special meetings may be held at the request of either party.

(6) Minutes ((shall)) must be taken of all safety meetings. After review by the chief or ((his/her)) their designee the minutes ((shall)) must be conspicuously posted at all stations.

(7) Employee submitted written suggestions or complaints ((shall)) must be considered. Action recommenda-

tions by the committee ((shall)) must be transmitted in writing to the fire chief. The chief or ((his/her)) the designated agent will reply to the submitter.

(8) Inspections of fire stations ((shall)) must be made at least monthly and records maintained to ensure that stations are reasonably free of recognized hazards. These inspections ((shall)) must include, but not be limited to, tools, apparatus, extinguishers, protective equipment, and life safety equipment.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01507 Fire department health and safety officer.

(1) The duties and responsibilities of the fire department health and safety officer ((shall)) must include, but are not limited to:

(a) Plan and coordinate safety activities.

(b) Work closely with the safety committee.

(c) Ensure accidents are investigated.

(d) Devise corrective measures to prevent accidents.

(2) Realizing safety training and recordkeeping are management's responsibility, the fire department health and safety officer ((shall)) must ensure the following requirements are being met:

(a) Ensure safety training for all employees.

(b) Ensure safety directives are complied with.

(c) Ensure that records are kept, but not limited to the following:

(i) Accidents;

(ii) Injuries;

(iii) Inspections;

(iv) Exposures;

(v) Medical monitoring;

(vi) Safety meetings;

(vii) Apparatus;

(viii) Equipment;

(ix) Protective clothing;

(x) Other fire department safety activities.

(3) The fire department health and safety officer, through the fire chief, ((shall)) must have the authority and responsibility to identify and recommend correction of safety and health hazards.

(4) The fire department health and safety officer ((shall)) must maintain a liaison with staff officers regarding recommended changes in equipment, procedures, and recommended methods to eliminate unsafe practices and reduce existing hazardous conditions.

Additional Reference: NFPA 1521 Standard for Fire Department Safety Officer, may be used as a guide for duties and responsibilities relating to the safety officer.

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-305-01509 Management's responsibility.

(1) It ((shall)) must be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:

(a) A safe and healthful working environment, as it applies to both nonemergency and emergency conditions.

(b) An accident prevention program as required by this chapter.

(c) Programs for training employees in the fundamentals of accident prevention.

(d) Procedures to be used by the fire department health and safety officer and incident commander to ensure that emergency medical care is provided for members on duty.

(e) An accident investigation program as required by this chapter.

(f) Policies that clarify "rules of engagement" or parameters when personnel should commit to work activities within a hot zone.

(g) Policies that clarify the right of every employee to notify the employer of potential life-threatening situations during emergency operations and processes that clarify how this notification is to occur.

(2) The fire department ~~((shall))~~ must be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.

(3) Members who are under the influence of alcohol or drugs ~~((shall))~~ must not participate in any fire department operations or other functions. This rule does not apply to persons taking prescription drugs as directed by a physician or dentist providing such use does not endanger the worker or others.

(4) Alcoholic beverages ~~((shall))~~ must not be allowed in station houses, except at those times when station houses are used as community centers, with the approval of management.

(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required safety and health posters. The WISHA poster (WISHA form ~~((F416-081-000))~~ F416-081-909) and other safety education material ~~((shall))~~ must be provided. A bulletin board of "white background" and "green trim" is recommended.

(6) The fire department ~~((shall))~~ must develop and maintain a hazard communication program as required by WAC 296-901-14010, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.

(7) Personnel.

(a) The employer ~~((shall-assure))~~ must ensure that employees are physically capable of performing duties that may be assigned to them.

(b) The employer ~~((shall))~~ must not permit employees with known physical limitations reasonably identifiable to the employer, for example, heart disease or seizure disorder, to participate in physically demanding activities unless the employee has been released to participate in such activities by a physician or other licensed health care professional (LHCP) who is qualified by training or experience as determined by the fire department to evaluate firefighters.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01511 Employee's responsibility. (1) Firefighters ~~((shall))~~ must cooperate with the employer and other employees in efforts to eliminate accidents.

(2) Each firefighter or other employee ~~((shall))~~ must comply with the provisions of this chapter which are applicable to ~~((his/her))~~ their own actions and conduct in the course of ~~((his/her))~~ their employment.

(3) Firefighters and other employees ~~((shall))~~ must notify the appropriate employer representative of unsafe work practices and of unsafe conditions of equipment, apparatus, or work places.

(4) Firefighters and other employees ~~((shall))~~ must apply the principles of accident prevention in their work. They ~~((shall))~~ must use all required safety devices, protective equipment, and safety practices, as provided and/or developed by management.

(5) Each firefighter ~~((shall))~~ must take proper care of all personal protective equipment.

(6) Firefighters ~~((shall))~~ must attend, when on duty, required training and/or orientation programs designed to increase their competency in occupational safety and health.

(7) Firefighters who are under the influence of alcohol or drugs ~~((shall))~~ must not participate in any fire department operations or other functions. This rule does not apply to persons taking prescription drugs as directed by a physician or dentist providing such use does not endanger the worker or others.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01513 Safe place standards. (1) ~~((Every employer shall))~~ The employer must furnish and require the use of appropriate safety devices and safeguards. All work methods, and operations ~~((shall))~~ must be so designed as to promote the safety and health of employees. The employer ~~((shall))~~ must do everything reasonably necessary to protect the safety and health of employees.

(2) No firefighter or other employee, employer or employer representative ~~((shall))~~ must:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.

(b) Interfere in any way with the use of any safety device, method or process adopted for the protection of any employee.

AMENDATORY SECTION (Amending WSR 04-07-160, filed 3/23/04, effective 5/1/04)

WAC 296-305-01515 First-aid training and certification. (1) All firefighters except directors of fire departments and the directors' designated personnel, ~~((shall))~~ must have as a minimum first-aid training as evidenced by a current, valid first-aid card, EMT or First Responder certification.

(2) New firefighters ~~((shall))~~ must have such first-aid training within ~~((90))~~ ninety days of the date of their employ-

ment or enroll for training in the next available class for which they are eligible.

(3) Fire service duties include exposure to bloodborne pathogens. The requirements of this section and chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, ((shall)) must apply.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-01517 First-aid kits. (1) To ((assure)) ensure the emergency medical care of the firefighters there ((shall)) must be present at each emergency incident at least the following items:

- 1 (one) utility scissors, EMT-type
- 1 CPR barrier
- 3 (three) rolls 1 inch adhesive tape
- 6 (six) 4" x 4" sterile, individually wrapped gauze pads
- 4 (four) combination pads, sterile, individually wrapped
- 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
- 2 (two) burn sheets, sterile, individually wrapped
- 2 (two) triangular bandages
- 1 (one) multitrauma dressing, sterile
- 2 (two) supply disposable gloves
- 2 (two) wire splints or equivalent
- (2) All fire stations ((shall)) must maintain a first-aid kit. The kit ((shall)) must contain at least the following items:
 - 6 (six) 4" x 4" sterile, individually wrapped gauze pads
 - 4 (four) combination pads, sterile, individually wrapped
 - 2 (two) rolls 1 inch adhesive tape
 - 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
 - 2 (two) triangular bandages
 - 1 (one) utility scissors, EMT-type
 - 1 (one) pair tweezers
 - 1 (one) package assorted adhesive bandages
- (3) All fire apparatus ((shall)) must contain a first-aid kit as described in WAC ((296-800-150)) 296-800-15020.
- (4) All fire departments providing emergency medical services to the public ((shall)) must conform to the requirements of chapter 18.73 RCW Emergency Care and Transportation Services (and if applicable, chapter 248-17 WAC, Ambulance Rules and Regulations) which require additional first-aid equipment.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-02001 Personal protective equipment and protective clothing.

Note: For wildland firefighting personal protective equipment and clothing requirements see WAC 296-305-07012, Personal protective clothing and equipment for wildland firefighting.

(1) Employers ((shall)) must provide and maintain at no cost to the employee the appropriate protective ensemble/protective clothing to protect from the hazards to which the member is or is likely to be exposed. Information on hazard assessments can be found in WAC 296-800-16005. Employers ((shall)) must ensure the use of all protective

equipment and clothing required by this standard. Full protective equipment designated for the task, ((shall)) must be worn for all department activities.

(2) Firefighters ((shall)) must be trained in the function, donning and doffing, care, use, inspection, maintenance and limitations of the protective equipment assigned to them or available for their use.

(3) Protective clothing and protective equipment ((shall)) must be used and maintained in accordance with manufacturer's instructions. A written maintenance, repair, retirement, servicing, and inspection program ((shall)) must be established for protective clothing and equipment. Specific responsibilities ((shall)) must be assigned for inspection and maintenance. This requirement applies to firefighter's personally owned equipment as well as equipment issued by the employer.

(4) The fire department ((shall)) must provide for the cleaning of protective clothing and contaminated station/work uniforms at no cost to the employee. Such cleaning ((shall)) must be performed by either a cleaning service, or at a fire department facility, that is equipped to handle contaminated clothing. If the fire department does its own cleaning, they ((shall)) must follow the manufacturer's recommended cleaning procedure or the 2008 edition of NFPA 1851, Standard on Selection, Care and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting.

(5) Personal protective equipment and clothing ((shall)) must be of a type specified by NIOSH, MSHA, NFPA, ANSI, or as specifically referenced in the appropriate section of this chapter.

(6) Station/work uniforms. Station/work uniforms are not themselves intended as primary protective garments.

(a) Station/work uniforms if provided, ((shall)) must meet the requirements as specified in the 1990 or 1994 edition of NFPA 1975, Standard on Station/Work Uniforms for Fire and Emergency Services. However, departments are not required to provide station/work uniforms for their employees.

(b) Station/work uniforms include trousers, and/or coveralls, but exclude shirts, underwear, and socks.

(c) Members ((shall)) must not wear any clothing that is determined to be unsafe due to poor thermal stability or poor flame resistance when engaged in or exposed to the hazards of structural firefighting. The fire department ((shall)) must inform members of the hazards of fabrics that melt, drip, burn, stick to the skin and cause burns to the wearer due to poor thermal stability or poor flame resistance, and ((shall)) must prohibit their use by employees. Garments that are not provided by the employer, and that are made from all or mostly cotton, will meet the requirements of this section.

(d) Garments meeting the requirements of WAC 296-305-07012(1), meet the intent of this section.

(7) Proximity firefighting clothing:

(a) All turnout clothing used as proximity clothing ((shall)) must meet the requirements of the 2000 edition of NFPA, 1976 Standard on Protective Ensemble for Proximity Firefighting.

(b) There ((shall)) must be at least a two-inch overlap of all layers of the protective coat and the protective trousers so

there is no gaping of the total thermal protection when the protective garments are worn. The minimum overlap ~~((shall))~~ must be determined by measuring the garments on the wearer, without SCBA, with the wearer in the most stretched position, hands together reaching overhead as high as possible.

(c) Single piece protective coveralls ~~((shall))~~ must not be required to have an overlap of all layers as long as there is continuous full thermal protection.

(d) Fire departments that provide protective coats with protective resilient wristlets secured through a thumb opening may provide gloves of the gauntlet type for use with these protective coats. Fire departments that do not provide such wristlets attached to all protective coats ~~((shall))~~ must provide gloves of the wristlet type for use with these protective coats.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-02002 Structural firefighting clothing (SFF). (1) All SFF clothing purchased after January 1, 2014, ~~((shall))~~ must meet the requirements of the 1991 edition of NFPA 1971, Standard on Protective Clothing for Structural Fire Fighting, or the 1997 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting. Firefighters ~~((shall))~~ must not wear personal protective clothing manufactured prior to 1991, except for training purposes in nonhazardous areas.

(2) SFF clothing ~~((shall))~~ must be maintained as specified by the manufacturer.

(3) Repairs to SFF clothing ~~((shall))~~ must be done to the manufacturer's specification by qualified individuals approved by the manufacturer. Repairs must be made using materials and methods in accordance with the applicable standards under which the article was produced. Repairs include any and all alterations, modifications, additions, deletions or any other change made to the manufacturer's PPE article.

(4) SFF clothing which is damaged or doesn't comply with this section ~~((shall))~~ must not be used.

(5) All SFF clothing ~~((shall))~~ must be inspected semiannually by an individual qualified by the employer. Inspection intervals ~~((shall))~~ must not exceed six months.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-02004 Protection ensemble for structural firefighting. (1) **Face and eye protection.**

(a) Face and eye protection shall be provided for and used by firefighters engaged in fire suppression and other operations involving hazards to the eye and face at all times when the face isn't protected by the full facepiece of the SCBA. Primary face and eye protection appropriate for a given specific hazard ~~((shall))~~ must be provided for, and used by, members exposed to that specific hazard. Such primary face and eye protection ~~((shall))~~ must meet the requirements of the 2003 edition of ANSI Z87.1.

(b) Persons whose vision requires the use of corrective lenses in spectacles, and who are required by this standard to

wear eye protection, ~~((shall))~~ must wear goggles or spectacles of one of the following types:

(*) (i) Spectacles with protective lenses that provide optical correction.

(*) (ii) Goggles that can be worn over corrective spectacles without disturbing the adjustment of the spectacles.

(*) (iii) Goggles that incorporate corrective lenses mounted behind the protective lens.

(c) When limitations or precautions are indicated by the manufacturer, they ~~((shall))~~ must be transmitted to the user and care taken to see such limitations and precautions are strictly observed.

(d) Care, use and maintenance for any type of eye or face protection ~~((shall))~~ must follow the manufacturer's suggested recommendations.

(e) Goggles ~~((shall))~~ must be inspected, cleaned and disinfected prior to being reissued to other employees.

(f) Helmet face shields ~~((shall))~~ must meet the requirements of the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

Note: The helmet face shield alone doesn't always provide adequate eye protection against flying particles, splash, gases and vapors. For known eye hazards, such as cutting with power saws, chopping, drilling and using extrication equipment, the face shield should be worn with additional eye protection.

(g) For firefighters that don't have a helmet face shield, flexible or cushioned fitting goggles ~~((shall))~~ must be provided.

(h) Goggles ~~((shall))~~ must consist of a wholly flexible frame, forming a lens holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area.

(i) Materials used ~~((shall))~~ must be chemical-resistant, nontoxic, nonirritating and slow burning.

(ii) There ~~((shall))~~ must be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortably and snugly in front of the eyes.

(2) **Hearing protection.** Fire departments must address noise issues as required by chapter 296-817 WAC, Hearing loss prevention (noise).

Note: Although noise levels may exceed the 115 dBA ceiling limit for noise exposures during structural firefighting activities, hearing protection that will survive these conditions and not interfere with other essential PPE may not always be available. Fire departments must consider daily noise exposures and exposures to noise outside direct firefighting activities when selecting hearing protection and may use less protection during direct fire suppression when adequate hearing protection isn't technically feasible.

(3) **Hand protection.**

(a) Firefighters' gloves ~~((shall))~~ must, when worn with turnout clothing, provide protection to the wrist area. In turnout clothing where wristlet protection isn't provided firefighters' gloves ~~((shall))~~ must be tight-fitting at the top.

(b) Fire departments ~~((shall))~~ must establish written policy and procedure for the care, use, cleaning, replacement or retirement criteria for gloves issued.

(c) Firefighters' gloves used during structural firefighting operations including rescue of victims from fires or emer-

agency medical operations where sharp or rough surfaces are likely to be encountered ((shall)) must meet the requirements of the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

Notes: ((*) 1. Firefighters' gloves aren't designed to provide protection against all environments. For gloves needed to fulfill a specific requirement see that specific section of this chapter. It is the intent of this section to provide protection from intrusion through the glove by certain chemicals and from bloodborne pathogens. Consult the glove manufacturers' recommendations.

((*) 2. Firefighters' hands should be sized for compliance using the sizing chart specified in the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(4) **Body protection.** Body protection ((shall)) must be coordinated with torso, hand, head, foot, respiratory, and face protection as outlined in WAC 296-305-02001 through 296-305-02019 and 296-305-04001.

(5) **Foot protection.**

(a) Protective footwear purchased after January 1, 2014, ((shall)) must comply with the 2007 or later edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(b) Fire departments ((shall)) must establish written policies and procedures on the use, maintenance, and retirement criteria for footwear in conjunction with the manufacturer's recommendations.

Note: Fire departments should establish cleaning and drying instructions for protective footwear, including applicable warnings regarding detergents, soaps, cleaning additives and bleaches.

(c) Firefighter footwear may be resoled, but upon resoling the footwear ((shall)) must meet the requirements specified in this section.

(6) **Head protection.** Firefighters who engage in or are exposed to the hazards of structural firefighting ((shall)) must be provided with and use helmets that meet, as a minimum, the requirements of the 1987 edition of NFPA 1972, Standard on Helmets for Structural Fire Fighting.

(a) Helmets purchased after January 1, 2014, ((shall)) must comply with the 2007 or later edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(b) Fire departments ((shall)) must establish a written policy and procedure for the care, use, maintenance and retirement criteria for helmets, following the manufacturer's recommendations.

(c) Helmet accessories ((shall)) must not interfere with the function of the helmet or its parts, and ((shall)) must not degrade the helmet's performance.

(d) Firefighters ((shall)) must follow the manufacturer's recommendations regarding inspection, cleaning, painting, marking, and storage of helmets.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-02012 Body armor. Fire departments that use protective body armor ((shall)) must comply with the following:

(1) If the employer's PPE assessment required by WAC 296-800-16005 documents a need for body armor, the

employer must provide the necessary equipment and ensure that:

(a) The body armor fits properly;

(b) Employees are trained in the use and limitations of the body armor; and

(c) The body armor is worn when necessary.

Note: Employees may exceed the minimum requirements for body armor if they choose.

(2) The fire department ((shall)) must develop and have in place written guidelines for the care, use and maintenance of the protective body armor in conjunction with the manufacturer's recommendations.

(3) All protective body armor purchased prior to the effective date of this standard ((shall)) must meet or exceed the April 1987 edition of National Institute of Justice NIJ 0101.03, threat level II requirements, or be demonstrated by the employer to be equally effective. All protective body armor purchased after the effective date of this standard must meet either the September 2000 edition of NIJ 0101.04, threat level II requirements or the June 2001 revision, NIJ 0101.04A. All body armor made of decertified materials as outlined in the 2005 edition of NIJ 0101.05 should be removed from service as soon as replacement body armor is available.

(4) Body armor ((shall)) must be correctly fitted following the manufacturer's recommendations and ((shall)) must not be used beyond the manufacturer's warranty.

Note: DOSH Directive 5.09, Body Armor as Personal Protective Equipment, can provide additional guidance regarding selection of body armor.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-02017 Personal alert safety system (PASS) protection. (1) Each firefighter engaged in structural firefighting requiring the use of SCBA ((shall)) must wear and use a PASS device. PASS devices ((shall)) must meet the requirements of the 1993 edition of NFPA 1982, Standard on Personal Alert Safety Systems (PASS) for Firefighters. (See WAC 296-305-07001 through 296-305-07018 for wildland firefighting application.)

Note: Fire departments should provide one spare PASS device for each ten units in service. If a department has less than ten devices they should have one spare.

(2) Each PASS device ((shall)) must be tested routinely to ensure it is ready for use and immediately prior to each use, and shall be maintained in accordance with the manufacturers' instructions.

(3) Fire departments ((shall)) must provide written procedures for the use of PASS devices.

(4) Fire departments ((shall)) must establish a written procedure for the care, use, maintenance, and repair of PASS devices in conjunction with manufacturer's recommendations.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection. (1) All previously purchased life safety ropes, harnesses, and hardware used by fire departments ~~((shall))~~ must meet the applicable requirements of the 2001 edition of NFPA 1983, Standard on Life Safety Rope and System Components. Ropes and equipment purchased after the effective date of this rule must meet the 2006 edition of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services.

(2) Ropes used to support the weight of members or other persons during rescue, firefighting, other emergency operations, or during training evolutions ~~((shall))~~ must be life safety rope.

(3) Life safety rope used for rescue at fires, or other emergency incidents, or for training, ~~((shall))~~ must be permitted to be reused if inspected before, and after, each such use in accordance with the manufacturer's instructions and provided:

(a) The rope has not been visually damaged by the exposure to heat, direct flame impingement, chemical exposure, or abrasion.

(b) The rope has not been subjected to any impact load.

(c) The rope has not been exposed to chemical liquids, solids, gases, mists, or vapors of any materials, known to deteriorate rope.

(d) If the rope used for rescue at fires or other emergency incidents, or for training, has been subjected to (a), (b), or (c) of this section, or fails the visual inspection, it ~~((shall))~~ must be destroyed after such use.

(e) If there is any question regarding the serviceability of the rope after consideration of the above, the safe course of action ~~((shall))~~ must be taken and the rope ~~((shall))~~ must be placed out of service. See Appendix B.

(f) Rope inspection ~~((shall))~~ must be conducted by qualified inspectors in accordance with rope inspection procedures established and recommended as adequate by the rope manufacturer to assure rope is suitable for reuse.

(4) Fire departments ~~((shall))~~ must establish written procedures for the use of life safety ropes and rescue operations utilizing harnesses and ropes.

(5) Records ~~((shall))~~ must provide a history of each life safety and training rope. The minimum information to be reflected in the record of history of life safety and training ropes ~~((shall))~~ must include: Date of manufacturer, organization serial number, date of use, type of use, date of inspection, inspectors name and space for comments.

(6) The destruction of a rope means that it ~~((shall))~~ must be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This includes disposal or removal of labels and cutting into short lengths to be used for utility purposes.

(7) All repairs to life safety harnesses ~~((shall))~~ must be done by an authorized manufacturer's representative, or the manufacturer.

(8) At a minimum, ladder belts ~~((shall))~~ must be used for firefighter attachment to ladders and aerial devices.

(9) Class II and Class III life safety harnesses ~~((shall))~~ must be utilized for fall arrest and rappelling operations.

Class III harnesses ~~((shall))~~ must be used when the potential to become inverted exists.

(10) Life safety ropes ~~((shall))~~ must be padded when deployed over edges or rough surfaces.

Note: See WAC 296-305-05113 for rope rescue applications.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-02501 Emergency medical protection.

(1) Firefighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids ~~((shall))~~ must be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of the 1999 edition of NFPA 1999, Standard on Protective Clothing for Emergency Medical Operations.

Note: Prior to purchase, fire departments should request the technical data package required in the 2003 edition of NAPA 1999, in order to compare glove and garment performance data. Departments reviewing these packages should ensure a relative ranking of the performance data before they purchase in order to provide the best performance of the EMS personal protective clothing.

(2) Firefighters ~~((shall))~~ must don emergency medical gloves and eye protection prior to initiating any emergency patient care.

(3) Firefighters ~~((shall))~~ must don emergency medical garments prior to any patient care during which splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Firefighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(4) Contaminated emergency medical garments, emergency medical face and eye protection, gloves, devices, and emergency medical gloves ~~((shall))~~ must be cleaned and disinfected, or disposed of, in accordance with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

(5) Fire departments ~~((shall))~~ must establish a designated infection (exposure) control officer who ~~((shall))~~ must ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(6) The infection control officer ~~((shall))~~ must be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(7) The infection control officer or ~~((his/her))~~ their designee will function as a liaison between area hospitals and fire department members to provide notification that a communicable disease exposure is suspected or has been determined by hospital medical personnel. The department infection control officer will institute the established exposure protocols immediately after report of an exposure. The infection control officer ~~((shall))~~ must follow the confidentiality requirements of chapter 246-100 WAC and the medical protocol requirements of chapter 296-802 WAC.

(8) Fire departments ~~((shall))~~ must have a written infection control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the

infection control officer and all members affected; education and training; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(9) Policy statements and standard operating procedure guidelines ((~~shall~~) must) provide general guidance and specific regulation of daily activities. Procedures ((~~shall~~) must) include delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(10) Fire departments ((~~shall~~) must) establish a records system for members health and training.

(11) Firefighters ((~~shall~~) must) be trained in the proper use of P.E., exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(12) Infectious disease programs ((~~shall~~) must) have a process for monitoring firefighters compliance with established guidelines and a means for correcting noncompliance.

(13) Fire department members ((~~shall~~) must) be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(14) Fire departments ((~~shall~~) must) comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, in its entirety.

(15) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Firefighters ((~~shall~~) must) wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NIOSH-approved, 95% efficient particulate air respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests ((~~shall~~) must) be done in accordance with chapter 296-842 WAC.

(c) Employee tuberculosis screening ((~~shall~~) must) be provided in accordance with current U.S. Centers for Disease Control and Prevention guidelines.

Note: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-03002 Hazardous materials. (1) Fire department personnel involved in hazardous materials incidents ((~~shall~~) must) be protected against potential chemical hazards. Chemical protective clothing ((~~shall~~) must) be selected according to the technical data package provided by the clothing manufacturer and used to protect the skin, eyes, face, hands, feet, head and body.

(2) Fire departments must select, provide, and require the use of additional personal protective equipment as required in chapter 296-842 WAC, Respiratory protection.

(3) Hazardous chemical protective equipment ((~~shall~~) must) be classified by performance and is defined as:

(a) Vapor-protective suits (level A) meeting the criteria outlined in the 2000 edition of NFPA 1991, Standard on Vapor-Protective Ensembles for Hazardous Materials Emergencies.

(b) Liquid splash-protective suits (level B) meeting the criteria outlined in the 2000 edition of NFPA 1992, Standard on Liquid Splash-Protective Ensembles and Clothing for Hazardous Materials Emergencies.

(c) CBRN terrorism incident protective ensembles and ensemble elements meeting the criteria outlined in the 2001 edition of NFPA 1994, Standard on Protective Ensembles for First Responders to CBRN Terrorism Incidents.

(4) Vapor protective ensembles, liquid splash-protective ensembles, and CBRN protective ensembles ((~~shall~~) must) completely cover both the wearer and the wearer's respiratory protection unless the respiratory protection has been specifically designed by the manufacturer for that type of chemical exposure.

(5) Vapor protective suits and liquid splash-protective suits ((~~shall~~) must) not be used alone for any firefighting applications or for protection from radiological, biological, or cryogenic agents or in flammable or explosive atmospheres.

(6) Liquid splash-protective suits ((~~shall~~) must) not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with known or suspected carcinogenicity as indicated by any one of the following documents if it can be reasonably expected that the firefighters in vapor-protective suits would be significantly better protected:

(a) Dangerous Properties of Industrial Chemicals, 10th edition-2000, N. Irving Sax.

(b) NIOSH Pocket Guide to Chemical Hazards, 2006 edition.

(c) U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), Volume 13, Hazardous Chemical Data.

(7) Liquid splash-protective suits ((~~shall~~) must) not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with skin toxicity notations as indicated by the American Conference of Government Industrial Hygienists (ACGIH) Threshold Limit Values for Chemical Substances and Agents and Biological Exposure Indices for 2004 or 2007 if it can be reasonably expected that firefighters in vapor-protective suits would be significantly better protected.

(8) Firefighters assigned to functional support operations outside the hot zone during hazardous chemical emergencies ((~~shall~~) must) be provided with and ((~~shall~~) must) use personal protective garments appropriate for the type of potential chemical hazard exposure.

(9) Fire departments responding to uncontrolled release of hazardous materials must comply with chapter 296-824 WAC, Emergency response.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-04001 Respiratory equipment protection. (1) Firefighter's self-contained breathing apparatus (SCBA) ~~((shall))~~ must, at a minimum, meet the requirements of the 1997 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters. Equipment purchased after the effective date of this rule must meet the 2007 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Emergency Services.

(2) Closed circuit SCBA ~~((shall))~~ must:

- (a) Be positive pressure;
- (b) Be NIOSH certified; and
- (c) Have a minimum thirty-minute service duration.

(3) Members using ~~((SCBA's shall))~~ SCBAs must operate in teams of two or more.

(4) Except as otherwise provided in this chapter, fire departments ~~((shall))~~ must adopt, maintain and implement a written respiratory protection program that addresses the requirements of chapter 296-842 WAC, Respiratory protection. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional information on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection and various NFPA publications (1981, 1404, 1500, etc.).

(5) Reserved.

(6) When the fire department makes its own breathing air or uses vendor supplied breathing air, they ~~((shall))~~ must maintain documentation certifying breathing air quality. The breathing air ~~((shall))~~ must:

(a) Be tested at least quarterly by using an air sample taken from the same outlet and in the same manner as the respirator breathing air cylinders are filled or air line respirators are connected.

(b) Meet the requirements of either the 2003 edition of NFPA 1989, Standard on Breathing Air Quality for Fire and Emergency Services Respiratory Protection or the 1997 edition of ANSI/CGA G6-1 - Commodity Specification for Air, with a minimum air quality of grade D.

(c) Meet a water vapor level of 24 ppm or less.

(7) Fit testing ~~((shall))~~ must be conducted in accordance with this section and chapter 296-842 WAC, Respiratory protection.

(a) Each new member shall be tested by a qualitative or quantitative method before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only firefighters with a properly fitting facepiece ~~((shall))~~ must be permitted by the fire department to function in a hazardous atmosphere with SCBA.

(c) Fit testing ~~((shall))~~ must be repeated:

- (i) At least once every twelve months.
- (ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant physical changes in the user. Example: Weight change of ten percent or more,

scarring of face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification ~~((shall))~~ must not affect the normal fit of the device. Such modified devices ~~((shall))~~ must only be used for fit testing.

(e) The fit test procedures and test exercises described in WAC 296-842-15005 and 296-842-22010 ~~((shall))~~ must be followed unless stated otherwise in this chapter.

(f) Respirator fit test records ~~((shall))~~ must include:

- (i) Written guidelines for the respirator fit testing program including pass/fail criteria;
- (ii) Type of respirator tested including manufacturer, model, and size;
- (iii) Type of fit test and instrumentation or equipment used;
- (iv) Name or identification of test operator;
- (v) Name of person tested;
- (vi) Date of test; and
- (vii) Results of test.

Note: Firefighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece ~~((shall))~~ must not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator ~~((shall))~~ must not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If corrective lenses must be worn with a facepiece, they ~~((shall))~~ must be worn so as to not adversely affect the seal of the facepiece to the face. See WAC 296-842-18005(3).

(d) Straps or temple bars ~~((shall))~~ must not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) Gross/field decontamination ~~((shall))~~ must be performed on firefighters prior to removal of their respirator whenever firefighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions ~~((shall))~~ must be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment ~~((shall))~~ must be available and used by all firefighters who enter into hazardous atmospheres during structural firefighting activities.

(11) Reserved.

(12) Respirators ~~((shall))~~ must be provided for, and shall be used by, all personnel working in areas where:

- (a) The atmosphere is hazardous;
- (b) The atmosphere is suspected of being hazardous; or
- (c) The atmosphere may rapidly become hazardous.

Reference: See WAC 296-305-05002(13) for additional requirements.

(13) Reserved.

(14) Firefighters using a properly functioning SCBA ((shall)) must not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(15) Firefighters ((shall)) must receive training for each type and manufacturer of respiratory equipment available for their use, the step-by-step procedure for donning the respirator and checking it for proper function. Required training ((shall)) must include:

- (a) Recognizing hazards that may be encountered;
- (b) Understanding the components of the respirator;
- (c) Understanding the safety features and limitations of the respirator; and
- (d) Donning and doffing the respirator.

(16) After completing such training, each firefighter ((shall)) must practice at least quarterly, for each type and manufacture of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

(17) Members ((shall)) must be tested at least annually on the knowledge of respiratory protection equipment operation, safety, organizational policies and procedures, and facepiece seals, to the fire department's standard. Such records ((shall)) must remain part of the member training file.

(18) Members ((shall)) must be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last twelve months.

(19) In cases where there is a reported failure of a respirator, it ((shall)) must be removed from service, tagged and recorded as such, and tested before being returned to service.

(20) Firefighters ((shall)) must be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(21) Reserved.

(22) SCBA cylinders ((shall)) must be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-04501 Automotive fire apparatus design and construction. (1) All new fire apparatus with the exception of specialized equipment, ((shall)) must conform to the following minimum safety standards contained in the 2009 edition of NFPA 1901, Standard for Automotive Fire Apparatus, or the 2006 Edition of NFPA 1906, Standard for Wildland Fire Apparatus.

(2) Used fire apparatus, purchased after the effective date of this rule, weighing 10,000 pounds or more ((shall)) must conform with the following U.S. Department of Transportation standards, when applicable:

(a) 49 C.F.R. Ch. V (10-03 edition) 571.121 "Air brake systems";

(b) 49 C.F.R. Ch. V (10-03 edition) 571.106 "Brake hoses";

(c) 49 C.F.R. Ch. V (10-03 edition) 571-103 "Hydraulic brake systems."

(3) Employers acquiring used apparatus or used equipment ((shall)) must not be required to bring it under a more stringent code than the one in force at the time the apparatus was manufactured. However, such vehicle must meet applicable U.S. Department of Transportation standards and chapter 296-865 WAC, Motor vehicles.

(4) Fire apparatus tailboards and steps ((shall)) must have a nonskid rough surface.

(5) Exhaust systems ((shall)) must be installed and maintained in proper condition, and ((shall)) must be so designed as to minimize the exposure of the firefighter to the exhaust gases and fumes.

(6) Spinner knobs ((shall)) must not be attached to the steering handwheel of fire apparatus.

(7) The transmission shifting pattern of the apparatus ((shall)) must be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(8) The height of any apparatus, over seven feet in height from the ground to the top of the beacon or highest point of the apparatus, ((shall)) must be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(9) All apparatus in excess of 10,000 pounds loaded weight, ((shall)) must have the weight of the vehicle in pounds and tons clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(10) All hoses and equipment ((shall)) must be secured to prevent unintentional or inadvertent deployment.

(11) Fire departments that purchase nonmotorized equipment to be used in emergency response situations on all roadways must comply with Title 46 RCW, Motor vehicles.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-04503 Automotive fire apparatus equipment. (1) Vehicles used to transport firefighters and employer representatives ((shall)) must have compartments for carrying sharp tools, saws, chisels, axes, etc., or if carried on the outside of the apparatus, equipment with sharp points and edges ((shall)) must be covered to prevent injury to firefighters and employer representatives.

(2) Personnel restraints for traveling.

(a) All persons riding on fire apparatus ((shall)) must be seated and secured to the vehicle by seat belts or safety harnesses at any time the vehicle is in motion.

(b) Seat belts ((shall)) must comply with U.S. Department of Transportation Part 49 C.F.R. Section 571, Standards 209 and 210.

(c) Riding on tailsteps or in any other exposed position such as sidesteps or running boards ((shall)) must be specifically prohibited.

(d) Standing while riding ((shall)) must be specifically prohibited.

(e) Members actively performing necessary emergency medical care while the vehicle is in motion ~~((shall))~~ must be restrained to the extent consistent with the effective provision of such emergency medical care. All other persons in the vehicle ~~((shall))~~ must be seated and belted in approved seating positions while the vehicle is in motion.

(f) Fire departments permitting hose loading operations while the vehicle is in motion ~~((shall))~~ must develop a written policy and guidelines addressing all safety aspects.

Note: Policy and operating guidelines should address:

- ~~((*)~~) 1. The assigning of a member as a safety observer who should have an unobstructed view of the hose loading operation and be in visual and voice contact with the driver.
- ~~((*)~~) 2. Allowed maximum fire apparatus speed when hose loading;
- ~~((*)~~) 3. Control of nonfire department vehicular traffic; and
- ~~((*)~~) 4. Allowing members in the hose bed, but limit standing to only when the vehicle is not moving.

Note: See WAC 296-305-07018(3) for exceptions for wildland vehicles.

(3) Each fire apparatus ~~((shall))~~ must carry a current U.S. Department of Transportation Emergency Response Guidebook in hardcopy or in electronic form for viewing on a digital reading device.

(4) Ladders stowed on the sides of apparatus, which protrude past the tailboard, ~~((shall))~~ must have guards over the protruding ends.

(5) No employer ~~((shall))~~ must permit automotive fire apparatus equipment which has an obstructed view to the rear, to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-04505 Automotive apparatus operational rules. (1) Each employer of staffed fire apparatus ~~((shall))~~ must establish a written policy and procedure whereby the apparatus has a scheduled daily operational check. Each employer of unstaffed fire apparatus ~~((shall))~~ must establish a schedule appropriate to that department's activities.

(2) Any item found to be in need of repair ~~((shall))~~ must be reported immediately to the officer in charge or other appropriate person.

(3) Firefighting apparatus ~~((shall))~~ must be brought to a full stop before employees are allowed to step from the apparatus.

(4) Firefighters ~~((shall))~~ must not be in the apparatus hose bed while hose is being run out from the bed.

(5) Headlights ~~((shall))~~ must be on at all times when any fire or emergency vehicle is responding to a call.

(6) All apparatus over 20,000 pounds (gross vehicle weight) ~~((shall))~~ must utilize wheel chocks, rated for the specific apparatus they are being used with, when parked at an emergency scene.

(7) Apparatus responding to alarms ~~((shall))~~ must meet specifications in RCW 46.61.035, relating to operations of authorized emergency vehicles.

(8) All operators of emergency vehicles ~~((shall))~~ must be trained in the operations of apparatus before they are designated as drivers of such apparatus. The training program ~~((shall))~~ must be established by each fire department. Once trained, all operators ~~((shall))~~ must familiarize themselves with any apparatus prior to operating such apparatus even for brief periods of time.

Additional Reference: Washington Fire Chiefs - Emergency Vehicle Incident Prevention (EVIP) program or other Washington state accredited program.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-04507 Fire apparatus maintenance and repair. (1) If at any time a fire apparatus is found to be in an unsafe condition, it ~~((shall))~~ must be reported immediately to the officer on duty.

(2) If in the driver or duty officer's determination, the apparatus cannot be used in a safe manner, it ~~((shall))~~ must be taken out of service until it has been restored to a safe operating condition.

(3) All repairs to the suppression components of emergency vehicles of the fire department ~~((shall))~~ must be done by an emergency vehicle technician, ASE certified technician or factory qualified individual. Repairs, maintenance or routine work to nonsuppression systems of suppression apparatus or other fire department vehicles and their equipment ~~((shall))~~ must be done by personnel qualified in the specific area of repair. Fire service pumps with a capacity of 499 gallons per minute or less and not used for interior structural firefighting operations are exempt from this requirement.

(a) A preventive maintenance program ~~((shall))~~ must be instituted and records maintained for each individual apparatus in order to record and track potential or on-going problems.

(b) Apparatus ~~((shall))~~ must be maintained and tested in accordance with the manufacturer's recommendations.

Note: Additional information can be found in the 2007 edition of NFPA 1911, Standard for the Inspection, Maintenance, Testing and Retirement of In-service Automotive Fire Apparatus. Qualifications for persons working on emergency response vehicles can be found in the 2000 edition of NFPA 1071, Standard for Emergency Vehicle Technician Professional Qualification, A.1.1 and A.2.1.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-04510 Aerial apparatus. (1) All new aerial devices ~~((shall))~~ must be constructed and initially tested in accordance with the 2009 edition of NFPA 1901, Standard for Automotive Apparatus.

(2) All aerial devices ~~((shall))~~ must be operated in accordance with the manufacturer's recommendations.

(3) All aerial devices ~~((shall))~~ must be maintained, tested and repaired in accordance with the manufacturer's instructions and nonconflicting portions of the 2002 edition of

NFPA 1911, Standard for the Inspection, Maintenance, Testing and Retirement of In-Service Automotive Fire Apparatus.

(a) All devices, as well as the section of the apparatus which supports the turntable, ~~((shall))~~ must be inspected at least once every year.

(b) All devices, as well as the section of the apparatus which supports the turntable, ~~((shall))~~ must be nondestructively tested by a certified testing agency every five years.

(c) After any accident that causes structural damage, testing ~~((shall))~~ must be performed and all defects corrected before the apparatus is returned to service.

(4) Aerial devices ~~((shall))~~ must be used according to the following requirements:

(a) The number of firefighters permitted on aerial devices ~~((shall))~~ must be in accordance with the manufacturer's instructions.

(b) Aerial devices ~~((shall))~~ must not be positioned under dangerous cornices or other loose overhanging objects that may endanger firefighters and personnel working from or climbing the ladders, except where rescue operations are essential.

(c) When working near energized electrical lines, the following minimum working clearances for all equipment and personnel ~~((shall))~~ must be observed:

(i) For lines rated 50 kv or below, the minimum clearance between the lines and any part of the equipment ~~((shall))~~ must be ten feet.

(ii) For lines rated over 50 kv, the minimum clearance ~~((shall))~~ must be ten feet plus 0.4 inch (1 cm) for each 1 kv.

(iii) For low voltage lines (operating at 600 volts or less), the work ~~((shall))~~ must be performed in a manner to prevent the firefighters or equipment from contacting the energized conductor.

(d) Fire apparatus aerial devices ~~((shall))~~ must be positioned for the greatest stability feasible at the fire scene.

(e) The tip of the aerial device ~~((shall))~~ must not be forcefully extended against a solid structure.

Note: If allowed by manufacturer's recommendations, aerial devices may be utilized for ventilation in accordance with those recommendations.

(f) Aerial ladders ~~((shall))~~ must not be extended or retracted while firefighters are climbing the ladder.

(g) Locking in ~~((shall))~~ must not be permitted. If it is necessary for firefighters to be positioned on the aerial device, they ~~((shall))~~ must be secured by at least a ladder belt.

(h) Ladder pipes, when in use, ~~((shall))~~ must be secured to the aerial in such a manner so that the ladder pipe cannot accidentally be dislodged while in operation.

(i) The operator of an aerial device ~~((shall))~~ must remain on the turntable whenever firefighters are working from the aerial. If the aerial device is used only as a ground ladder, no operator is needed on the turntable.

(5) The following ~~((shall))~~ must regulate the design and use of the operating turntable and aerial device:

(a) Ladders ~~((shall))~~ must have nonskid protection on the rungs.

(b) Turntable controls and valves for rotating, extending or elevating the aerial device ~~((shall))~~ must be clearly and distinctly marked as to function.

(c) Aerial controls ~~((shall))~~ must be spring loaded and have a safety catch so that the controls ~~((shall))~~ will return to the neutral position if the operator is incapacitated.

(d) The operator of the aerial device ~~((shall))~~ must be provided with a nonskid surface on the turntable.

(e) A railing of approximately forty-four inches in height, and if possible, not less than thirty-six inches in length, ~~((shall))~~ must be installed on the turntable in back of the operator's position.

(f) A spotlight of not less than 75,000 candlepower (950,000 lumens) or a floodlight with not less than 850 cp (10,500 lumens) ~~((shall))~~ must be provided at the base to illuminate the aerial device at night in any position of operation.

(6) The following ~~((shall))~~ must regulate the communication systems on the aerial devices and on the automotive fire apparatus:

(a) A two-way voice communication system ~~((shall))~~ must be installed between the top fly of the ladder or platform and the lower control station.

(b) There ~~((shall))~~ must be some type of electrical signal or voice communication located in the tractor of tillered aerial for communication signals between the tillerman and driver. The apparatus ~~((shall))~~ must not be moved unless the proper signal, as shown in Appendix E, is received from the tillerman.

(7) The automotive fire apparatus used in conjunction with aerial devices ~~((shall))~~ must be used according to the following:

(a) Ground jacks or outriggers ~~((shall))~~ must be deployed before an aerial device is put into operation.

(b) Ground plates ~~((shall))~~ must be deployed under the outriggers or jacks at all times.

(c) Hand, airbrakes, and spring brakes ~~((shall))~~ must be set whenever an aerial device is in operation.

(d) In addition to ground jack supports and outriggers, wheel chocks ~~((shall))~~ must be used whenever the aerial device is in operation.

(e) Wheel chocks ~~((shall))~~ must be rated by the manufacturer of the chock for the apparatus it is to be used on.

(f) Sand or similar products ~~((shall))~~ must be put under jacks, outriggers, and ground plates when operating on ice or snow.

(8) Railings on elevated platforms ~~((shall))~~ must be constructed so that there is no opening greater than twenty-four inches below them.

(9) A plate ~~((shall))~~ must be located at the aerial device control units, clearly visible to the operator at the lower control position, listing the following information:

(a) Model and serial number of the manufacturer.

(b) Rated capacity of the platform.

(c) Operating pressure of the hydraulic and pneumatic systems.

(d) Cautions or restrictions of operation.

(e) Control instructions.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05000 Incident management. (1) The fire department ~~((shall))~~ must establish an incident manage-

ment system (IMS) consistent with the U.S. Department of Homeland Security National Incident Management System (NIMS) with written guidelines applying to all members involved in emergency operations.

(a) All members involved in emergency operations ~~((shall))~~ must be trained in the IMS system.

(b) Personnel ~~((shall))~~ must be trained and qualified by their department in the incident command system (ICS) that meets the requirements of NIMS prior to taking a role at an emergency scene.

(c) The incident management system ~~((shall))~~ must be applied to drills, exercises, and other situations that involve hazards similar to those encountered at actual emergency incidents and to simulated incidents that are conducted for training and familiarization purposes.

(2) At all emergency incidents, the incident commander ~~((shall))~~ must be responsible for the overall safety of all members and all activities occurring at the scene.

(3) All emergency incidents ~~((shall))~~ must be managed by an ICS; the incident commander ~~((shall))~~ must establish an organization with sufficient supervisory personnel to control the position and function of all members operating at the scene and to ensure that safety requirements are satisfied.

(4) At all emergency incidents, the incident commander ~~((shall))~~ must have the responsibility to:

(a) Assume and confirm command and take an effective fixed physical command position.

(b) Perform situation evaluation that includes risk assessment.

(c) Initiate, maintain, and control incident communication.

(d) Develop an overall strategy and incident action plan.

(e) Develop an effective ICS organization by managing resources, maintaining an effective span of control, and maintaining direct supervision over the entire incident by creating geographical and/or functional area supervisors as appropriate for the scope and size of the incident.

(f) Review, evaluate, and revise the incident action plan as required.

(g) Continue, transfer, and terminate command.

(5) The fire department ~~((shall))~~ must develop a risk management policy including rules of engagement that can be used by the incident commander in the development of incident strategies. The risk management policy should include direction and guidance to the incident commander in formulating incident planning relating to the level of risk that may be undertaken in any given incident to save lives and property in as safe a manner as dictated by the situation.

(6) The fire department ~~((shall))~~ must establish an accountability system: Written procedures and guidelines for tracking all members operating at emergency incidents.

(7) The incident commander ~~((shall))~~ must provide for control of access to hazardous areas of the incident scene. Procedures ~~((shall))~~ must identify methods for identification of hazardous areas and communication of necessary protective equipment and other protective measures necessary to operate in the hazardous area.

(a) Control zones ~~((shall))~~ must be established at emergency incidents.

(b) The perimeters of the control zones ~~((shall))~~ must be designated by the incident commander and communicated to all members.

(c) If the perimeters of the control zones change during the course of the incident, these changes ~~((shall))~~ must be communicated to all members on the scene.

(d) Hazard control zones ~~((shall))~~ must be designated as hot, warm, cold and exclusion zones.

(e) All members ~~((shall))~~ must wear the PPE (SCBA, flash hood, etc.) appropriate for the risks that might be encountered while in the hot zone.

(f) All members operating within the hot zone ~~((shall))~~ must have an assigned task.

(g) No unauthorized personnel ~~((shall))~~ must enter an exclusion zone that was designated due to the presence of imminent hazard(s) or the need to protect evidence.

(8) Firefighters operating in a hot zone ~~((shall))~~ must operate in teams of two or more regardless of rank or assignment. Members of these teams ~~((shall))~~ must be in constant communication with each other through touch, visual, or voice means in order to provide assistance in case of emergency.

(9) The fire department ~~((shall))~~ must provide personnel for the rescue of members operating at emergency incidents as the need arises.

(10) The fire department ~~((shall))~~ must develop and maintain written guidelines for the safety of members at incidents that involve violence, unrest, or civil disturbance. Such situations may include, but not be limited to, riots, fights, violent crimes, drug related situations, family disturbances, deranged individuals, and people interfering with fire department operations.

(11) When members are operating at an emergency incident and their assignment places them in potential conflict with motor vehicle traffic, all reasonable efforts ~~((shall))~~ must be made to protect the members.

Note: Chapters 6H and 6I of the Manual on Uniform Traffic Control Devices, 2003 edition revision 1, provides information on how to set up traffic control zones during emergency operations on different types of roadways. This information can be accessed for free at the following link:
<http://mutcd.fhwa.dot.gov/pdfs/2003r1/pdf-index.htm>.

(12) Responders ~~((shall))~~ must not manipulate equipment that they have not been trained or equipped to use.

(13) In the event a firefighter becomes lost, trapped, seriously injured, has a medical emergency, has exhausted their breathing air, or finds themselves in any other form of life threatening situation they ~~((shall))~~ must immediately call for help, using the nationally adopted term "Mayday" to declare that an emergency situation now exists. The fire department ~~((shall))~~ must specifically establish and routinely practice standard procedures for managing a Mayday situation.

(14) Emergency scene communications.

(a) Incident radio communication ~~((shall))~~ must use clear text terminology.

(b) Incident communication ~~((shall))~~ must use the phrase "emergency traffic" as the standard alert for all units operating on the scene to clear the air.

(c) The fire department ((~~shall~~)) must specifically establish and routinely practice standard procedures for managing an "emergency traffic" situation.

Note: The fire department communication center should start an incident clock when the first arriving unit is on scene of a working structure fire or when conditions appear to be time sensitive or dangerous. The dispatch center should notify the incident commander, at an interval established by their policy or procedure, until incident stabilization is achieved.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05002 Fire suppression. (1) Before beginning interior structural firefighting operations, the incident commander must evaluate the situation and risks to operating teams.

(2) The "initial stages" of an incident ((~~shall~~)) must encompass the tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

(3) In the initial stages of an incident where only one crew is operating in the hot zone at a working structural fire, a minimum of four individuals ((~~shall~~)) must be required, consisting of two individuals working as a crew in the hot zone and two individuals present outside the hot zone available for assistance or rescue of firefighters during emergency operations where entry into the hot zone is required.

(4) Initial attack operations ((~~shall~~)) must be organized to ensure that if, on arrival at the emergency scene, responders find a known rescue situation where immediate action could prevent the loss of life or serious injury, such action ((~~shall~~)) must only be permitted when no less than three personnel (2-in/1-out) are present and equipped to provide emergency assistance or rescue of the team entering the hot zone.

No exception ((~~shall~~)) must be allowed when there is no possibility to save lives or no "known" viable victims.

(5) Firefighters must not engage in interior structural firefighting in the absence of at least two standby firefighters (2-in/2-out) except as provided in WAC 296-305-05002(4).

(6) Standby team members ((~~shall~~)) must comply with the following:

(a) Members ((~~shall~~)) must remain aware of the status of firefighters in the hot zone.

(b) Members ((~~shall~~)) must remain in positive communication (radio, visual, voice or signal line) with the entry team, in full protective clothing with respiratory protection donned while in standby mode.

(c) Only one standby team member may be permitted to perform other duties outside the hot zone, provided constant communication is maintained with the team in the hot zone, and provided that those duties will not interfere with his or her ability to initiate a rescue as appropriate.

(d) No standby team members ((~~shall~~)) must be permitted to serve as a standby member of the firefighting crew when the other activities in which the firefighter is engaged inhibit the firefighter's ability to assist in or perform firefighter rescue or are of such importance that they cannot be abandoned without placing other firefighters in danger.

Note: Nothing in this section ((~~shall~~)) will prevent actions which may reasonably be taken by members first on the scene to determine the nature and extent of fire involvement.

(7) Once a second crew arrives at the hot zone, the incident ((~~shall~~)) must no longer be considered to be in the "initial stage," and at least one rapid intervention crew should be assigned. For further guidance, see nonmandatory Appendix D.

(8) Teams in the hot zone ((~~shall~~)) must have positive communication capabilities with the incident command structure in place. Incident radio communication capabilities within the incident management structure ((~~shall~~)) must include monitoring the incident-assigned frequencies (including mutual aid radio frequencies).

(9) Officers at emergency scenes ((~~shall~~)) must maintain an awareness of the physical and mental condition of members operating within their span of control and ensure that adequate steps are taken to provide for their safety and health. The command structure ((~~shall~~)) must be utilized to request relief and reassignment of fatigued crews.

(10) Personal protective clothing/equipment designed for wildfire suppression ((~~shall~~)) must not be used for interior structural firefighting.

(11) Firefighters ((~~shall~~)) must not cut the electrical drip loop providing power to the structure nor pull the electrical meter.

(12) Prior to overhaul, buildings ((~~shall~~)) must be surveyed for possible safety and health hazards. Firefighters ((~~shall~~)) must be informed of hazards observed during the survey and measures ((~~shall~~)) must be taken to protect firefighters from these hazards.

(13) Self-contained breathing apparatus (SCBA) ((~~shall~~)) must be worn throughout overhaul. SCBA ((~~shall~~)) must also be worn during activities taking place in the area previously considered the hot zone after overhaul unless the officer in charge conducts an exposure evaluation to determine or reasonably estimate whether an employee is or could be exposed to either an airborne contaminant above a permissible exposure limit (PEL) listed in WAC 296-841-20025 Table 3 or other airborne hazards, such as biological/radiological/nuclear hazards. When the officer in charge cannot determine or reasonably estimate employee exposure they ((~~shall~~)) must conclude that an atmosphere is hazardous to the employees in accordance with WAC 296-842-13005.

(14) During the overhaul phase officers ((~~shall~~)) must identify materials likely to contain asbestos, limiting the breaching of structural materials to that which is necessary to prevent rekindle.

(15) Prior to removing firefighting ensembles worn in the hot zone, a gross decontamination ((~~shall~~)) must be performed to remove potentially harmful contaminants.

(16) Members of the department conducting post-fire investigations must comply with subsections (12) through (15) of this section.

(17) Employees working on, over, or along water where the chance of drowning exists ((~~shall~~)) must be provided with and ((~~shall~~)) must use approved personal flotation devices, unless it can be shown that conditions are such that flotation would not be achieved.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05004 Occupational exposure to heat and cold stress. (1) Fire departments ((shall)) must develop written guidelines that outline a systematic approach for the rehabilitation of members operating at incidents and training exercises. The following components must be included in this guideline:

- (a) Supervisor's role in identifying climate conditions (hot or cold).
- (b) The signs and symptoms of heat or cold stress and how to identify them in subordinates and fellow members.
- (c) How to identify the climatic condition likely to produce heat or cold stress on members operating at emergency scenes or during training exercises.
- (d) What steps the incident commander (IC) must take when the climatic condition poses a heat or cold stress hazard to members.
- (e) What rest-to-work (recovery) schedule the IC must consider during climatic conditions that present a heat or cold stress hazard to members.

Example: NFPA 1584 states that after members use 2 30-minute SCBA bottles or 1 45-to-60-minute SCBA bottle or 40 minutes strenuous work without an SCBA the member should go to rehabilitation for a 10 to 20 minute rest and rehydrate.

- (f) Which active or passive cooling and warming techniques will be used based on the incident type and climatic condition.
- (g) What rehydration schedule will be followed, including the amount and type of fluids.
- (h) What the department will do to ensure caloric replacement and electrolyte replacement during longer term emergencies and exercises.
- (i) What medical monitoring will be provided to members in rehabilitation and what criteria will be used to release members from rehabilitation.
- (j) What the IC will do when a member is showing signs of heat or cold stress after completing the department's rest-to-work cycle.
- (k) What medical personnel will be present in rehabilitation to evaluate members sent to rehabilitation during the rest-to-work cycle.

To determine what temperature triggers action at each worksite, select the general type of clothing or personal protective equipment each employee is required to wear and find the corresponding temperature in Table 1.

Table 1
Outdoor Temperature Action Levels

Nonbreathing clothing including vapor-barrier clothing or chemical resistant suits	52°
Double-layer woven clothing including coveralls, jackets and sweatshirts	77°
All other clothing	89°

Note: There is no requirement to maintain temperature records. The temperatures in Table 1 were developed based on Washington state data and are not applicable in other states.

(2) Employee training. Training on the following topics must be provided to all employees who may be exposed to outdoor heat at or above the temperatures listed in Table 1:

- (a) The environmental factors that contribute to the risk of heat-related illness.
- (b) General awareness of personal factors that may increase susceptibility to heat-related illness including, but not limited to, an individual's age, degree of acclimatization, medical conditions, drinking water consumption, alcohol use, caffeine use, nicotine use, and use of medications that affect the body's responses to heat. This information is for the employee's personal use.
- (c) The importance of removing heat-retaining personal protective equipment such as nonbreathable chemical resistant clothing during all breaks.
- (d) The importance of frequent consumption of small quantities of drinking water or other acceptable beverages.
- (e) The importance of acclimatization.
- (f) The different types of heat-related illness and their common signs and symptoms.
- (g) The importance of immediately reporting signs or symptoms of heat-related illness in either themselves or in coworkers to the person in charge and the procedures the employee must follow including appropriate emergency response procedures.

(3) Supervisor training. Prior to supervising employees working in outdoor environments with heat exposure at or above the temperature levels listed in Table 1, supervisors must have training on the following topics:

- (a) The information required to be provided to employees listed in subsection (1) of this section.
- (b) The procedures the supervisor must follow to implement the applicable provisions of this section.
- (c) The procedures the supervisor must follow if an employee exhibits signs or symptoms consistent with possible heat-related illness, including appropriate emergency response procedures.
- (d) Procedures for moving or transporting an employee to a place where the employee can be reached by an emergency medical service provider if necessary.

(4) The fire department ((shall)) must rotate crews as necessary to allow for rehabilitation.

(5) All members ((shall)) must be provided training and information on how the body regulates core temperatures and how to recognize the signs, symptoms and controls for heat and cold stress.

(6) All members ((shall)) must be provided training on the department's guideline addressing heat and cold stress.

(7) Employees are responsible for monitoring their own personal factors for heat-related illness including consumption of water or other acceptable beverages to ensure hydration.

(8) A rehabilitation area ((shall)) must be designated with features that provide shade or air conditioning with a place to sit for extremely hot environments.

(9) A rehabilitation area ((shall)) must be designated with features that provide dry protected areas out of the wind or rain and a heated area with a place to sit for extremely cold or wet environments.

(10) Multiple rehabilitation areas must be set up if the geographical area or size of the scene creates barriers limiting members' access to rehabilitation.

(11) The rehabilitation area ~~((shall))~~ must be of sufficient size to accommodate the number of crews using the area at the same time.

(12) Members entering the rehabilitation area that feel warm or hot ~~((shall))~~ must remove their personal protective clothing. Personnel trained in basic life support ~~((shall))~~ must evaluate the member and institute active or passive cooling as indicated.

(13) At a minimum, a person trained in basic life support with the knowledge and training needed ~~((shall))~~ must be located in the rehabilitation area to conduct medical monitoring and evaluation of crews entering the rehabilitation area.

(14) Members ~~((shall))~~ must not be released from rehabilitation until a person trained in basic life support okays their return to work.

(15) Supervisors ~~((shall))~~ must assess their crew at least every forty-five minutes and more frequently when climatic conditions warrant to determine their need for rehabilitation.

(16) Members on emergency scenes and during exercises ~~((shall))~~ must be provided a minimum of one quart of water per hour when the climatic conditions present heat or cold stress hazards. After one hour, caloric and electrolyte replacement must be considered.

(a) The employer(s) must ensure that a sufficient quantity of drinking water is readily accessible to employees at all times.

(b) Employers must ensure that all employees have the opportunity to drink at least one quart of drinking water per hour.

(c) Employers must encourage employees to frequently consume water or other acceptable beverages to ensure hydration.

(17) Employees showing signs or complaining of symptoms of heat-related illness must be relieved from duty, provided with a sufficient means to reduce body temperature, and monitored to determine whether medical attention is necessary.

Note: For further guidance, sample policies and information please consult the 2008 edition of NFPA 1584, Standard on the Rehabilitation Process for Members During Emergency Operations and Training Exercises or the United States Fire Administration's Emergency Incident Rehabilitation Manual FA-314 issued February 2008.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05013 Aircraft rescue and firefighting. (1) Fire departments that expect to respond to aircraft fires ~~((shall))~~ must meet the applicable portions of the 2008 edition of NFPA 402, Guide for Aircraft Rescue and Firefighting Operations.

(2) Airport based fire departments ~~((shall))~~ must meet the applicable portions of the 2008 edition of the NFPA 402, Guide to Aircraft Rescue and Firefighting Operations.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05101 Technical rescue general requirements. (1) The following sections apply to fire departments that choose to operate for any type of technical rescue operations addressed in WAC 296-305-05113 at the following levels:

- Operations level. This level represents the capability of organizations to respond to technical rescue incidents and to identify hazards, use equipment, and apply limited techniques specified in this rule to support and participate in technical rescue incidents.
- Technician level. This level represents the capability of organizations to respond to technical rescue incidents, to identify hazards, use equipment, and apply advanced techniques specified in this rule necessary to coordinate, perform, and supervise technical rescue incidents.

Note: Awareness level represents the minimum capability of organizations that provide response to technical rescue incidents or discover technical rescue situations during emergency scene operations and takes no offensive action. This level requires no written procedures.

(2) Members ~~((shall))~~ must not operate at a level that exceeds the identified level of capability established in subsection (1) of this section.

(3) Basic life support ~~((shall))~~ must be provided by the fire department at technical rescue incidents.

(4) Fire departments must meet all requirements in this section, along with all relevant requirements in the specific technical rescue sections, before operating at the operations or technician level at a technical rescue incident.

(5) Fire departments choosing to not respond to technical rescue emergencies will ensure their employees can recognize when a technical rescue situation is present and what to do in those cases.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05103 Technical rescue training. (1) Training ~~((shall))~~ must be provided to correspond to the operational level of the fire department. All fire departments which will be expected to perform at the operations level or higher operational level ~~((shall))~~ must be trained to that level.

Note: The 2008 edition of NFPA 1006, Standard for Technical Rescuer Professional Qualifications outlines the minimum individual Job Performance Requirements for Level I (Operations) and Level II (Technician) rescuers.

(2) Continuing education necessary to maintain all requirements of the level of capability ~~((shall))~~ must be provided by the fire department.

(3) The training program ~~((shall))~~ must be evaluated annually to ensure the fire department is prepared to function at the established operational level.

(4) All required training ~~((shall))~~ must be documented. Documentation ~~((shall))~~ must be maintained and available for inspection by employees, their representatives, and the department of labor and industries.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05105 Technical rescue standard operating procedure. Fire departments that choose to operate above the awareness level for technical rescue incidents ~~((shall))~~ must establish written procedures outlining the operational level of their department that are specific to their chosen level of response and the type of technical rescue operations they plan to perform.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05107 Technical rescue incident response planning. (1) Fire departments or a consortium of departments that choose to operate at the operations level or above ~~((shall))~~ must create a written special operations incident response plan for the specific type(s) of technical rescue at which they plan to operate at or above the operations level.

(2) When nonemergency resources may be required, procedures for acquisition of these resources for technical rescue incidents ~~((shall))~~ must be developed.

(3) Fire departments that choose to respond to chemical, biological, radiological, and nuclear (CBRN) incidents ~~((shall))~~ must provide training and equipment to all members expected to respond.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05109 Technical rescue equipment. (1) Equipment.

(a) Equipment necessary for operations at technical rescue incidents, along with training exercises, ~~((shall))~~ must be provided by the fire department.

(b) Training ~~((shall))~~ must be provided to ensure that all equipment is used and maintained according to the manufacturer's instructions.

(2) Personal protective equipment (PPE) specific to technical rescue.

(a) Departments will provide, at no cost to employees, protective clothing and equipment to provide protection from the specific hazards to which they could be exposed.

(b) Employees must be trained in the care, use, inspection, maintenance and limitations of the protective clothing and equipment.

(c) Employees are required to wear the protective clothing and equipment provided by the department's procedures and guidelines.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05111 Technical rescue safety. (1) General.

(a) All employees must be trained on:

(i) The hazards and risks associated with department's chosen level of technical rescue operations.

(ii) How to conduct technical rescue operations at the department's chosen level while minimizing threats to rescuers.

(iii) How to use PPE.

(b) Employees assigned specific duties and functions must be trained and qualified by their department prior to being assigned those duties or functions.

(c) When employees are operating in positions or performing functions that pose a high potential risk for injury, employees qualified in basic life support must be standing by.

(2) Emergency evacuation. Departments ~~((shall))~~ must establish a procedure for members to abandon the technical rescue area and to account for their safety when an imminent hazard condition is discovered. This ~~((shall))~~ must include a method for notifying all members in the affected area immediately.

(3) Technical rescue safety officer. The incident commander ~~((shall))~~ must assign an incident safety officer with the requisite knowledge and responsibility for the identification, evaluation, and with the authority to correct hazardous conditions and unsafe practices, at all emergency scene operations and training exercises.

(4) Incident management. Departments ~~((shall))~~ must use an ICS at all technical rescue incidents and training exercises.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-05113 Technical rescue operational specialties.

Note: When chapters of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, are required by the following sections, internal references requiring compliance with further NFPA's or additional resources are not included in these requirements.

(1) Structural collapse. Fire departments choosing to operate at the operations or technician level for structural collapse incidents must meet the requirements found in chapter 5 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(2) Rope rescue.

(a) Fire departments choosing to operate at the operations or technician level for rope rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 6 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Fire departments performing rope rescue operations must make sure previously purchased life safety ropes and equipment complies with the 2001 edition of NFPA 1983, Standard on Fire Service Life Safety Rope and System Components. Ropes and equipment purchased after the effective date of this rule must meet the requirements of the 2006 edition of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services.

(c) Life safety rope and rope rescue equipment ~~((shall))~~ must be inspected after purchase and prior to placing in service, after each use, and at least semiannually.

(d) Harnesses ((shall)) must be inspected for worn or broken stitching, rivets worn out of holes, and damage from abrasion, cuts, or chemicals.

(e) Descending/ascending hardware ((shall)) must be inspected for wear, cracks, distortion, sharp edges, and ease of operation.

(f) The manufacturer's recommended shelf life of life safety ropes ((shall)) must be followed. If no shelf life is specified, ropes greater than six years old ((shall)) must be taken out of service as a life safety rope.

Note: See WAC 296-305-02019, Life safety ropes, harnesses, and hardware protection, for further requirements.

(3) Confined space rescue.

(a) Fire departments choosing to operate at the operations or technician level for confined space rescue incidents must meet the requirements of this section, chapter 296-809 WAC Table 1, and the nonconflicting sections of chapter 7 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Fire departments ((shall)) must comply with chapter 296-809 WAC for their own confined spaces.

(c) Fire departments which will respond to calls to perform rescue from a permit-required confined space are required to have each member of a rescue team practice making permit space rescues at least every twelve months by means of simulated rescue operations in which they remove dummies, mannequins or actual persons from permit space. A permit is required for the practice permit space entry.

(d) During an actual rescue response, written or verbally recorded hazard sizeup will be allowed in lieu of the written permit requirements in WAC 296-809-50004 and ((shall)) must be completed prior to any entry. This sizeup ((shall)) must include at a minimum:

(i) Recognition and declaration of the situation as a confined space incident.

(ii) Denial of entry to unprotected persons.

(iii) Assessment of all readily available confined space documentation, e.g., MSDSs, any existing permit, plans or blueprints of the space.

(iv) Assessment of number of victim(s), locations and injury conditions.

(v) Discussion with witnesses, supervisors, and other sources of information.

(vi) Assessment of any current or potential space hazards, in particular, any hazard(s) which lead to the necessary rescue.

(vii) Determination and declaration if the situation is a body recovery or a victim rescue.

(e) At confined space incidents, at least two people outside ((shall)) must be equipped with appropriate breathing apparatus to act as the back-up team, which ((shall)) must remain free of the contaminated area in order to rescue disabled firefighters.

(f) Written documentation of the rescue team's training on the fire department's confined space operating procedures, authorized entrant training, and the contracted host's confined space program ((shall)) must be kept. A record of each of the hazard sizeups ((shall)) must be maintained for at least one year.

(g) Anytime firefighters are working inside a confined space, such persons ((shall)) must be provided with SCBA or air line respirator with escape bottle, and ((shall)) must use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.

(i) If the service life of the auxiliary air supply is fifteen minutes or less it ((shall)) must not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen minutes and when not more than twenty percent of the noted air supply will be used during entry.

(ii) The maximum length of hose for supplied air respirators is three hundred feet (91 meters). Such hose ((shall)) must be heavy duty nonkinking and NIOSH approved.

(4) Machinery rescue. Fire departments choosing to operate at the operations or technician level for machinery rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 12 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(5) Water rescue.

(a) Fire departments choosing to operate at the operations or technician level for water rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 9 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Organizations choosing to operate at the operations or technician level for dive rescue incidents must meet the requirements found in chapter 9 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(c) Fire departments choosing to operate at the operations or technician level for dive recovery incidents must meet the requirements found in chapter 296-37 WAC, Standards for commercial diving operations, and the nonconflicting parts of chapter 9 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(d) If a manufacturer's specifications are such that an engineer is required for the operation of a vessel, one ((shall)) must be provided.

(e) When fire boats perform rescue activities they ((shall)) must have two dedicated personnel. Any member not specifically required to operate the vessel, e.g., an operator (pilot) or engineer (if required by the manufacturer's specification) may be used as a deck hand. This may include the boat officer if ((his/her)) their duties do not include operating the fire boat.

(f) Watercraft load capabilities ((shall)) must not exceed the manufacturer's specifications.

(g) Each fire department ((shall)) must determine the function of their watercraft; firefighting, rescue, or both.

(h) Watercraft operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) ((shall)) must comply with all of the rules of the United States Coast Guard.

(i) Fire boats operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) ~~((shall))~~ must have a fully dedicated pilot.

(j) The operator (pilot) of the watercraft is responsible for its safe operation.

(k) Training for all personnel ~~((shall))~~ must cover the physical characteristics of the vessel involved and ~~((shall))~~ must be included in the employer's accident prevention program.

(i) All assigned personnel ~~((shall))~~ must be trained in safe operation of watercraft and the operations the craft is intended to perform.

(ii) All employees involved in water rescue ~~((shall))~~ must be trained in water rescue techniques and use Coast Guard approved personal flotation devices, Type III, minimum.

Exception: Employees working below deck or in enclosed cabins or when working above, on or alongside still water where flotation would not be achieved, are exempt from this requirement.

(l) All employers operating watercraft in nonnavigable waters ~~((shall))~~ must be responsible for training all employees to local hazards.

(6) Trench and excavation rescue.

(a) Fire departments choosing to operate at the operations or technician level for trench and excavation rescue incidents must meet the requirements of this section and non-conflicting portions of chapter 11 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Employees that directly engage in trench rescue operations ~~((shall))~~ must be under the direct supervision of person(s) with adequate training in trench and excavation hazard recognition, equipment use and operational techniques.

(c) Each employee in an excavation ~~((shall))~~ must be protected from cave-ins by an adequate protective system except when:

(i) Excavations are made entirely in stable rock; or

(ii) Excavations are less than four feet (1.22 meters) in depth and examination of the ground by a competent person provides no indication of a potential cave-in.

(7) Mine and tunnel rescue.

(a) Fire departments choosing to operate at the operations or technician level for mine and tunnel rescue incidents must meet the requirements of this section and the non-conflicting portions of chapter 14 (Mine and Tunnel Search and Rescue) of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) The requirements of this section ~~((shall))~~ apply to agencies that provide varying degrees of response to tunnels under construction or other underground excavations formerly classified as mines or tunnels.

(c) The requirements of this section ~~((shall))~~ do not apply to operating mines, tourist mines, basements, or subterranean structures that are complete and in use or that meet the definition of a confined space.

(d) Emergency services that are the designated primary provider of rescue services for operational mines and tunnels under construction are required to comply with the noncon-

flicting portions of chapter 296-155 WAC Part Q, Underground construction.

(e) Members who regularly enter a tunnel under construction as part of their regular duties ~~((shall))~~ must receive training meeting the requirements of the safety instruction required by WAC 296-155-730(3).

(f) Regardless of whether an atmospheric hazard is detected, any entrant into a tunnel under construction, mine or any related shaft or excavation ~~((shall))~~ must have a means of emergency egress respiratory protection with no less than a thirty minute rated service life immediately available. There ~~((shall))~~ must be at least one unit immediately available for each member in the tunnel.

MSHA or NIOSH approved "Self Rescuer" or "Self Contained Self Rescuer" devices fulfill this requirement provided the user has been trained in its use and the device is suitable for the type of potential hazards that may be encountered.

(g) A rescue service entry team ~~((shall))~~ must have the ability at a minimum to continuously monitor the air for oxygen, carbon monoxide, hydrogen sulfide, and combustible gasses as well as any other atmospheric contaminants that are known or suspected.

(h) The rescue service entry team ~~((shall))~~ must have at least two methods of communication with the surface, one of which ~~((shall))~~ must be voice communication.

This requirement may be satisfied by using both the "direct" and "trunked" features of the same radio systems provided adequate equipment is available to the entry team to provide constant simultaneous communication using both methods.

(i) Rescue service entry teams that enter a mine or tunnel with a known atmospheric hazard ~~((shall))~~ must have a clearly defined "turnaround" benchmark to ensure adequate egress to an area of refuge or safety.

(j) Each rescue service entry team that enters a mine or tunnel with a known or suspected atmospheric hazard ~~((shall))~~ must have at least one source of breathable air independent of each wearer's SCBA to be used in the event of an SCBA failure or "out of air" emergency. This source of air is to be independent of any device brought in for the use of victims.

(k) A backup team with similar size and capabilities as the rescue service entry team ~~((shall))~~ must be immediately available to enter the space.

(l) Each member of the organization who is designated as part of the technician level rescue service ~~((shall))~~ must practice making mine or tunnel rescues as part of a rescue team no less than once every twelve months. This may be accomplished by means of simulated rescue operations in which the team removes dummies, mannequins, or persons from actual mines and tunnels or from representative mines and tunnels.

Representative mine and tunnels should, with respect to opening size, configuration, and accessibility, simulate the types of mines and tunnels from which rescue is to be performed.

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-305-05502 Training and member development. (1) The employer must provide training, education and ongoing development for all members commensurate with those duties and functions that members are expected to perform.

(a) Training and education must be provided to members before they perform emergency activities.

(b) Fire service leaders and training instructors must be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(c) The fire department ~~((shall))~~ must develop an ongoing proficiency cycle with the goal of preventing skill degradation.

(2) Training on specific positions/duties deemed by the fire department critical to the safety of responders and the effectiveness of emergency operations (such as driver operators or support personnel) ~~((shall))~~ must be provided at least annually.

(3) Firefighters ~~((shall))~~ must be trained in the function, care, use/operation, inspection, maintenance and limitations of the equipment assigned to them or available for their use.

(4) Members who are expected to perform interior structural firefighting ~~((shall))~~ must be provided with an education session or training at least quarterly.

(5) When firefighters are engaged in training above the ten-foot level, where use of lifelines or similar activities are to be undertaken, a safety net or other approved secondary means of fall protection recommended in chapter 296-155 WAC, Part C-1, fall protection requirements for construction, ~~((shall))~~ must be used.

(6) Continuing education live fire training.

(a) All members who engage in interior structural firefighting in IDLH conditions ~~((shall))~~ must be provided live fire training appropriate to their assigned duties and the functions they are expected to perform at least every three years. Firefighters who do not receive this training in a three-year period will not be eligible to return to an interior structural firefighting assignment until they do. Responding to a fire scene with a full alarm assignment, an ICS established and a ~~((postincident))~~ post-incident analysis will meet this requirement, but for no more than two training evolutions.

(b) All live fire training ~~((shall))~~ must be conducted by fire department qualified fire service instructors. When conducting their own training, fire departments must meet the requirements set out in the 2007 edition of the NFPA 1403, Standard on Live Fire Training Evolutions.

(c) An incident safety officer ~~((shall))~~ must be appointed for all live fire training evolutions. The incident safety officer function ~~((shall))~~ must be filled by a person who is trained and qualified in the IMS/Incident safety officer duties and who is not responsible for any other function at the training evolution other than the role of incident safety officer.

(7) When using structures for live fire suppression training, activities ~~((shall))~~ must be conducted according to the 2007 edition of NFPA 1403, Standard on Live Fire Training Evolutions. When using structures for nonlive fire training, the following requirements ~~((shall))~~ must be met:

(a) All structures used for training must be surveyed for potential hazardous substances, such as asbestos, prior to the initiation of any training activities. The survey must comply with chapter 296-62 WAC Part I-1 and ~~((shall))~~ must be conducted by an AHERA accredited inspector and performed in accordance with 40 C.F.R. 763, Subpart E. If the hazardous substances or asbestos containing materials of > 1% asbestos are to be disturbed during any training activity they must be removed prior to beginning that activity. Removal of asbestos < or = 1% is not required prior to live fire training.

In live fire training structures where < or = 1% asbestos has been disturbed, the fire department will provide written notice to the owner/agent that asbestos has been disrupted and remains on-site.

For structures built before 1978, you must assume that painted surfaces are likely to contain lead and inform workers of this presumption. Surveys for lead containing paints are not required. Lead containing paints are not required to be removed prior to training activities.

If the training activity will not disturb the hazardous substance, the material must be clearly marked and all participants must be shown the location of the substance and directed not to disturb the materials.

(b) Acquired or built structures used for fire service training that does not involve live fire must be surveyed for the following hazards and those hazards abated prior to the commencement of training activities:

(i) In preparation for training, an inspection of the training building ~~((shall))~~ must be made to determine that the floors, walls, stairs and other structure components are capable of withstanding the weight of contents, participants and accumulated water.

(ii) Hazardous materials and conditions within the structure ~~((shall))~~ must be removed or neutralized, except as exempted in (a) of this subsection.

(*) (A) Closed containers and highly combustible materials ~~((shall))~~ must be removed.

(*) (B) Oil tanks and similar closed vessels that cannot easily be removed ~~((shall))~~ must be vented sufficiently to eliminate an explosion or rupture.

(*) (C) Any hazardous or combustible atmosphere within the tank or other vessel ~~((shall))~~ must be rendered inert.

(*) (D) Floor openings, missing stair treads or railings, or other potential hazards ~~((shall))~~ must be repaired or made inaccessible.

(iii) If applicable, floors, railings and stairs ~~((shall))~~ must be made safe. Special attention ~~((shall))~~ must be given to potential chimney hazards.

(iv) Debris hindering the access or egress of firefighters ~~((shall))~~ must be removed before continuing further operations.

(v) Debris creating or contributing to unsafe conditions ~~((shall))~~ must be removed before continuing further operations.

(c) Asbestos training. Firefighters must be provided asbestos awareness training, including communication of the existence of asbestos-containing material (ACM) and presumed-asbestos-containing material (PACM). Training

((shall)) must be provided prior to initial assignment and annually thereafter, and must include:

(i) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(ii) Examples of different types of asbestos and asbestos-containing materials to include flooring, wall systems, adhesives, joint compounds, exterior siding, fire-proofing, insulation, roofing, etc. Real asbestos ((shall)) must be used only for observation by trainees and ((shall)) must be enclosed in sealed unbreakable containers.

(iii) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(iv) Instruction on how to recognize damaged, deteriorated, and delamination of asbestos-containing building materials.

(v) Decontamination and clean-up procedures.

(vi) Types of labels that are used within different industries to identify ACM or PACM that is present within structures. The labeling system the employer will use during training to identify asbestos and ACM/PACM during destructive drilling and training.

(vii) The location and types of ACM or PACM within any fire department owned or leased structures and the results of any "Good Faith Survey" done on fire department owned or leased structures.

(8) Asbestos exposure during destructive training activities. Fire department employees are exempt from the requirements of chapter 296-65 WAC and WAC 296-62-077, provided they comply with the following requirements:

(a) Fire departments must obtain a good faith asbestos inspection/survey from the property owner/agent prior to disturbing building materials. The good faith survey must comply with chapter 296-62 WAC Part I-1 and ((shall)) must be conducted by an AHERA accredited inspector and performed in accordance with 40 C.F.R. 763, Subpart E.

(b) Good faith surveys must be shared with all employers and employees prior to using any structure.

(c) Materials containing >1% asbestos must be marked by a system recognized by all members. ACM/PACM may not be disturbed prior to, or during training, or must be removed by a certified asbestos abatement contractor prior to training activities. The incident safety officer for the training must walk all participants through the structure and inform them of the location of all ACM/PACM and that this material is not to be disturbed. If the structure is used for a black-out drill, the incident safety officer must instruct members that ACM/PACM is present and take precautions to ensure these materials are not disturbed during the training. A walk through is not required for black-out drills.

(d) Destructive drilling must not occur in a structure until the fire department has received a good faith asbestos survey from the owner/agent and ensured that any ACM or PACM has been abated from substrates upon which destructive drill tasks are planned to be performed. All suspect asbestos materials designated for destructive drill tasks will be identified, evaluated and tested by an accredited AHERA lab.

(e) Materials containing < or = 1% asbestos must be labeled by a system recognized by all members. Prior to initiating any destructive drilling on materials containing < or = 1% asbestos, the incident safety officer for the training must walk all participants through the structure and inform them of the location of asbestos.

(f) Firefighters must wear SCBA and turnouts whenever exposed to asbestos.

(g) Firefighters must be provided gross decontamination at the drill site by rinsing/brushing the firefighters turnouts and SCBA with water.

(h) Hand tools and other asbestos contaminated equipment will be rinsed off prior to being returned to the apparatus or service. Tools and equipment that cannot be decontaminated on site must be placed in sealed containers until they can be decontaminated. Care must be taken to not spread the asbestos.

(i) PPE that may have been contaminated with asbestos must be cleaned in a manner recommended by the manufacturer and that prevents the exposure of the employee cleaning the PPE. PPE that cannot be cleaned on-site must be placed in sealed containers until they can be decontaminated.

(j) In structures scheduled for demolition, or that will be turned over to another employer, where < or = 1% asbestos has been disturbed, the fire department will provide written notice to the owner/agent that asbestos has been disrupted and remains on-site. The fire department will inform the owner/agent, in writing, that access to the property must be limited to the demolition or asbestos contractor.

(k) The fire department will secure the structure after all drills and at the conclusion of the use of the structure. Securing the structure may include but not be limited to((:)), locking or boarding up windows, doors, and wall and roof openings. The site of the structure may also require fencing. When asbestos material of < or = 1% has been disturbed by the fire department's drill activities, the site will be posted with warning signs. These signs will notify entrants onto the site that asbestos debris of < or = 1% has been left on the site. For fire department members who plan to enter the structure or the building footprint, the signs will state the necessity of full turn-outs and SCBA with decontamination procedures. The signs will also state that entry into the building or the building footprint is prohibited by any persons other than the fire department and the demolition/abatement contractor.

(9) Additional training. Training must be provided on topics according to the job duties and potential hazards as outlined in Table 2, Subject Specific Training.

Table 2 Subject Specific Training	
Topic	Training requirements found in:
HEALTH AND SAFETY	
Noise and hearing loss prevention	<ul style="list-style-type: none"> • Chapter 296-817 WAC, Hearing loss prevention (noise) • WAC 296-305-02004
Respiratory equipment	<ul style="list-style-type: none"> • Chapter 296-842 WAC, Respirators

Table 2 Subject Specific Training	
Topic	Training requirements found in:
	• WAC 296-305-04001
Employee right-to-know procedures	• WAC 296-901-14016 Employee information and training
Identification and handling of asbestos-containing materials likely to be encountered during a fire response	• WAC 296-62-07722(5) as appropriate to asbestos encountered during a fire response, or EPA awareness level asbestos two hour training course
FIRE SUPPRESSION	
Overhaul procedures and operations	• WAC 296-305-05000 and 296-305-05002
Live fire training in structures	• NFPA 1403, Standard on Live Fire Training Evolutions, 2007 Edition
Wildland fires	• WAC 296-305-07010 through ((296-305-07019)) 296-305-07018 • The National Wildfire Coordination Group (NWCG) fire-fighter II • All training for assigned wildland incident command positions must be completed prior to assignment by the IC
INCIDENT MANAGEMENT	
Incident management training	• National Incident Management System • NFPA 1561, Standard on Emergency Services Incident Management System, 2008 edition (available on-line)
EMERGENCY MEDICAL	
Emergency medical training	• WAC 296-305-02501
HAZARDOUS MATERIALS	
Hazardous materials training	• Chapter 296-824 WAC, Emergency response • Nonconflicting portions of NFPA 472, Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents, 2008 edition
TECHNICAL RESCUE	
Confined space entry and/or rescue	• Chapter 296-809 WAC, Confined spaces

Table 2 Subject Specific Training	
Topic	Training requirements found in:
	• WAC 296-305-05004 • Nonconflicting portions of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition
Other technical rescue situations, such as rope, structural collapse, transportation/machinery, trench, water, and wilderness rescue	• NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition
POSITION SPECIFIC DEVELOPMENT	
Aircraft	• NFPA 402, Guide for Aircraft Rescue and Firefighting Operations, 2008 edition
Driver training	• WAC 296-305-04505(8)

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06001 Fire service equipment. (1) All portable equipment (~~((shall))~~) must be inspected routinely to ensure that it is ready for use.

(2) Any defective equipment (~~((shall))~~) must be removed from service.

(3) Nylon utility straps or straps of equivalent strength should be used instead of hose belts. The utility strap (~~((shall))~~) must be of one-inch nylon, or equivalent belting, with a four-inch overlap and sewn with polyester thread and (~~((shall))~~) must measure at least 102 inches on the outside circumference.

(4) The load capacity (~~((shall))~~) must be stenciled on each portable jack and the load capacity (~~((shall))~~) must not be exceeded.

(5) The instruction plate on portable jacks (~~((shall))~~) must be maintained in a legible condition.

(6) Portable powered cut-off saws (rescue saws) (~~((shall))~~) must be used in accordance with the manufacturer's recommendations.

Exception: The lower blade guard described in WAC 296-807-12005 is not required on hand-held portable powered cut-off saws used by fire/rescue personnel for rescue procedures and/or roof ventilation for smoke removal, provided the operator is wearing appropriate eye, face, head, and body protection as specified in WAC 296-305-02001 through 296-305-02012. This exception also applies to qualified persons (e.g., instructors) wearing

personal protective equipment as described herein to instruct personnel in safe roof ventilation/rescue techniques.

(7) When not in use, the cutting teeth on a chain saw ~~((shall))~~ must be covered either by an old section of hose, a wooden scabbard, or an equivalent method.

(8) All axes worn by employees ~~((shall))~~ must be provided with a scabbard to guard against injury from the blade and pick of the axe.

(9) The guards on smoke ejectors, as supplied by the manufacturer, ~~((shall))~~ must not be removed and the operator of the ejector ~~((shall))~~ must wear gloves.

(10) Acetylene cylinders. Handling, storage and utilization of acetylene in cylinders ~~((shall))~~ must be in accordance with the Compressed Gas Association Pamphlet G-1 - 2003 edition.

(11) Powder activated life-line guns and accessories ~~((shall))~~ must be stored in a box or container equipped with a lid or cover.

(a) The box ~~((shall))~~ must be kept closed when not in use.

(b) A loaded life-line gun ~~((shall))~~ must not be placed in the storage box.

(c) Instruction books, cleaning kits and hand tools needed for maintenance or breakdown purposes ~~((shall))~~ must be kept in the life-line gun storage box.

(d) The words "powder activated tool" ~~((shall))~~ must be conspicuously printed on the top of the storage box.

(12) Abrasive blades in storage, not on a saw, ~~((shall))~~ must be protected from contact with water, liquids, petroleum products and their fumes.

(13) Fiber rope that has been subjected to injurious chemicals or excessive heat ~~((shall))~~ must not be used for load carrying purposes.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06003 Testing fire service equipment.

(1) All fire suppression and supply hose must be tested annually as well as when there is reason to believe the hose has been damaged. Testing ~~((shall))~~ must be in accordance with the 2003 edition of NFPA 1962, Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose.

(2) Safety nets ~~((shall))~~ must be tested annually by dropping a weight of not less than 400 pounds from the highest point to be used above the net. The test weight object may consist of two tightly tied rolls of two and one-half inch hose, each 100 feet long, or any other object having similar weight and dimension.

(a) The net suspension system ~~((shall))~~ must be designed and constructed with a safety factor of four and as a minimum, ~~((shall))~~ must withstand the test loading without permitting contact between the net and any surface or object below the net.

(b) Forged steel safety hooks or shackles ~~((shall))~~ must be used to fasten the net to its supports.

(c) Training requiring safety net protection ~~((shall))~~ must not be undertaken until the net is in place and has been tested by the weight of three firefighters on the net.

(d) Safety nets ~~((shall))~~ must extend eight feet beyond the edge of the work surface.

(e) The mesh size of nets ~~((shall))~~ must not exceed six inches by six inches.

(f) All nets ~~((shall))~~ must meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturer, and ~~((shall))~~ must bear a label of proof test.

(g) Edge ropes ~~((shall))~~ must provide a minimum breaking strength of 5,000 pounds.

(3) The method of testing a life line gun ~~((shall))~~ must be in accordance with the manufacturer's recommended procedure.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06006 Ground ladders. This section establishes the minimum requirements for the construction, care and use of fire department ground ladders.

(1) New ground ladders purchased after the effective date of this chapter ~~((shall))~~ must be constructed and certified in accordance with the 2004 edition of NFPA 1931, Standard on Design and Design Verification Tests for Fire Department Ground Ladders.

(2) Firefighters ~~((shall))~~ must climb and descend ground ladders with the fly in, for safety purposes, when not in conflict with the manufacturer's recommendations. Even when ladders are routinely used in the fly-out configuration, in adverse conditions firefighters ~~((shall))~~ must be permitted to climb and descend ground ladders with the fly in to assure secure footing.

(3) All ground ladders ~~((shall))~~ must be maintained in accordance with the manufacturer's recommendations and visually inspected at least once a month and after every use. The following ladder components ~~((shall))~~ must be visually inspected:

(a) Heat sensor labels, if provided, for a change indicating heat exposure.

(b) All rungs for snugness and tightness.

(c) All bolts and rivets for tightness.

(d) Welds for any cracks or apparent defects.

(e) Butt spurs for excessive wear or other defects.

(f) Halyards for fraying or breaking.

(g) Roof hooks for sharpness and proper operation.

(h) Beam and rungs for punctures, wavy conditions, worn serrations or deformation.

(i) Surface corrosion.

(4) The following wood ladder components ~~((shall))~~ must be checked:

(a) Beams for dark streaks. When a wood ground ladder develops dark streaks in the beams, the ladder ~~((shall))~~ must be removed from service and service tested as specified in subsection (9) of this section.

(b) Loss of gloss on the protective finish of fiberglass or wood ladders, signifying damage or wear.

(5) Any sign of damage or defect during a visual inspection ~~((shall))~~ must be cause to remove the ladder from service until it has been repaired. Scratches and dents ~~((shall))~~ must not be cause for a ladder to fail a test if it passes the appropriate service test.

(6) If the heat sensor label has an expiration date, and that date has passed, the heat sensor label ~~((shall))~~ must be replaced.

(7) Whenever any ground ladder has been exposed, or is suspected of having been exposed to direct flame contact, or wherever the heat sensor label has changed to indicate heat exposure, the ladder ~~((shall))~~ must be service tested according to subsection (9) of this section.

(8) Temporary repairs ~~((shall))~~ must not be made to ground ladders.

(9) When ground ladders are tested, they ~~((shall))~~ must be tested in accordance with the strength service testing procedures of the 2004 edition of NFPA 1932, Standard on Use, Maintenance and Service Testing of In-Service Ground Ladders, section 7.2.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06008 Electrical. (1) Temporary power and lighting with the use of 110 - 120 VAC and 220 - 240 VAC equipment.

(a) All lighting equipment ~~((shall))~~ must be provided with heavy duty flexible cords with SO or SJ jackets or equivalent. All lighting equipment ~~((shall))~~ must be used with heavy duty flexible extension cords rated for the intended load with SO or SJ jackets or equivalent.

(b) Flexible cords and cables ~~((shall))~~ must be approved and suitable for conditions of use and location.

(c) Flexible cords ~~((shall))~~ must be used only in continuous lengths without splice or tap. Hard service flexible cords No. 12 or larger may be repaired if spliced so that the splice retains the insulation, outer sheath properties, and usage characteristics of the cord being spliced.

(d) Flexible cords ~~((shall))~~ must be connected to devices and fittings so that strain relief is provided which will prevent pull from being directly transmitted to joints or terminal screws.

(e) Flexible cords and cables ~~((shall))~~ must be protected from accidental damage. Sharp corners and projections ~~((shall))~~ must be avoided. Where passing through doorways or other pinch points, flexible cords and cables ~~((shall))~~ must be provided with protection to avoid damage.

(f) The path to ground from power cords, equipment, and temporary lights ~~((shall))~~ must be continuous.

(g) Electrical equipment, tools, and temporary lights that are used in wet or damp locations or other hazardous atmospheres ~~((shall))~~ must be approved for the purpose.

(h) Electrical equipment, tools, and temporary lights ~~((shall))~~ must be constructed so that water cannot enter or accumulate in wireways, lampholders or other electrical parts.

(i) Electrical equipment, tools, and temporary lights that are used in wet or damp locations or hazardous atmospheres

~~((shall))~~ must have 120 VAC single-phase 15 or 20 amp in-line resettable ground fault circuit interrupters.

(j) Temporary lights ~~((shall))~~ must be equipped with a handle and be insulated from heat and possible electrical shock.

(k) Temporary lights ~~((shall))~~ must not be suspended by their electrical cords unless cords and lights are designed and labeled for this means of suspension.

(l) Temporary lights ~~((shall))~~ must be protected by guards of a nonconductive or insulated material to prevent accidental contact with the bulb.

(2) 120 VAC cord reels ~~((shall))~~ must be approved for use in wet or damp locations or hazardous atmospheres.

(a) Bodies and caps ~~((shall))~~ must be weather tight, 15 amp rated at 120 VAC.

(b) Cords on cord reels that do not exceed one hundred fifty feet in length ~~((shall))~~ must be SO or SJ type jackets or equivalent.

(c) Cords that exceed one hundred fifty feet in length on reels, ~~((shall))~~ must have 10-gauge conductors.

(d) Cord reels that are not permanently mounted on a vehicle ~~((shall))~~ must be insulated from the ground when in use.

(3) 12-volt portable type hand lanterns ~~((shall))~~ must be constructed of molded composition or other type approved for the purpose.

(a) Portable hand lanterns used in wet or damp conditions or other hazardous atmospheres ~~((shall))~~ must be operated at a maximum of 12 volts.

(b) Hand lamps ~~((shall))~~ must be equipped with a handle and a substantial guard over the bulb and attached to the lampholder.

(4) Portable and vehicle-mounted generators.

(a) Portable generators. Under the following conditions, the frame of a portable generator ~~((shall))~~ is not ~~((be))~~ required to be grounded and ~~((shall))~~ must be permitted to serve as the grounding electrode for a system supplied by the generator:

(i) The generator supplies only equipment mounted on the generator or cord-connected and plug-connected equipment through receptacles mounted on the generator, or both; and

(ii) The noncurrent-carrying metal part of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(b) Vehicle-mounted generators. 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; and

(iii) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(5) Electrical equipment used in classified locations must conform to the requirements set out in WAC ~~((296-24-~~

95613)) 296-24-95711, Hazardous (classified) locations. Definitions pertaining to classified locations can be found in WAC ((296-24-95604)) 296-24-990.

Additional references: Article 250 National Electrical Code. Chapter 296-24 WAC, Part L and WAC 296-800-280.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06503 General requirements. (1) Stations and administrative offices ((shall)) must comply with the requirements of the general occupational health standards, WAC 296-800-210, Lighting in the workplace.

(2) Every new fire station, whether manned or unmanned, ((shall)) must be equipped with an approved emergency lighting system that will light dormitories, hallways, and apparatus bay areas in case of electrical power failure.

(3) New fire stations or new additions to an existing fire station that incorporate sliding poles or slides in their design or construction must meet the following requirements:

(a) The sliding pole floor opening will be enclosed by walls with access provided to the floor opening only through a door.

(b) The door will have a latch or knobs no lower than five feet from the floor.

(c) The door will be equipped with a system that will automatically keep the door locked unless an alarm requiring a response sounds in the fire station. This automatic lock system will allow for a manual override, which will be used only to enable inspection, maintenance, repair or replacement of the sliding pole, the enclosure, the door, or other features of the sliding pole system. The automatic lock system will feature a warning light above or adjacent to the door that will indicate when the door is unlocked.

(d) Permanent illumination which cannot be manually turned off will be provided in the pole hole.

(e) The automatic lock system will be subject to monthly inspections.

(f) The sliding pole floor opening will be illuminated constantly in a manner that cannot be overridden manually, except as needed for inspection, repair, maintenance, or replacement.

(g) The bottom of the sliding pole will be cushioned by a minimum three-foot diameter rubber mat or its equivalent.

(h) Nothing will be stored or placed at the bottom of the sliding pole for a radius of three feet from the pole.

(i) Doors will not protrude within three feet of the pole.

(j) Proper sliding pole use will be included as part of the formal firefighter training program.

(4) The requirements of chapter 296-878 WAC, window cleaning, ((shall)) must be followed when employees are engaged in window washing operations.

(5) All new fire stations and other new fire department facilities which contain sleeping quarters ((shall)) must be fully protected with automatic sprinkler systems.

(6) All existing fire stations and existing fire department facilities with sleeping quarters, that undergo a major renovation that consists of more than sixty percent of the assessed

evaluation of the existing structure ((shall)) must be fully protected with automatic sprinkler systems.

(7) Eye protection ((shall)) must be worn when charging, changing or adding fluid to storage batteries. Personnel that will be charging storage batteries ((shall)) must be qualified to perform this function by the employer. See WAC 296-800-16050.

(8) Stairway tread ((shall)) must be of a nonskid design. Examples of nonskid: Grip strut grating, serrated edge grating, metal grating, aluminum safety tread, abrasive metal stair tread, or pressure sensitive nonskid type.

(9) In existing facilities where sliding poles or slides are used, the pole or slide hole ((shall)) must be guarded in such a manner as to prevent anyone from walking directly into the pole or slide hole opening.

(10) To absorb the shock to sliding employees, the bottom of all slide poles or slides ((shall)) must have a three-foot diameter cushioned rubber mat, or its equivalent.

(11) Nothing ((shall)) must be stored or placed at the bottom of a pole or slide hole for a radius of three feet from the pole. Doors ((shall)) must not protrude within three feet of the pole or slide.

(12) Stair and landing protection: Stairways, guardrails, landings, and handrails ((shall)) must be constructed to the requirements of chapter 19.27 RCW the State Building Code Act, and WAC 296-800-250.

(13) A standard guard railing for a landing platform ((shall)) must include a toeboard, which is a vertical barrier, at floor level erected along exposed edges of a floor opening, wall opening, platform, runway or ramp to prevent falls of material.

(14) Any new facility, or addition, alteration, or repair to an existing facility ((shall)) must be in compliance with chapter 19.27 RCW, the State Building Code Act.

(15) New stations containing a kitchen, and station kitchens remodeled after the date of this chapter, ((shall)) must have an alarm activated service disconnect of fixed cooking appliances.

(16) Asbestos in facilities, buildings, and properties used by fire departments.

(a) Fire department employees ((shall)) must be informed of the presence and location of asbestos-containing material (ACM) and presumed-asbestos-containing material (PACM) in areas of buildings where employees work.

(b) Damaged and deteriorating asbestos in fire stations and facilities must be repaired, removed, enclosed or encapsulated.

(c) ACM and PACM in fire stations and facilities ((shall)) must be labeled according to WAC 296-62-07721(6).

(d) WAC 296-62-07723, Housekeeping, ((shall)) must apply to fire stations and facilities.

(e) Fire departments that do not comply with this section must comply with the requirements relating to asbestos set out in chapters 296-62 and 296-65 WAC.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06505 Sanitation, disinfection, cleaning, and storage areas. (1) Fire departments ((shall)) must provide facilities for disinfecting, cleaning, and storage.

(2) A designated cleaning area ((shall)) must be provided for under the fire department's exposure control plan for the cleaning and disinfecting of protective equipment, portable equipment, and other clothing.

(a) Fire departments that engage in emergency medical operations ((shall)) must provide or have access to disinfecting facilities for the cleaning and disinfecting of emergency medical equipment.

(b) Disinfecting ((shall)) must not be conducted in fire station kitchen, living, sleeping, or personal hygiene areas.

(c) Disinfecting facilities in fire stations ((shall)) must be vented to the outside environment, and designed to prevent contamination of other fire station areas.

(d) The disinfecting facility ((shall)) must contain a sink with hot and cold water faucets. All surfaces ((shall)) must be nonporous surfaces.

(e) Handwashing facilities ((shall)) must be readily accessible to members. Handwashing facility means a facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines. When provision of handwashing facilities is not feasible, the employer ((shall)) must provide either an appropriate antiseptic hand cleaner in conjunction with clean cloth/paper towelettes or antiseptic towelettes.

(3) Protective clothing or equipment that is contaminated or potentially contaminated ((shall)) must not be allowed in any kitchen, living, sleeping, personal hygiene or other non-work area.

(4) The designated cleaning area ((shall)) must be physically separate from areas used for food preparation, cleaning of food and cooking utensils, personal hygiene, sleeping, and living areas.

(5) Drying areas for protective clothing ((shall)) must be well ventilated.

(6) Storage areas: Emergency medical supplies and equipment stored in fire stations, other than that stored on vehicles, ((shall)) must be stored in a dedicated enclosure and maintained per manufacturer's instructions.

(7) Reusable emergency medical supplies and equipment, protective clothing, and protective equipment ((shall)) must not be stored in kitchen, living, sleeping, or personal hygiene areas, nor ((shall)) must it be stored in personal clothing lockers.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06507 Sleeping areas. (1) All sleeping areas in fire stations ((shall)) must be separated from vehicle storage areas by at least one-hour fire resistive assemblies.

(2) Sleeping areas ((shall)) must be protected by smoke and carbon monoxide detectors.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06509 Apparatus areas. (1) Three feet of clearance ((shall)) must be maintained around apparatus parked within the station where the station's width permits.

(2) All fire stations built after December 17, 1977, ((shall)) must have a minimum of three feet of clearance around the apparatus, which ((shall)) must be maintained free of any storage or obstruction.

(3) The station's apparatus floors ((shall)) must be kept free of grease, oil, water and tripping hazards.

(4) Floors ((shall)) must have slip-resistant surfaces on areas where personnel would normally mount or dismount apparatus.

(5) No Class I or Class II flammable liquids ((shall)) must be used for cleaning purposes to remove grease or dirt from apparatus.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06511 Indoor air quality. Air quality ((shall)) must be consistent with chapter 296-841 WAC, Air-borne contaminants, and WAC 296-800-240, Environmental tobacco smoke.

(1) If indoor air monitoring indicates over-exposure to contaminant ((PEL's)) PELs, engineering controls ((shall)) must be utilized to reduce firefighter exposure to the lowest feasible level.

(2) All fixed internal combustion equipment such as, but not limited to emergency generators, ((shall)) must be effectively exhausted to the exterior of the fire stations.

(3) All facilities dedicated to the maintenance and repair of internal combustion equipment ((shall)) must have means for effective ventilation to the exterior of the building.

(4) All new fire stations ((shall)) must be designed and constructed to conform to ACGIH ventilation recommended criteria for exhaust of internal combustion engines.

Additional reference: Industrial Ventilation Manual of Recommended Practices ISBN No.: 0-936712-65-1.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06513 Refueling areas. (1) Refueling pumps, if installed, ((shall)) must be in accordance with the provisions of the International Fire Code and WAC 296-24-33015.

(2) Dispensing of Class 1 liquids ((shall)) must be as required in the International Fire Code.

(3) Spillage of oil or fuel ((shall)) must be properly disposed of or completely evaporated and the fuel tank cap replaced before restarting engine.

(4) Fueling areas ((shall)) must be posted - "NO SMOKING - STOP YOUR MOTOR."

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06515 Hose drying towers. (1) The floor openings on hose tower platforms ~~((shall))~~ must be equipped with a forty-two inch guardrail with ~~((mid-rail and shall))~~ midrail and must be capable of withstanding a force of 250 pounds applied in any direction at any point on the top rail. The work platform ~~((shall))~~ must be equipped with toe-boards.

(2) The requirements for offset ladder platforms and ladder cage guards, when ladders extend beyond twenty feet, ~~((shall))~~ must apply to hose drying towers.

(3) Ropes and attachments used to hoist hose in the hose towers ~~((shall))~~ must have a breaking strength of 1500 pounds for a safe load strength of 300 pounds (five-to-one safety factor).

(4) Approved head protection ~~((shall))~~ must be worn by all persons in the hose tower whenever hose handling/hanging operations are taking place.

(5) Ropes utilizing a pulley block ~~((shall))~~ must be appropriately sized for the sheave to prevent possible jamming or damage to the rope.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06517 Drill tower training facilities.

(1) Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.

(2) Drill tower construction and operations ~~((shall))~~ must comply with the following:

(a) Burn buildings used for live fire training ~~((shall))~~ must be engineered for such use.

(b) Drill towers ~~((shall))~~ must not be used for live fire training except when burn rooms are provided.

(c) Burn rooms, if included in the building, ~~((shall))~~ must be engineered into drill towers.

(d) All walking surfaces in the drill tower ~~((shall))~~ must be slip resistant.

(e) Railings ~~((shall))~~ must be designed with a four-to-one safety ratio for 250 pound firefighters who may be operating a charged hose line on the fire escape.

(f) Rappelling anchors ~~((shall))~~ must be engineered to support 5000 pounds per person supported by the anchor.

(g) Rappelling anchors ~~((shall))~~ must be readily identifiable.

(h) Rappelling anchors ~~((shall))~~ must be certified by a structural engineer.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-06519 Fire station equipment and tools. (1) Equipment and tools in maintenance shops ~~((shall))~~ must be guarded as required by the guarding provisions of chapter 296-806 WAC, Machine safety, and chapter 296-807 WAC, Portable power tools.

(2) Exposure of fan blades. When the periphery of the blades of a fan is less than ten feet above the floor or working

level, the blades ~~((shall))~~ must be guarded. The guard ~~((shall))~~ must have openings no larger than one-half inch. This provision ~~((shall))~~ does not apply to residential ceiling fans.

(3) Abrasive wheels and grinders.

(a) All abrasive wheels and grinders, ~~((shall))~~ must be guarded as required by chapter 296-806 WAC, Machine safety.

(b) Goggles or face shields ~~((shall))~~ must be used when grinding.

(c) Abrasive and composite blades ~~((shall))~~ must be stored and protected against exposure to fuel and oil.

(d) Work rests on bench mounted abrasive wheel grinders ~~((shall))~~ must be used to support the work. These ~~((shall))~~ must be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests ~~((shall))~~ must be kept adjusted sufficiently close to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest. Adjustment of the work rest ~~((shall))~~ must not be made while the wheel is turning.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07001 Wildland fire operations. Definitions:

Urban wildfire((+)). An uncontained fire requiring suppression action usually spreading through ground cover, vegetative fuels, brush, grass, and landscaping; often threatening residential and commercial structures within an urban environment with access to established roadways and water systems.

Wildland firefighting((+)). The activities of fire suppression and property conservation in woodlands, forests, grasslands, brush, and other such vegetation or any combination of vegetation that is involved in a fire situation but is not within buildings or structures.

~~((+))~~ (a) WAC 296-305-07010 through 296-305-07018 ~~((shall))~~ must only apply to personnel and agencies called on to provide services at any fire defined as a "wildland fire."

~~((+))~~ (b) Employers ~~((shall))~~ must provide, at no cost to the employee, the protective equipment and protective clothing required by this chapter. Personnel performing suppression actions on a wildland fire ~~((shall))~~ must wear and maintain the provided protective equipment and clothing as directed by their department's procedures and guidelines.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07002 Wildland fire personnel accountability. (1) Urban wildfire and wildland firefighters ~~((shall))~~ must not be required to wear personal alerting devices except when wearing self-contained respiratory equipment.

(2) An officer ~~((shall))~~ must maintain positive communication with any individual during those times that the member is assigned an ancillary firefighting task (examples would include, but are not limited to, scout, incident safety officer, or lookout).

(3) Urban wildfire and wildland firefighters engaged in direct fire attack ((shall)) must work in teams of two or more unless they are in visual or voice contact with an officer.

(4) On initial attack fires, the incident commander ((shall)) must maintain the name and location of all personnel on the incident.

(5) On extended attack fires, the incident commander ((shall)) must:

(a) Ensure the maintenance of the name and location of all personnel within their unit, division, or branch.

(b) Transfer/confirm personnel and unit information to the appropriate incident command system (ICS) staff as soon as possible.

(c) Announce transfer of command to all on scene.

(d) Ensure that personnel and unit information is recorded in the command post as soon as possible.

(6) When a fire "blows up" or makes a run that crosses planned control lines, officers with affected crews ((shall)) must conduct an accounting of all personnel assigned to fire suppression and report any missing personnel to the incident commander.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07004 Heat-related illness prevention for wildland firefighters. (1) At all wildland fires, members ((shall)) must be provided with a minimum of one quart per hour of electrolyte drinks or potable water.

(2) Officers at wildland fires ((shall)) must be trained in the symptoms of heat-related disorders and ((shall)) must observe their crews for such behavior. Appropriate action ((shall)) must be taken in the event a crew member displays such symptoms.

(3) At all wildland fires, the incident commander ((shall)) must consider the circumstances of the incident and make adequate provisions early in the incident for the rest, rehabilitation and hydration of all members operating at the scene. These provisions ((shall)) must include fluid replenishment; other factors to consider are the extremes of the climatic conditions and other environmental factors that increase the firefighter's heat stress.

(4) One hour is the maximum time that individuals can work in high temperatures in structural protective clothing. Agencies may substitute crews to avoid the one-hour bench mark or increase crew size to complete the job in less than one hour.

(5) Members may be reassigned to return to duty throughout the incident cycle once a work-to-rest ratio (company and crew) rehabilitation rotation has been established.

Note: WAC 296-305-05004, Occupational exposure to heat and cold stress, may be of assistance while developing a plan, establishing training topics, and identifying environmental factors to consider for incident rehabilitation. The 2008 edition of NFPA 1584, Standard on the Rehabilitation Process for Members During Emergency Operations and Training Exercises may also assist in establishing a rehabilitation plan.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07006 Equipment for wildland fire-fighting.

Note: Equipment is considered in this section as those items not configured as a part or portion of the vehicle body.

(1) All equipment on an apparatus ((shall)) must be carried in an enclosed compartment or otherwise securely mounted on the apparatus and guarded, so that individuals cannot accidentally come in contact with equipment that may injure them.

(2) All hand tools, when not in use, ((shall)) must have appropriate covers and guards to prevent injury.

(3) Firefighters whose duties require them to operate a power chain saw ((shall)) must wear flexible ballistic nylon pads, sewn or otherwise fastened into the trousers, or other equivalent protection that ((shall)) must cover the full length of the thigh to the top of the boot. Additional trouser, eye, hearing, face and head protection as required by this chapter ((shall)) must be worn.

(4) Employees ((shall)) must not use the chainsaw to cut directly overhead, or at a distance that would require the operator to relinquish a safe grip on the saw.

(5) Only personnel trained in firing equipment ((shall)) must handle and use such equipment, and observe the manufacturers' recommendations.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07008 Aircraft operations for fighting wildland fires. (1) Whenever fixed wing and rotary aircraft are being utilized on an incident, personnel trained in air operations management ((shall)) must be assigned as necessary by the incident commander/operations section chief.

(2) Prior to the initiation of air operations, all personnel operating in close proximity to an air drop ((shall)) must be notified of such activity.

(3) Personnel ((shall)) must not intentionally operate in an area where it can reasonably be expected that they may be hit with retardants or suppressants from fixed wing or rotary aircraft.

(4) Radio communications ((shall)) must be maintained between an aircraft/air attack group supervisor and the appropriate ground officer.

(5) Personnel assigned to ride in fixed wing or rotary aircraft ((shall)) must be briefed in the correct approach, riding and off-loading procedures for the particular type of aircraft.

Note: The NWCG aircraft passenger briefing/checklist can be found in the "Incident Response Pocket Guide" at http://www.nwcg.gov/pms/pubs/IRPG_Jan2004.pdf

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07010 Training for wildland fire-fighting. (1) This section ((shall apply)) applies to all personnel and agencies called on to provide services at any fire defined as a "wildland fire."

(2) This section ((shall)) does not apply to structural suppression crews' actions taken on urban wildfires.

(3) Suppression personnel assigned to a wildland fire ((shall)) must be trained to a NWCG firefighter level II or a comparable class of training.

(a) "Comparable" training ((shall)) must be determined by the employer.

(b) Nothing in this section ((shall)) will preclude the use of local residents, affected parties or contracted firefighting resources to suppress wildland fires if they are under the direct supervision of a qualified fire line officer.

(4) Supervisory personnel ((shall)) must be trained to a level commensurate to the position and responsibility they are to assume.

(5) All personnel ((will)) must be trained and capable of demonstrating competency in utilizing the Incident Command System (ICS).

(6) All suppression personnel ((shall)) must annually review the ten fire orders, the eighteen "watch out" situations, and the four common denominators of tragedy fires.

Note: The National Interagency Fire Center's "Wildland Fire Safety Training Annual Refresher (WFSTAR)" is a good resource for training topics related to wildland firefighting. These resources can be found at <http://www.nifc.gov/wfstar/index.htm>

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07012 Personal protective clothing and equipment for wildland firefighting. (1) Protective apparel and equipment for wildland firefighters ((shall)) must be designed to provide thermal protection for the firefighters against external heat sources with flame resistant clothing and equipment without creating high heat stress loads due to the prolonged work periods they experience. Members performing suppression on a wildland fire ((shall)) must wear a provided protective clothing ensemble as directed by their employer. The combined protective clothing ensemble includes:

- (a) Hardhat/helmet;
- (b) Upper and lower torso clothing;
- (c) Gloves; and
- (d) Goggles.

The 2005 edition of NFPA 1977, Standard Protective Clothing and Equipment for Wildland Firefighting, ((shall)) must serve as a guideline for determining performance characteristics of this clothing.

Note: This requirement does not apply to logging company employees whose primary job duty is not fire suppression, but are called upon to fight a wildland fire they discover.

(2) As a minimum, members ((shall)) must wear provided leather lace-up boots of sturdy construction which ((shall)) must extend upward a minimum of eight inches above the top of the sole to the lowest point of the top of the boot. The sole of the boot ((shall)) must be slip resistant.

(3) Additional personal protective equipment to be provided and worn ((shall)) must include a fire shelter as directed by the incident commander. Persons provided fire shelters ((shall)) must be trained in their use and ((shall)) must receive refresher training at least annually.

(4) Wildland protective clothing ((shall)) must comply with this standard.

(5) Personnel operating Type 1 or Type 2 engines assigned to structural protection ((shall)) must carry structural firefighting ensembles for each firefighter on their assigned apparatus.

(6) Wildland personnel protective clothing ((shall)) must not be used for interior structural firefighting.

(7) Personnel wearing full structural firefighting clothing while engaged in fighting wildland fires ((shall)) must not expend more than one hour before rotating to rest and rehabilitation. Agencies may rotate crews to avoid the one-hour benchmark when containing and controlling wildland fires.

(8) Fire departments ((shall)) must establish written procedures for the care, use, maintenance, and retirement criteria for wildland firefighting protective equipment in conjunction with the manufacturers' recommendations.

(9) Fire departments ((shall)) must establish written procedures for the use of protective clothing and protective equipment while performing wildland firefighting activities.

(10) All wildland fire shelters purchased after the effective date of this rule must meet or exceed the United States Forest Services' Missoula Technology and Development Center (MTDC) design criteria and performance requirements for "new generation fire shelters."

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07014 Apparatus standards for wildland firefighting. This section applies to wildland fire apparatus meeting the NIMS ICS typing of a Type 3 through Type 7 engine, and intended for use combating fires occurring in natural vegetation or occurring in natural vegetation and threatening improvements.

(1) In a wildland fire, an engine may provide the primary protection for a crew in the event of unexpected fire behavior or an action that places the engine crew in a position of being exposed to heat and smoke.

(2) Apparatus speed ((shall)) must be determined to be safe if in the judgment of the officer in charge, the following are taken into consideration:

(a) The particular wildland fire attack methods being utilized including, but not limited to, the nature of the fire, the type of terrain, weather conditions, equipment conditions, and whether personnel are positioned in wildland firefighting enclosures;

(b) The forgoing provision ((shall not)) does not relieve a driver from the duty to drive with due regard for the safety of all persons in all conditions;

(c) Nor ((shall)) does such provision protect the driver from the consequences of ((his/her)) their reckless disregard for the safety of others.

(3) Because of the sheltering offered by an engine, the following minimum standards ((shall)) must be complied with:

(a) The number of individuals working/assigned as an engine crew ((shall)) must not exceed the manufacturer's cab capacity.

(b) Any time an engine is moved when not directly attacking a fire, personnel ((shall)) must ride in the vehicle's enclosed cabin area, in a seat-belted location, or be off the vehicle.

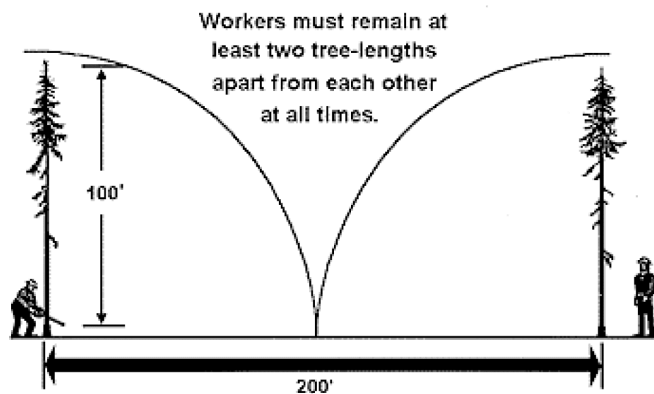
(c) Any time engines are used in a mobile attack configuration, and personnel other than the driver are on the apparatus, personnel ((shall)) must ride in the manufacturer's enclosed cabin, or use the personnel restraints and enclosures identified in WAC 296-305-07018.

(d) All personnel working on or around engines in a ground mobile attack mode or in riding positions ((shall)) must have visual or voice contact with the driver.

(e) Vehicles operating in smoke or dust ((shall)) must have their headlights, and if so equipped, a flashing or rotating roof light illuminated.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07016 Falling and equipment in forest lands.



(1) The employer 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 felled (see Figure 1: Distance Between Work Areas);

(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, 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.

(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) 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.

(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.

(ii) An escape path must be used as soon as the tree or snag is committed to fall, roll, or slide.

(6) 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.

(7) 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.

(8) 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 first-aid kit.

(9) 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 felled timber.

(10) A cutter must not be placed on a hillside immediately below another cutter or below other operations where there is probable danger.

(11) Cutters must be informed of the movement and location of other employees placed, passing, or approaching the vicinity of trees being felled.

(12) Trees must be felled into the open whenever conditions permit.

(13) 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.

(14) Undercuts large enough to safely guide trees and eliminate the possibility of splitting must be used on all trees over six inches diameter at breast height.

(15) A cutter must place an adequate undercut and leave enough holding wood to ensure the tree will fall in the intended direction.

(16) The two cuts that form the undercut must not cross where they meet.

(17) The undercut must not be made while other workers are in an area into which the tree could fall.

(18) A backcut must be made in each tree being felled.

(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.

(19) Trees with facecuts 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.

(20) 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.

(21) 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.

(22) On slopes over fifty percent 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.

(23) 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 cannot be removed, the buddy system must be used to watch for and give warning of falling bark or other hazards.

(24) Danger trees that are unsafe to cut must be blown down with explosives or fell by other safe methods.

(25) To avoid use of wedges, which might dislodge loose bark or other material, danger trees must be fell in the direction of lean unless other means (mechanical or dynamite) are used.

(26) All bosses and supervisors must survey their assigned work area for danger trees and mitigate them prior to crews commencing work in that area.

Definition.

Danger trees((+)). *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.*

(27) All fallers and faller bosses must be trained in the type of timber they will be falling prior to being assigned to a falling crew.

(28) All dozers, tractors, and similar machines in use where limbs or brush may injure the operator must be guarded as follows:

(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 one and three-quarter 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.

(29) All dozers used on terrain that has sufficient slope or of such material as to hinder the movement of the dozer must have an attached winch or drum line that is in good working order. When such a situation is encountered, the dozer assistant must be knowledgeable in the operation of the dozer, winch or drum line operations, the hazards associated with winching or drum line operations, and line anchor selection.

(30) Operators must operate and control their machines in a safe manner and avoid operations in areas where machine stability may not be maintained.

(31) 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.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-07018 Occupant restraints and enclosures for wildland firefighting. (1) While in motion, the driver and passengers in the cab ((~~shall~~)) must wear seat belts.

(2) Seat belts ((~~shall~~)) must comply with the U.S. Department of Transportation, Part 49 C.F.R., Section 571, Standards 209 and 210.

(3) Passengers on wildland vehicles ((~~shall~~)) must use a safety belt or a short lanyard securely connected to the apparatus.

(a) Safety belts or lanyards ((~~shall~~)) must be secured to an anchorage or structural member capable of supporting a minimum dead weight of one thousand five hundred pounds per person or a 4:1 safety factor.

(b) Safety lanyard lengths ((~~shall~~)) must not allow for the firefighter to reach the ground.

(4) Safety belts ((~~shall~~)) must be constructed and maintained in compliance with ANSI A10.14-1975.

(5) Lanyards ((~~shall~~)) must be a minimum of one-half inch nylon or equivalent with a nominal breaking strength of five thousand four hundred pounds.

(6) The structural components for wildland vehicle enclosures ((~~shall~~)) must be constructed of metal tubing not less than one inch in diameter, capable of supporting a minimum of one thousand five hundred pounds per person, a 4:1 safety ratio or the equivalent. This applies to vehicle enclosures manufactured after the effective date of this chapter.

(7) The enclosure ((~~shall~~)) must be constructed to a minimum toprail height of forty-two inches and ((~~shall~~)) must include a midrail and either a toeboard at least four inches high or a bottom rail a maximum of six inches from the platform.

(8) Access door(s) and latching mechanisms to tail board enclosures ((~~shall~~)) must be constructed and mounted to achieve structural integrity comparable to the remainder of the enclosure.

(9) A strap or butt-bar utilized for the fourth side of the enclosure ((~~shall~~)) must be a minimum of a four-inch nylon

strap capable of supporting one thousand five hundred pounds dead weight.

(10) While actively fighting a fire in the mobile attack mode, firefighters (~~shall~~) must either remain in a three-sided enclosure and use a safety lanyard, or remain in a four-sided enclosure.

AMENDATORY SECTION (Amending WSR 13-05-070, filed 2/19/13, effective 1/1/14)

WAC 296-305-08000 Appendices. These appendices are nonmandatory and are included for reference and information purposes only.

Appendix B—Nonmandatory: Life safety ropes. (1) Life safety rope may be significantly weakened by abrasion, misuse, contamination, wear, and stresses approaching its breaking strength, particularly impact loading. Since there are no approved methods to service test a rope without compromising its strength, rope rescue and training operations should be carefully observed and monitored for conditions that could cause immediate failure or result in undetectable damage to the rope.

(2) If a rope has been used in a situation that could not be supervised or where potential damage may have occurred, it must be removed from service and destroyed.

(3) It is important that ropes be inspected for signs of wear by qualified individuals after each use. If indication of wear or damage are noted, or if the rope has been stressed in excess of the manufacturer's recommendation or impact loaded, it must be destroyed.

(4) The destruction of the rope means that it must be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This alteration could include disposing of the rope, or removal of identifying labels and attachments, and cutting the rope into short lengths that could be used for utility purposes.

(5) The assignment of "disposable" life safety ropes to members or to vehicles has proved to be an effective system to manage ropes that are provided for emergency use and are used infrequently. Special rescue teams, which train frequently and use large quantities of rope, should include members who are qualified to manage and evaluate the condition of their ropes and determine the limitations upon their reuse.

Appendix C—Nonmandatory: Decontamination. (1) A decontamination area should be established whenever civilians or fire department personnel have had known or suspected exposure to toxic chemicals.

(2) Such decontamination areas should be established before any personnel are allowed to enter the "Hot" zone.

(3) The decontamination area should be set up using the following guidelines:

(a) The decontamination area should be located uphill, upwind and at a right angle to the "Hot" zone.

(b) The decontamination area entry/exit point and boundaries should be clearly marked using flagging tape, ropes, cones, etc.

(4) 4 to 6 mil poly sheeting should be spread on the ground in the decontamination area to control runoff.

(5) The decontamination process is divided into stations. In most cases it will not be necessary to utilize all the stations.

The decision to use all or part of the stations should be based on the following factors:

(a) The hazards associated with the product involved.

(b) The estimated levels of contamination.

(c) The type of protective equipment worn by contaminated responders.

(d) Recommendations from outside sources such as, but not limited to CHEMTREC, the agency for toxic substance and disease registry, poison control centers or the manufacturer of the product.

(6) The following is a list of all the stations in a nine-step decontamination area set up for a worst case scenario involving a hazardous materials response team member whose chemical suit has been breached:

(a) Station #1 - Segregated equipment drop: Contaminated equipment that will be used again in the "Hot" zone, disposed of, or decontaminated at a later time or place, will be deposited here.

(b) Station #2 - Wash/rinse: Entry personnel will be washed with appropriate decontamination solution and rinsed with water by attendant(s) to remove gross contamination. This station may consist of multiple wash/rinse steps depending on the severity of the hazards involved.

(c) Station #3 - Outer protective clothing removal: Attendant(s) will remove the outer protective clothing from entry personnel being cautious to avoid touching the inside of the suit while removing it. Protective clothing that has been removed at this step (~~shall~~) must be placed in an overpack or other appropriate container for later testing and further decontamination, if needed.

(d) Station #4 - Removal of SCBA: The entry personnel are assisted in removing their SCBA by an attendant. The SCBA facepiece should be left in place and the low pressure hose held away from any potentially contaminated inner clothing.

(e) Station #5 - Removal of inner clothing: All clothing worn inside the suit must be removed in cases where the suit has been penetrated and the entry personnel are contaminated.

(f) Station #6 - Personal shower: Entry personnel should wash and rinse entire body with mild soap and water. Contain runoff water if possible, however this is an emergency situation and containment is secondary to removing contaminants from personnel.

(g) Station #7 - Drying off: Entry personnel that have showered should dry off using towels or whatever is available. Items used should be placed in an appropriate container for disposal. Emergency clothing such as disposable coveralls should be provided.

(h) Station #8 - Medical evaluation: Entry personnel should be evaluated by paramedics - checking vital signs including temperature and level of consciousness. Records of the evaluation must be kept and given to the team safety officer to be included in the members exposure records.

(i) Station #9 - Transport to emergency room: Any personnel exhibiting any signs or symptoms of exposure should be transported to the emergency room for evaluation and observation.

(7) The hazardous materials response team van should carry premeasured packets of decontamination solution

mixes for the purpose of decontaminating chemical protective clothing and other equipment at the scene of a hazardous materials emergency. These solutions are not to be used to decontaminate turnouts or exposed skin under any circumstances.

(8) The primary solution used will be a simple detergent and water mixture. Other special decontamination solution mixes will only be used in those situations when it is determined that the detergent and water solution is inappropriate.

(9) Contaminated civilians that are exhibiting signs or symptoms of exposure should be treated as patients. Due to the risk of secondary contamination, all patients should undergo emergency field decontamination at the scene before being evaluated by medical personnel or being transported to the emergency room. Medical personnel should not accept any patient that has not been grossly decontaminated.

(10) The emergency field decontamination process should consist of removing the clothing from all affected body parts of the exposed person and flushing with copious quantities of water from a garden hose or low pressure one and three-quarter inch handline to remove gross contamination. Patients will be flushed for up to fifteen minutes, depending on the material recommendations on patient decontamination.

(11) Members performing patient decontamination should wear, at a minimum, full turnouts and SCBA and should avoid splashes and overspray to the extent possible. They should also undergo decontamination when they have finished decontaminating the patient.

(12) Containment of the runoff water from patient decontamination is not required. Do not delay decontamination of patients to set up containment. However, some form of privacy screen should be erected to protect the modesty of those being decontaminated.

(13) Responders that are contaminated in the process of performing rescue or other tasks will, at the minimum, be flushed with water for a minimum of one minute. Further flushing will be performed depending on the extent of contamination and subsequent adverse health effects.

Appendix D—Nonmandatory:

Guidelines for Managing Two-in/Two-out

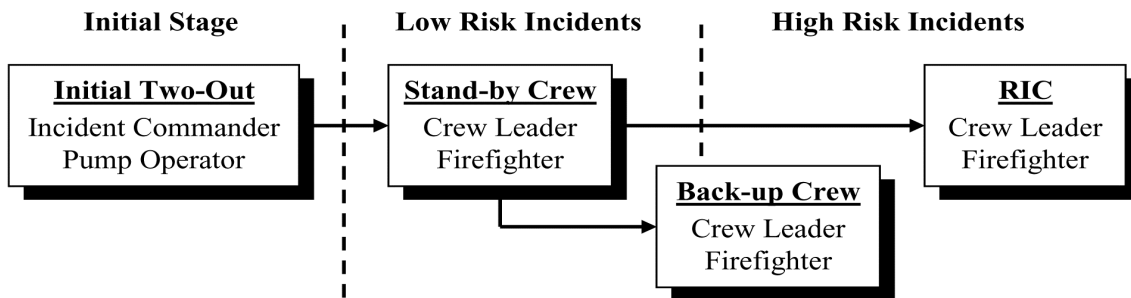
Rapid Intervention (Two-in/Two-out)

Incident Commanders must maintain rapid intervention capability (Two-out) so that, should the need arise, a rescue crew is readily available to provide for the rescue of any responders operating within a hazard area (Two-in). A hazard area is defined as any area that requires the use of PPE or in which a responder is at risk of becoming lost, trapped, or injured by the environment or structure. This includes entering a structure reported to be on fire, operating in close proximity to the structure during exterior operations, confined space operations, rope rescue, haz-mat, etc.

Rapid Intervention is the **systematic management** of response to a “Mayday” situation where the need for an immediate rescue of emergency responders has become necessary.

Responsibility – Incident Commanders are ultimately responsible for the incident outcome and the safety of all responders operating at the scene. Therefore, Incident Commanders must maintain a constant balance between the urgent need to perform critical tasks and the personal safety of the responders performing those tasks. To support this, and before responders can be assigned to operate within a hazard area, Incident Commanders must establish a two-out resource capable of providing rapid intervention. Incident Commander must maintain this capability throughout the incident until the risk to responders has been sufficiently mitigated.

Providing Two-Out Capability – The methods for providing Two-out should match the incident’s degree of potential risk and can evolve as resources become available. The following flowchart provides a decision-making guideline, illustrating a model sequence for determining how, and to what extent. Two-out capability should be provided so that it corresponds with the incident stage, size, complexity, and level of risk to responders.



For high risk incidents, a RIC should be assigned, given time to prepare, while the Stand-by Crew provides two-out. Once ready, the RIC replaces the Stand-by Crew who can move up to Back-up.

Two-Out Staffing Options

Initiating Two-out – During the “Initial Stage” of an incident, the two-out provision may be provided as a secondary responsibility by the Pump Operator and the Incident Commander.

The “Initial Stage” of an incident is defined as the stage that encompasses the tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

Once a second crew is assigned to operate within the hazard area, the incident is no longer in the “Initial Stage”. With multiple crews operating in a hazard area, the Incident Commander and Pump Operator’s ability to realistically function as an effective two-out rescue crew drastically diminishes. At this point, the Incident Commander shall assign a dedicated crew of two-out, which may be in the form of a Stand-by Crew or a RIC.

The IC and Pump Operator can only initiate Two-out during the Initial Stage

Stand-by Crew - A Stand-by Crew is assigned when the Incident Commander opts not to assign a RIC Crew. This would be done as a short term assignment for incidents that can be quickly and safely mitigated because they are contained, limited to contents, and are of minimal risk to responders. Examples include a smoldering mattress, an appliance fire, or a stovetop fire.

Standby Crews are assigned as a short term two-out provision for low risk incidents

A Stand-by Crew can also be assigned as an interim step while waiting for a RIC to arrive and/or assemble. A Stand-by Crew consists of at least two firefighters held outside the hazard area, available for immediate assistance or rescue of an entry crew. Once relieved by a RIC, the Stand-by Crew may be assigned to become a Back-up Crew.

Rapid Intervention Crew (RIC) – Functionally synonymous to a Stand-by Crew, a RIC is assigned for high risk incidents involving sustained operations to replace the Stand-by Crew. A RIC consists of at least two firefighters held outside the hazard area available for immediate assistance or rescue of an entry crew operating within the hazard. It must be recognized that a RIC alone may not be adequate when it comes to actually conducting a rescue of a trapped firefighter. Therefore, it must be understood that the primary role of a RIC is only to initiate the rescue effort.

RIC should be assigned to replace the Stand-by Crew during high risk incidents

- The primary role of a Stand-by Crew or RIC is to:
1. **Locate** and gain access to the firefighter in peril;
 2. Provide them with **emergency air** management; and to
 3. Provide **reconnaissance** information to the Incident Commander for the coordination of additional crews assigned to support the rescue effort. **Rescue if able.**

RIC effectiveness is limited to only reacting to a rescue situation

Back-up Crews

Back-up Crews are strategically pre-positioned in the immediate vicinity of crews operating in areas with a high level of risk. A pre-positioned back-up crew is the most familiar with the other crew’s location, situation, the hazards they are exposed to, and the immediate surroundings. A back-up crew’s placement also positions them to better recognize a potential or developing “Mayday” situation, enabling them to immediately intervene, thus averting a “Mayday” situation.

Back-up Crews provide protection because they are positioned in a manner that allows them to initiate actual intervention

Back-up Crews are intended to provide a crew of at least two members positioned offensively with a charged hose line and/or other applicable equipment. Back-up Crews operate with three given priorities. In coordination with the Incident Commander and in order of priority, they are assigned for the specific purpose of:

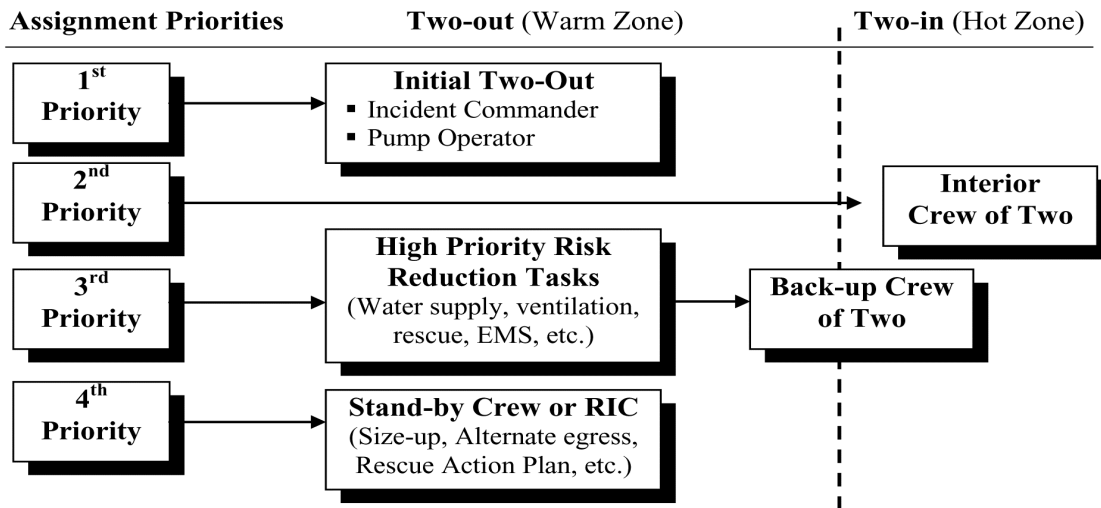
1. As dictated by fire and/or other hazardous conditions, protecting the means of egress for interior crews;
2. Serving as the Incident Commander’s eyes and ears specifically to assess conditions within the Hot Zone, conveying risk assessment reconnaissance information to the Incident Commander, monitoring conditions, and if conditions begin to deteriorate, immediately initiating the appropriate form of intervention;
3. If priorities 1 and 2 are accounted for, conducting a primary search, or supplement initial fire attack efforts.

Although protecting egress is the Back-up Crew’s primary responsibility, they may also support entry crews with hose advancement, victim removal, monitoring fire extension, etc.

As a general guideline, Back-up Crews are assigned with the following progression:

- If an entry crew is assigned to enter the hazard area, a Stand-by Crew or RIC must also be assigned as the two-out provision for providing rapid intervention capability.
- If a RIC has been assigned, the Stand-by Crew can move up to become the Back-up Crew.

Deployment Order of Priority (Structure Fire Example) – Though maintaining Two-in/Two-out is a requirement, how the Incident Commander chooses to do so is flexible. The following flowchart provides a decision-making guideline for planning tactical assignments while maintaining Two-in/Two-out. The following sequence is intended to guide crew deployment in a manner that balances the need to initiate and establish a Two-out crew while also assigning crews to critical incident mitigation tasks within the hazard area.



Adjacent and Additional Crews

Case studies prove that a Stand-by Crew or RIC operating alone may not be sufficient when rescuing a trapped firefighter when extrication and/or rescue are required. Rescue efforts will likely require the support of additional crews to provide extrication equipment and rescue personnel. To create these supporting crews the Incident Commander can reassign adjacent crews or assign additional crews, generally a combination of the two.

Adjacent Crews – When a crew declares a “Mayday”, the rescue efforts initiated by other crews operating in close proximity is nearly as effective as what a back-up crew can provide. Adjacent crews may be in a position to suspend their current assignment and immediately initiate rescue efforts. But if an adjacent crew is performing an activity that will protect rescue efforts, they should not be re-assigned if suspending their current assignment would potentially compromise this protection. Re-assignment of adjacent crews does not preclude the deployment of the Stand-by Crew or RIC. The primary role of the Stand-by Crew or RIC is to locate the firefighters in peril, provide them with emergency air management, and to facilitate their rescue.

Crews must not self-dispatch!

Additional Crews – When a crew declares a “Mayday, Mayday, Mayday”, additional crews can be assigned by the Incident Commander to support rescue efforts or to replace adjacent crews who were re-assigned to the rescue effort. Additional crews will generally be deployed from a staging area.

Resource Reserve – Incident Commanders should maintain a reserve of resources so that if a rapid intervention must be initiated, they have enough resources to support the rescue effort while continuing to sustain the original incident operations. Often this means calling for additional resources, second, or third alarms. Early consideration should be given to assure these reserve resources are on scene and available when needed.

Appendix E—Nonmandatory: Standard apparatus operation communications.

When firefighters ride in the tiller's seat or other remote location, an electrical signal or voice communication should be installed between the tiller's seat, work station, and driver's compartment.

(1) These signals should be used between the driver and the firefighters:

- (a) One long buzz means stop;
- (b) Two buzzes mean forward;
- (c) Three buzzes mean reverse.

(2) Before any of the above functions are undertaken, with the exception of stopping, the same signal must be both sent and received. The driver should not act without sending and receiving a confirming signal.

(3) When using hand signals, these signals are as follows:

STOP

Hold hand to the side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand shining at the driver. This will indicate an immediate STOP.



STOP

Hold hand to the side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand shining at the driver. This will indicate an immediate STOP.

RIGHT OR LEFT

Point in the desired direction with one hand and motion in a circular "come-on" gesture with the other hand at the chest level. At night direct a flashlight beam at the hand pointing in the desired direction.



RIGHT OR LEFT

Point in the desired direction with one hand and motion in a circular "come-on" gesture with other at the chest level. At night, direct a flashlight beam at the hand pointing in the desired direction.

DIMINISHING CLEARANCE

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for drivers reaction time.

At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.



DIMINISHING CLEARANCE

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for divers reaction time. At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.

AHEAD OR BACK UP

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in a circular "come-

on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.



AHEAD OR BACK UP

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in circular "come-on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-100 Introduction. The ((WISHA)) safety and health core rules: Your foundation for a safe and healthful workplace. This book contains ((26)) basic safety and health rules that affect all employers and should cover almost everything small, nonmanufacturing employers need for a safe and healthful workplace. These core rules include requirements for your accident prevention program, personal protective equipment, first aid, and ((hazard communication program)) basic electrical rules.

Note: You may need to comply with other ((WISHA)) safety and health rules. For a complete list of ((WISHA)) these rules((; see the resources section of this book)) go to <http://www.lni.wa.gov/Safety/Rules/Find/RuleName/>.

~~((Why does workplace safety and health matter to you?~~

~~On average, two people lose their lives every week in job-related incidents in Washington state. Each year, more than 250,000 workers' compensation claims are accepted for work-related injuries and illnesses. Medical care and wage replacement for these injured workers costs more than a billion dollars. The indirect costs of workplace injuries are even larger in terms of lost quality of life, personal financial ruin, operating costs of business, and decreased profitability. Employers and employees who work together to identify and control hazards on the job can save lives and money while improving business and productivity.))~~

What are L&I, WISHA and ((WISHA)) DOSH?

The department of labor and industries (L&I) is a state agency that provides many different services:

• The division of occupational safety and health (DOSH) is responsible for workplace safety and health, including inspections and enforcement, consultation, technical assistance, training, education and grants. ((WISHA))

• Workers' compensation (or industrial insurance), including claims management, rate setting, medical payments, and research.

• Specialty compliance services, including contractor registration, electrical inspections, boiler and elevator inspections, apprenticeship programs and employment standards.

Many of these services are available from L&I's ~~((twenty-two))~~ regional offices ~~((see the resource section of this book for a list of regional offices))~~. Go to this web site for the most current list. <http://www.lni.wa.gov/Main/ContactInfo/OfficeLocations/>.

In 1973, the legislature passed the Washington Industrial Safety and Health Act ~~((or WISHA-))~~ (WISHA) see Revised Code of Washington (chapter 49.17 RCW)((3)). WISHA requires employers to provide safe and healthful workplaces for all employees. It gives L&I/DOSH the responsibility to establish and enforce workplace safety and health rules. These rules are the Washington Administrative Code (WAC).

How does ((WISHA)) DOSH work?

The Washington Industrial Safety and Health Act (WISHA) covers nearly all employers and employees in Washington, including employees who work for the state, counties, and cities. L&I inspectors within DOSH enforce ((WISHA)) safety and health rules by inspecting workplaces without advance notice including investigations of work-related deaths, injuries, and employees' complaints. When ((WISHA)) DOSH inspectors find a violation in a workplace, they issue a citation to the employer and a penalty may be attached. If you have questions about whether you are covered by WISHA, call 1-800-4BE SAFE (1-800-423-7233) or a local office of L&I. <http://www.lni.wa.gov/Main/ContactInfo/OfficeLocations/>.

What is OSHA and its relationship to ((WISHA)) DOSH?

The U.S. Congress created the Occupational Safety and Health Administration (OSHA) in 1971 to develop and enforce workplace safety and health rules throughout the country. States may choose to run their own safety and health programs as long as they are at least as effective as OSHA. Washington state has chosen to run its own program and most employers in the state, therefore, are subject to enforcement by L&I and not by federal OSHA.

In Washington state, OSHA covers workplaces with federal employees, nonfederal employees working on federal reservations and military bases, employees working on floating worksites (floating dry docks, fishing boats, construction barges), and employees working for tribal employers on tribal lands.

Does WISHA apply to you?

WISHA applies to almost every employer and employee in Washington. WISHA applies to you if:

- You hire someone to work for you as an employee, including workers from a temporary agency.
- You are hired to work for someone as their employee.

• You own your own business or you are a corporate officer and have elected industrial insurance coverage for yourself.

• You have a contract with someone else that primarily involves personal labor, even though you are not required to pay industrial insurance or unemployment insurance premiums.

• You volunteer your personal labor, or you have volunteers working for you who receive any benefit or compensation.

If you have any questions about your particular situation, call **1-800-4BE SAFE (1-800-423-7233)** or contact your local office of L&I for help. ~~((See the resource section of this book for a complete list of L&I offices:))~~ <http://www.lni.wa.gov/Main/ContactInfo/OfficeLocations/>.

Are there other safety and health rules I need to know about?

In addition to the rules in the ~~((WISHA))~~ DOSH Safety and Health Core Rules book, there are other general ~~((WISHA))~~ safety and health rules that may apply to employers, depending upon the industry and workplace activities. ~~((See the resource section of this book for a complete list of WISHA rules or go to the web site for all the state rules administered by L&I at <http://www.wa.gov/lni/home/waes.htm>))~~ See this web site for a complete list of safety and health rules administered by L&I. <http://www.lni.wa.gov/Safety/Rules/Find/RuleName/>. If you have questions about these rules ~~((or would like copies of them,))~~ call 1-800-4BE SAFE (1-800-423-7233) or your local office of L&I.

How do the ((WISHA)) safety and health rules relate to fire, building and electrical codes?

Fire codes: ~~((WISHA))~~ Safety and health rules contain basic requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical hazards for the protection of employees in your workplace. The rules contained in this book are the most basic requirements to make sure that as an employer you provide a safe and healthy work environment. However, these are not the only rules regarding the requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical equipment. The fire marshal and local fire authorities enforce the Uniform Fire Code (UFC). ~~((WISHA))~~ DOSH and UFC differ in some areas, for example UFC requires exit sign lettering to be 6" or more and WISHA only states that the letters have to be clearly visible. Fire codes have more detailed and extensive requirements for the protection of the public than ~~((WISHA))~~ DOSH. Some codes overlap with ~~((WISHA))~~ DOSH requirements.

Building and electrical codes: WISHA rules are minimum requirements regardless of when the building was built or remodeled. Buildings must also comply with building and electrical codes at the time of construction. If you remodel, you must comply with the building and electrical codes applicable at that time. Building authorities and electrical inspection authorities enforce rules from the Uniform Building Code (UBC), and the National Electrical Code (NEC).

You are encouraged to call your local fire, building or electrical authority. For more information on the requirements in your area look in the government section of your

phone book. Copies of these codes are available at your local library.

How can ((WISHA)) DOSH help employers and employees?

Employers can ask ((WISHA)) DOSH safety and health consultation staff for free, confidential consulting services in your workplace. ((WISHA)) DOSH safety and health professionals can examine your workplace and make recommendations about how to comply with ((WISHA)) the safety and health rules. If the consultant finds hazards, the employer will be given a reasonable period of time to correct the hazard without citation or penalty.

Sometimes you might have to wait for an appointment because of the demand for these services. You still must provide a safe workplace while you wait for a consultation.

((WISHA)) DOSH offers a wide variety of free services. See the web site below for web access to the following information:

- Safety and health workshops held in locations throughout the state.
- A comprehensive safety and health video lending library.
- Safety and health publications geared for both employer and employee.
- Web site with online publications and learning opportunities.

<http://www.lni.wa.gov/Safety/TrainingPrevention/>.

Note: By law, ((WISHA)) DOSH consultants do not have any enforcement authority.

((Link: For more information, call 1-800-4BE SAFE (1-800-423-7233) or visit <http://www.wa.gov/lni/home/training.htm>.)

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-110 Employer responsibilities: Safe workplace—Summary.

Your responsibility:

To provide a safe and healthy workplace free from recognized hazards.

IMPORTANT:

Use these rules where there are no specific rules applicable to the particular hazard.

((You must:

~~Provide a workplace free from recognized hazards.~~

~~WAC 296-800-11005.~~

~~Provide and use means to make your workplace safe.~~

~~WAC 296-800-11010.~~

~~Prohibit employees from entering, or being in, any workplace that is not safe.~~

~~WAC 296-800-11015.~~

~~Construct your workplace so it is safe.~~

~~WAC 296-800-11020.~~

~~Prohibit alcohol and narcotics from your workplace.~~

~~WAC 296-800-11025.~~

~~Prohibit employees from using tools and equipment that are not safe.~~

~~WAC 296-800-11030.~~

~~Establish, supervise, and enforce rules that lead to a safe and healthy work environment that are effective in practice.~~

~~WAC 296-800-11035.~~

~~Control chemical agents.~~

~~WAC 296-800-11040.~~

~~Protect employees from biological agents.~~

~~WAC 296-800-11045.)~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Provide a workplace free from recognized hazards</u>	<u>WAC 296-800-11005</u>
<u>Provide and use means to make your workplace safe</u>	<u>WAC 296-800-11010</u>
<u>Prohibit employees from entering, or being in, any workplace that is not safe</u>	<u>WAC 296-800-11015</u>
<u>Construct your workplace so it is safe</u>	<u>WAC 296-800-11020</u>
<u>Prohibit alcohol and narcotics from your workplace</u>	<u>WAC 296-800-11025</u>
<u>Prohibit employees from using tools and equipment that are not safe</u>	<u>WAC 296-800-11030</u>
<u>Establish, supervise, and enforce rules that lead to a safe and healthy work environment that are effective in practice</u>	<u>WAC 296-800-11035</u>
<u>Control chemical agents</u>	<u>WAC 296-800-11040</u>
<u>Protect employees from biological agents</u>	<u>WAC 296-800-11045</u>

Note: Employees may discuss and participate in any WISHA safety and health related practice and may refuse to perform dangerous tasks without fear of discrimination. Discrimination includes: Dismissal, demotion, loss of seniority, denial of a promotion, harassment, etc. see chapter 296-360 WAC, Discrimination pursuant to RCW 49.17.160, for a complete description of discrimination and the department's responsibility to protect employees.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-11005 Provide a workplace free from recognized hazards. You must((:

•) provide your employees a workplace free from recognized hazards that are causing, or are likely to cause, serious injury or death.

Note: A hazard is recognized if it is commonly known in the employer's industry, or if there is evidence that the employer knew or should have known of the existence of the hazard, or if it can be established that any reasonable person would have recognized the hazard.

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

WAC 296-800-11010 Provide and use means to make your workplace safe. You must((=

•)) provide and use safety devices, safeguards, and use work practices, methods, processes, and means that are reasonably adequate to make your workplace safe.

((=)) (1) You must not remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning, furnished for use in any employment or place of employment.

((=)) (2) You must not interfere with use of any of the above.

((=)) (3) You must not interfere with the use of any method or process adopted for the protection of any employee.

((=)) (4) You must do everything reasonably necessary to protect the life and safety of your employees.

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

WAC 296-800-11015 Prohibit employees from entering, or being in, any workplace that is not safe. You must((=

•)) prohibit employees from entering, or being in, any workplace that is not safe.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-11020 Construct your workplace so it is safe. You must((=

•)) not construct, or cause to be constructed, a workplace that is not safe.

((=)) This rule applies to employers, owners, and renters of property used as a place of employment.

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

WAC 296-800-11025 Prohibit alcohol and narcotics from your workplace. (1) You must((=

•)) prohibit alcohol and narcotics from your workplace, except in industries and businesses that produce, distribute, or sell alcohol and narcotic drugs.

((=)) (2) You must prohibit employees under the influence of alcohol or narcotics from the worksite.

Exemption: Employees who are taking prescription drugs, as directed by a physician or dentist, are exempt from this section, if the employees are not a danger to themselves or other employees.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-11030 Prohibit employees from using tools and equipment that are not safe. You must((=

•)) take responsibility for the safe condition of tools and equipment used by employees.

Note: This applies to all equipment, materials, tools, and machinery whether owned by the employer or another firm or individual.

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

WAC 296-800-11035 Establish, supervise, and enforce rules that lead to a safe and healthy work environment that are effective in practice. You must((=

•)) establish, supervise, and enforce rules that lead to a safe and healthy work environment that are effective in practice.

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-11040 Control chemical agents. (1) You must((=

•)) control chemical agents in a manner that they will not present a hazard to your workers; or

((=)) (2) You must protect workers from the hazard of contact with, or exposure to, chemical agents.

Note: Pesticides are considered to be chemical agents. As required by this rule, you must control them or provide protection to workers from exposure to pesticide hazards. Pesticide manufacturers supply precautionary statements in the information provided with the pesticide that tells you how to protect your workers from these hazards.

AMENDATORY SECTION (Amending WSR 04-18-080, filed 8/31/04, effective 11/1/04)

WAC 296-800-11045 Protect employees from biological agents. ((~~You must~~))

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

Note: Potential exposure to biological agents occurs during cleanup, or other tasks, where employees handle:

- Animals or animal waste
- Body fluids
- Biological agents in a medical research lab
- Mold or mildew

Check The Center of Disease Control web site (www.cdc.gov) to find published guidelines and information on safe handling and protection from specific biological agents (examples: Hanta virus, TB).

((~~You must~~))

(2) You must warn employees of biohazards.

((=)) (3) You must use signs, tags, or labels to identify:

((=)) (a) The actual or potential presence of a biohazard;

((~~AND~~

-)) and

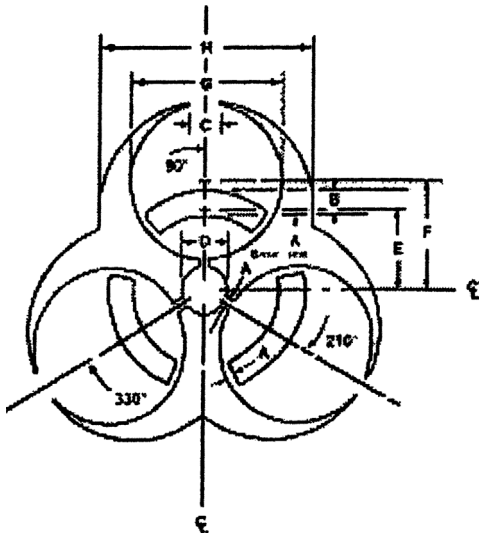
(b) Equipment, containers, rooms, materials, experimental animals, or any combinations of these that contain viable hazardous agents.

Definition:

Biohazard means those infectious agents presenting a risk or potential risk of death, injury or illness to employees.

~~((You must:~~

*) You must make sure the sign, tag, or label includes the biohazard symbol that is designed and proportioned in the illustration that follows.



Dimension	A	B	C	D	E	F	G	H
Units	1	3/4	4	5	11	16	21	30

~~((You must:~~

*) You must make sure that there is sufficient contrast for the symbol to be clearly defined, if the sign, tag, or label has a background color.

Reference: Additional requirements for biohazard signs, tags, and labels may apply. See WAC 296-823-14025 and 296-823-18040 of the *Bloodborne Pathogens* book.

- Note:**
- It's recommended that the sign, tag, or label have a key color of fluorescent orange or orange-red and lettering or symbols in a contrasting color.
 - Appropriate wording may be used in association with the symbol to indicate:
 - The nature or identity of the hazard;
 - Name of individual responsible for its control;
 - Precautionary information;
 - OR
 - Other information.
 - This information should not be written on the symbol.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-120 Rule. ~~((Employee's responsibility:~~ You must play an active role in creating a safe and healthy workplace and comply with all applicable safety and health rules.

Note: Employees may discuss and participate in any WISHA safety and health related practice and may refuse to perform dangerous tasks without fear of discrimination. Discrimination includes: Dismissal, demotion, loss of seniority, denial of a promotion, harassment, etc. (see chapter 296-360 WAC, Discrimination) pursuant to RCW 49.17.160 for a complete

description of discrimination and the department's responsibility to protect employees.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-12005 Employee responsibilities.

Employees must:

- (*) (1) Study and follow all safe practices that apply to their work.
- (*) (2) Coordinate and cooperate with all other employees in the workplace to try to eliminate on-the-job injuries and illnesses.
- (*) (3) Apply the principles of accident prevention in their daily work and use proper safety devices and protective equipment as required by their employment or employer.
- (*) (4) Take care of all personal protective equipment (PPE) properly.
- (*) (5) Not wear torn or loose clothing while working around machinery.

Note: Things such as clothing, hair, and jewelry can get caught in machinery and be a hazard on the job.

~~((Employees must:~~

- *) (6) Report promptly to their supervisor every industrial injury or occupational illness.
- (*) (7) Not remove, displace, damage, or destroy or carry off any safeguard, notice, or warning provided to make the workplace safe.
- (*) (8) Not interfere with use of any safeguard by anyone in the workplace.
- (*) (9) Not interfere with the use of any work practice designed to protect them from injuries.
- (*) (10) Do everything reasonably necessary to protect the life and safety of employees.

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-130 Safety committees/safety meetings—Summary.

Important:

This rule requires you to have a method of communicating and evaluating safety and health issues brought up by you or your employees in your workplace. Larger employers **must** establish a safety committee. Smaller employers have the choice of either establishing a safety committee or holding safety meetings with a management representative present.

There is a difference between a safety committee and a safety meeting.

- A safety committee is an organizational structure where members represent a group. This gives everyone a voice but keeps the meeting size to an effective number of participants.
- A safety meeting includes all employees and a management person is there to ensure that issues are addressed. Typically, the safety committee is an effective safety management tool for a larger employer and safety meetings are more effective for a smaller employer.

Your responsibility:

~~((T))~~ You must establish a safety committee or hold safety meetings to create and maintain a safe and healthy workplace for all employees.

~~((You must:~~

~~Establish and conduct safety committees.~~

~~WAC 296-800-13020.~~

~~Follow these rules to conduct safety meetings.~~

~~WAC 296-800-13025.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Establish and conduct safety committees</u>	<u>WAC 296-800-13020</u>
<u>Follow these rules to conduct safety meetings</u>	<u>WAC 296-800-13025</u>

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-13020 Establish and conduct safety committees. ~~((You must:))~~

If:	Then:
You employ 11 or more employees on the same shift at the same location	You must establish a safety committee

(1) You must establish a safety committee.

~~((*)~~) Make sure your committee:

~~((-))~~ (a) Has employee-elected and employer-selected members.

~~((*)~~) (i) The number of employee-elected members must equal or exceed the number of employer-selected members.

Note: Employees selected by the employees bargaining representative or union qualify as employee-elected.

~~((*)~~) (ii) The term of employee-elected members must be a maximum of one year. (There is no limit to the number of terms a representative can serve.)

~~((*)~~) (iii) If there is an employee-elected member vacancy, a new member must be elected prior to the next scheduled meeting.

~~((-))~~ (b) Has an elected chairperson.

~~((-))~~ (c) Determines how often, when, and where, the safety committee will meet.

Note:

- Meetings should be one hour or less, unless extended by a majority vote of the committee.
- If the committee cannot agree on the frequency of meetings, the department of labor and industries regional safety consultation representative should be consulted for recommendations. (See the resources section of this book for contacts.)

~~((You must:))~~

(2) Your safety committee must cover these topics:

~~((*)~~) (a) Review safety and health inspection reports to help correct safety hazards.

~~((*)~~) (b) Evaluate the accident investigations conducted since the last meeting to determine if the cause(s) of the unsafe situation was identified and corrected.

~~((*)~~) (c) Evaluate your workplace accident and illness prevention program and discuss recommendations for improvement, if needed.

~~((*)~~) (d) Document attendance.

~~((*)~~) (e) Write down subjects discussed.

(3) You must record meetings.

~~((*)~~) Prepare minutes from each safety committee and:

~~((-))~~ (a) Preserve them for one year.

~~((-))~~ (b) Make them available for review by safety and health consultation personnel of the department of labor and industries.

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-13025 Follow these rules to conduct safety meetings. ~~((You must:))~~

If:	Then:
You have 10 or fewer employees OR If you have 11 or more employees that • Work on different shifts with 10 or fewer employees on each shift OR • Work in widely separate locations with 10 or fewer employees at each location	You may choose to hold a safety meeting instead of a safety committee

(1) You must do the following for safety meetings.

~~((*)~~) Make sure your safety meetings:

~~((-))~~ (a) Are held monthly. You may meet more often to discuss safety issues as they come up.

~~((-))~~ (b) Have at least one management representative.

(2) Your safety committee must cover these topics.

~~((*)~~) (a) Review safety and health inspection reports to help correct safety hazards.

~~((*)~~) (b) Evaluate the accident investigations conducted since the last meeting to determine if the cause(s) of the unsafe situation was identified and corrected.

~~((*)~~) (c) Evaluate your workplace accident and illness prevention program and discuss recommendations for improvement, if needed.

~~((*)~~) (d) Document attendance.

~~((*)~~) (e) Write down subjects discussed.

Note: There are no formal documentation requirements for safety meetings except for writing down who attended and the topics discussed.

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

WAC 296-800-140 Accident prevention program. ~~((Summary:))~~

Your responsibility:

~~((T))~~ You must establish, supervise and enforce an accident prevention program (APP) that is effective in practice. (You may call this your total safety and health plan.)

~~((You must:~~

~~Develop a formal, written accident prevention program (APP).~~

~~WAC 296-800-14005.~~

~~Develop, supervise, implement, and enforce safety and health training programs that are effective in practice.~~

~~WAC 296-800-14020.~~

~~Make sure your accident prevention program (APP) is effective in practice.~~

~~WAC 296-800-14025.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Develop a formal, written accident prevention program</u>	<u>WAC 296-800-14005</u>
<u>Develop, supervise, implement, and enforce safety and health training programs that are effective in practice</u>	<u>WAC 296-800-14020</u>
<u>Make sure your accident prevention program is effective in practice</u>	<u>WAC 296-800-14025</u>

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

WAC 296-800-14005 Develop a formal, written accident prevention program. (1) You must((:

*) develop a formal accident prevention program that is outlined in writing. The program must be tailored to the needs of your particular workplace or operation and to the types of hazards involved.

Note: The term "accident prevention program" refers to your written plan to prevent accidents, illnesses, and injuries on the job. Your accident prevention program may be known as your safety and health plan, injury prevention program, or by some other name.

(2) You must((:

*) make sure your Accident Prevention Program contains at least the following elements:

((-) (a) A safety orientation:

((*) (i) A description of your total safety and health program.

((*) (ii) On-the-job orientation showing employees what they need to know to perform their initial job assignments safely.

((*) (iii) How and when to report on-the-job injuries including instruction about the location of first-aid facilities in your workplace.

((*) (iv) How to report unsafe conditions and practices.

((*) (v) The use and care of required personal protective equipment (PPE).

((*) (vi) What to do in an emergency, including how to exit the workplace.

((*) (vii) Identification of hazardous gases, chemicals, or materials used on-the-job and instruction about the safe use and emergency action to take after accidental exposure.

((-) (b) A safety and health committee.

(WAC 296-800-130.)

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

WAC 296-800-14020 Develop, supervise, implement, and enforce safety and health training programs that are effective in practice. (1) You must((:

*) develop, supervise, implement, and enforce training programs to improve the skill, awareness, and competency of all your employees in the field of occupational safety and health.

((*) (2) You must make sure training includes on-the-job instruction to employees prior to their job assignment about hazards such as:

((-) (a) Safe use of powered materials-handling equipment, such as forklifts, backhoes, etc.

((-) (b) Safe use of machine tool operations.

((-) (c) Use of toxic materials.

((-) (d) Operation of utility systems.

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

WAC 296-800-14025 Make sure your accident prevention program is effective in practice. You must((:

*) establish, supervise, and enforce your accident prevention program in a manner that is effective in practice.

AMENDATORY SECTION (Amending WSR 04-07-160, filed 3/23/04, effective 5/1/04)

WAC 296-800-150 Rule summary.

Your responsibility:

You must make sure first-aid trained personnel are available to provide quick and effective first aid.

~~((You must:~~

~~Make sure that first-aid trained personnel are available to provide quick and effective first aid.~~

~~WAC 296-800-15005 [296-800-15005].~~

~~Make sure appropriate first-aid supplies are readily available.~~

~~WAC 296-800-15020.~~

~~Make sure emergency washing facilities are functional and readily accessible.~~

~~WAC 296-800-15030.~~

~~Inspect and activate your emergency washing facilities.~~

~~WAC 296-800-15035.~~

~~Make sure supplemental flushing equipment provides sufficient water.~~

~~WAC 296-800-15040.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Make sure that first-aid trained personnel are available to provide quick and effective first aid</u>	<u>WAC 296-800-15005</u>

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Make sure appropriate first-aid supplies are readily available</u>	<u>WAC 296-800-15020</u>
<u>Make sure emergency washing facilities are functional and readily accessible</u>	<u>WAC 296-800-15030</u>
<u>Inspect and activate your emergency washing facilities</u>	<u>WAC 296-800-15035</u>
<u>Make sure supplemental flushing equipment provides sufficient water</u>	<u>WAC 296-800-15040</u>

Note:

- Employers who require their employees to provide first aid must comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.
- Your workplace may be covered by separate first-aid rules. If you do any of the types of work listed below, you must follow separate industry specific rules:

Industry	Chapter (WAC)
Agriculture	296-307
Compressed air	296-36
Construction	296-155
Firefighting	296-305
Logging	296-54
Sawmill	296-78
Ship building and repairing	296-304

You can get copies of these rules by calling 1-800-4BE SAFE (1-800-423-7233), or by going to <http://www.lni.wa.gov>.

AMENDATORY SECTION (Amending WSR 04-07-160, filed 3/23/04, effective 5/1/04)

WAC 296-800-15005 Make sure that first-aid trained personnel are available to provide quick and effective first aid. You must(≠) comply with the first-aid training requirements of 29 C.F.R. 1910.151(b) which states:

"In the absence of an infirmary, clinic, or hospital in near proximity to the workplace, which is used for the treatment of all injured employees, a person or persons ((shall)) must be adequately trained to render first aid."

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

WAC 296-800-15020 Make sure appropriate first-aid supplies are readily available. (1) You must(≠)

-) make sure first-aid supplies are readily available.
- (*) (2) You must make sure first-aid supplies at your workplace are appropriate to:
- ((-) (a) Your occupational setting.

((-) (b) The response time of your emergency medical services.

Note: First-aid kits from your local retailer or safety supplier should be adequate for most nonindustrial employers.

- (3) You must(≠)
-) make sure that first-aid supplies are:
- ((-) (a) Easily accessible to all your employees.
- ((-) (b) Stored in containers that protect them from damage, deterioration, or contamination. Containers must be clearly marked, not locked, and may be sealed.
- ((-) (c) Able to be moved to the location of an injured or acutely ill worker.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-800-15030 Make sure emergency washing facilities are functional and readily accessible. (1) You must(≠)

-) provide an emergency shower:
- ((-) (a) When there is potential for major portions of an employee's body to contact corrosives, strong irritants, or toxic chemicals.
- ((-) (b) That delivers water to cascade over the user's entire body at a minimum rate of 20 gallons (75 liters) per minute for fifteen minutes or more.
- (*) (2) You must provide an emergency eyewash:
- ((-) (a) When there is potential for an employee's eyes to be exposed to corrosives, strong irritants, or toxic chemicals.
- ((-) (b) That irrigates and flushes both eyes simultaneously while the user holds their eyes open.
- ((-) (c) With an on-off valve that activates in one second or less and remains on without user assistance until intentionally turned off.
- ((-) (d) That delivers at least 0.4 gallons (1.5 liters) of water per minute for fifteen minutes or more.

Note: Chemicals that require emergency washing facilities:

- You can determine whether chemicals in your workplace require emergency washing facilities by looking at the safety data sheet (SDS) or similar documents. The SDS contains information about first-aid requirements and emergency flushing of skin or eyes.
- For chemicals developed in the workplace, the following resources provide information about first-aid requirements:
 - NIOSH Pocket Guide to Chemical Hazards
 - *DHHS (NIOSH) Publication No. 97-140
 - *<http://www.cdc.gov/niosh/npg/ggdstart.html>
 - Threshold Limit Values for Chemical Substances and Physical Agents American Conference of Governmental Industrial Hygienists (ACGIH)

- (3) You must(≠)
-) make sure emergency washing facilities:
- ((-) (a) Are located so that it takes no more than ten seconds to reach.
- ((-) (b) Are kept free of obstacles blocking their use.
- ((-) (c) Function correctly.
- ((-) (d) Provide the quality and quantity of water that is satisfactory for emergency washing purposes.

- Note:**
- If water in emergency washing facilities is allowed to freeze, they will not function correctly. Precautions need to be taken to prevent this from happening.
 - The travel distance to an emergency washing facility should be no more than fifty feet (15.25 meters).
 - For further information on the design, installation, and maintenance of emergency washing facilities, see American National Standards Institute (ANSI) publication Z358.1 - 1998, *Emergency Eyewash and Shower Equipment*. Emergency washing facilities that are designed to meet ANSI Z358.1 - 1998 also meet the requirements of this standard. The ANSI standard can be obtained from the American National Standards Institute, 1430 Broadway, New York, New York 10018.

- Reference:**
- Training in the location and use of your emergency washing facilities is required under the hazard communication rule, WAC 296-901-140, and the accident prevention program rule, WAC 296-800-140.
 - All emergency washing facilities using "not fit for drinking" (nonpotable) water must have signs stating the water is "not fit for drinking." See WAC 296-800-23010.

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-15035 Inspect and activate your emergency washing facilities. (1) You must((:

•) make sure all plumbed emergency washing facilities are inspected once a year to make sure they function correctly.

- Note:** Inspections should include:
- Examination of the piping
 - Making sure that water is available at the appropriate temperature and quality
 - Activation to check that the valves and other hardware work properly
 - Checking the water flow rate.

(2) You must((:

•) make sure plumbed emergency eyewashes and hand-held drench hoses are activated weekly to check the proper functioning of the valves, hardware, and availability of water.

((•) (3) You must make sure all self-contained eyewash equipment and personal eyewash units are inspected and maintained according to manufacturer instructions.

((-) (a) Inspections to check proper operation must be done once a year.

((-) (b) Sealed personal eyewashes must be replaced after the manufacturer's expiration date.

- Note:** Most manufacturers recommend replacing fluid in open self-contained eyewashes every six months. The period for sealed containers is typically two years.

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-15040 Make sure supplemental flushing equipment provides sufficient water.

- Note:** Supplemental flushing equipment cannot be used in place of required emergency showers or eyewashes.

(1) You must((:

•) make sure hand-held drench hoses deliver at least 3.0 gallons (11.4 liters) of water per minute for fifteen minutes or more.

- Note:** Why use a drench hose? A drench hose is useful when:
- The spill is small and does not require an emergency shower
 - Used with a shower for local rinsing, particularly on the lower extremities.

(2) You must((:

•) make sure personal eyewash equipment delivers only clean water or other medically approved eye flushing solutions.

AMENDATORY SECTION (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

WAC 296-800-160 Summary.

Your responsibility:

((⊕) You must make sure that your employees have, use, and care for the appropriate personal protective equipment (PPE).

PPE is an item or items used to protect the eyes, face, head, body, arms, hands, legs, and feet such as goggles, helmets, head covers, gloves, rubber slickers, disposable coveralls, safety shoes, protective shields, and barriers.

((~~You must:~~

~~Do a hazard assessment for PPE.~~

~~WAC 296-800-16005.~~

~~Document your hazard assessment for PPE.~~

~~WAC 296-800-16010.~~

~~Select appropriate PPE for your employees.~~

~~WAC 296-800-16015.~~

~~Provide PPE to your employees.~~

~~WAC 296-800-16020.~~

~~Train your employees to use PPE.~~

~~WAC 296-800-16025.~~

~~Retrain employees to use PPE, if necessary.~~

~~WAC 296-800-16030.~~

~~Document PPE training.~~

~~WAC 296-800-16035.~~

~~Require your employees to use necessary PPE on the job.~~

~~WAC 296-800-16040.~~

~~Keep your PPE safe and in good condition.~~

~~WAC 296-800-16045.~~

~~Make sure your employees use appropriate face and eye protection.~~

~~WAC 296-800-16050.~~

~~Make sure your employees use appropriate head protection.~~

~~WAC 296-800-16055.~~

~~Make sure your employees use appropriate foot protection.~~

~~WAC 296-800-16060.~~

~~Make sure your employees use appropriate hand protection.~~

~~WAC 296-800-16065.~~

~~Make sure your employees are protected from drowning.~~

~~WAC 296-800-16070.)~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Compliance duties owed to each employee</u>	<u>WAC 296-800-16002</u>
<u>Do a hazard assessment for PPE</u>	<u>WAC 296-800-16005</u>
<u>Document your hazard assessment for PPE</u>	<u>WAC 296-800-16010</u>
<u>Select appropriate PPE for your employees</u>	<u>WAC 296-800-16015</u>
<u>Provide PPE to your employees</u>	<u>WAC 296-800-16020</u>
<u>Train your employees to use PPE</u>	<u>WAC 296-800-16025</u>
<u>Retrain employees to use PPE, if necessary</u>	<u>WAC 296-800-16030</u>
<u>Document PPE training</u>	<u>WAC 296-800-16035</u>
<u>Require your employees to use necessary PPE on the job</u>	<u>WAC 296-800-16040</u>
<u>Keep PPE in safe and good condition</u>	<u>WAC 296-800-16045</u>
<u>Make sure your employees use appropriate eye and face protection</u>	<u>WAC 296-800-16050</u>
<u>Make sure your employees use appropriate head protection</u>	<u>WAC 296-800-16055</u>
<u>Make sure your employees use appropriate foot protection</u>	<u>WAC 296-800-16060</u>
<u>Make sure your employees use appropriate hand protection</u>	<u>WAC 296-800-16065</u>
<u>Make sure your employees are protected from drowning</u>	<u>WAC 296-800-16070</u>

Exemption: • WAC 296-800-16015, 296-800-16025, 296-800-16030, and 296-800-16035 do not apply to electrical protective equipment or respiratory protection. See chapters 296-24 WAC, Part L and chapter 296-842 WAC, for rules about these types of protective equipment.

AMENDATORY SECTION (Amending WSR 09-15-145, filed 7/21/09, effective 9/1/09)

WAC 296-800-16002 Compliance duties owed to each employee. (1) You must provide personal protective equipment. Standards in this part requiring the employer to provide personal protective equipment (PPE), including respirators and other types of PPE, because of hazards to employees impose a separate compliance duty with respect to each employee covered by the requirement. The employer

must provide PPE to each employee required to use the PPE, and each failure to provide PPE to an employee may be considered a separate violation.

(2) You must provide training. Standards in this part requiring training on hazards and related matters, such as standards requiring that employees receive training or that the employer train employees, provide training to employees, or institute or implement a training program, impose a separate compliance duty with respect to each employee covered by the requirement. The employer must train each affected employee in the manner required by the standard, and each failure to train an employee may be considered a separate violation.

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

WAC 296-800-16005 Do a hazard assessment for PPE. You must((=

•)) look for and identify hazards or potential hazards in your workplace and determine if PPE is necessary on the job.

Note: PPE alone should not be relied on to provide protection for your employees. PPE should be used after all other reasonable means of reducing hazards have been carried out. Identifying hazards in your workplace should be built into your regular routine. You should take active steps to get rid of all identified hazards. For example, you can:

- Consider other ways to get hazardous jobs done.
- Reduce hazardous materials or processes.
- Apply engineering controls to reduce or eliminate hazards.

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

WAC 296-800-16010 Document your hazard assessment for PPE. You must((=

•)) verify that a hazard assessment for PPE has been done at your workplace and complete a written certification (paper or electronic format) that includes the:

- ((-)) (1) Name of the workplace,
- ((-)) (2) Address of the workplace you inspected for hazards,
- ((-)) (3) Name of person certifying that a workplace hazard assessment was done,
- ((-)) (4) Date(s) the workplace hazard assessment was done,
- ((-)) (5) Statement identifying the document as the certification of hazard assessment for PPE for the workplace.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-16015 Select appropriate PPE for your employees. ((You must)) (1) You must select appropriate PPE.

- ((•)) (a) Select appropriate PPE for your employees if hazards are present, or likely to be present.
- ((•)) (b) Select PPE for each at-risk employee to use for protection from the hazards identified in your workplace hazard assessment.

(2) You must select PPE that properly fits each at-risk employee.

Note: The hazards in your workplace have special rules that apply to them.
For information about PPE for specific workplaces, see these WISHA rule books:

Construction Work	Chapter 296-155 WAC
Electrical Workers	Chapter 296-45 WAC
Firefighters	Chapter 296-305 WAC
General Occupational Health Standards	Chapter 296-62 WAC
General Safety and Health Standards	Chapter 296-24 WAC
Logging Operations	Chapter 296-54 WAC
Pulp, Paper and Paper Board Mills and Converters	Chapter 296-79 WAC
Ship Repairing, Ship Building and Shipbreaking	Chapter 296-304 WAC
Ski Area Facilities and Operations	Chapter 296-59 WAC
Telecommunication	Chapter 296-32 WAC
Textile Industry	Chapter 296-301 WAC

Note: For help in selecting PPE for your employees, you have several options. You may:

- Visit the OSHA web site <http://www.osha-slc.gov/SLTC/personalprotectiveequipment/index.html>.
- Call 1-800-4BE SAFE (1-800-423-7233) for guidelines for selecting PPE.
- Consult with safety and health professionals knowledgeable in this area. See resource section for links to professional organizations.
- Discuss PPE choices with your employees.

AMENDATORY SECTION (Amending WSR 09-05-071, filed 2/17/09, effective 4/1/09)

WAC 296-800-16020 Provide PPE to your employees. You must provide PPE at no cost to employees if the PPE is:

((*) (1) The type that would not reasonably or normally be worn away from the workplace, such as single use or disposable PPE.

((*) (2) Required to comply with a safety and health standard to protect employees wherever hazards exist from:

- ((-) (a) Processes;
- ((-) (b) Environmental hazards;
- ((-) (c) Physical, chemical, or radiological hazards; or
- ((-) (d) Mechanical irritants that could cause injury or impairment to the function of any body part through absorption, inhalation, or physical contact.

Table-X: Employer Responsibility for Providing PPE

***This table provides examples only and is not all-inclusive.**

Part of Body	PPE employers are required to provide at no cost to employees.	Items in which employer payment is not required.
Head	Bump caps. Hard hat. Nonconductive head protection.	—
Eye and Face	Face shields. Goggles. Laser safety goggles. Nonprescription eye protection. Prescription eyewear inserts/lenses for full-face respirators. Welding and diving helmets.	Nonspecialty prescription safety eyewear.
Ear	Hearing protection.	—
Hand/ Arm	Aluminized gloves. Barrier creams (unless used solely for weather-related protection). Chemical resistant gloves/aprons/clothing. Mesh cut proof gloves. Mesh or leather aprons. Nonspecialty gloves if required to protect from dermatitis, severe cuts, or abrasions. Rubber insulating gloves. Rubber sleeves.	Hand protection used only for keeping clean or for cold weather with no safety or health consideration.
Foot	Metatarsal foot protection. Rubber boots with steel toes. Shoe covers - Toe caps and metatarsal guards. Special boots for long-shoremen working logs.	Nonspecialty safety-toe protective footwear such as steel-toe shoes or boots. Sturdy work shoes. Lineman's boots. Logging boots required under chapter 296-54 WAC.

Part of Body	PPE employers are required to provide at no cost to employees.	Items in which employer payment is not required.
Other	<p>Atmosphere-supplying respirators (escape only). Climbing ensembles used by linemen such as belts and climbing hooks.</p> <p>Level A - Fully encapsulated chemical protective suits. Level B - Chemical protective clothing. Personal fall arrest systems. Personal fall restraint systems. Firefighting PPE (helmet, gloves, boots, proximity suits, full gear). Ladder safety device belts. Personal floatation devices (life jackets). Class II or III high visibility garments that meet ANSI 107-2004 specifications. Respiratory protection. SCBA (self-contained breathing apparatus). Welding PPE. Window cleaner's safety straps. Items such as aprons, lab coats, goggles, disposable gloves, shoe covers, etc., used in medical/laboratory settings to protect from exposure to infectious agents.</p>	<p>Long sleeve shirts. Long pants. Ordinary cold weather gear (coats, parkas, cold weather gloves, winter boots). Ordinary rain gear. Dust mask/respirators used under the voluntary use provisions in chapter 296-842 WAC. Back belts. Sun-glasses. Sunscreen.</p>

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-16025 Train your employees to use PPE. (1) You must(☞
☛) communicate your PPE selection decision to each at-risk employee.
(☛) (2) You must provide training to each employee who is required to use PPE on the job. Each affected employee must be trained to know at least the following:
(☞) (a) When PPE is necessary.

(☞) (b) What PPE is necessary.
(☞) (c) How to put on, take off, adjust, and wear PPE.
(☞) (d) Limitations of PPE.
(☞) (e) Proper care, maintenance, useful life, and disposal of PPE.
(☛) (3) Make sure before an employee is allowed to perform work requiring the use of PPE that the employee can:
(☞) (a) Demonstrate an understanding of the training specified above; and
(☞) (b) Demonstrate the ability to use PPE properly.

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

WAC 296-800-16030 Retrain employees to use PPE, if necessary. You must(☞
☛) retrain an employee when you have reason to believe the understanding, motivation, and skills required to use the PPE has not been retained. Circumstances where retraining is required include:
(☞) (1) Changes in the workplace that make previous training out of date.
(☞) (2) Changes in the types of PPE to be used make previous training out of date.
(☞) (3) Work habits or demonstrated knowledge indicate that the employee has not retained the necessary understanding, skill, or motivation to use PPE.

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

WAC 296-800-16035 Document PPE training. You must(☞
☛) document in writing that each employee using PPE has received and understood the required training. This documentation must include:
(☞) (1) Name of each employee.
(☞) (2) Date(s) of training.
(☞) (3) Subject of the training.

Note: Documentation may be stored on a computer as long as it is available to safety and health personnel from the department of labor and industries.

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

WAC 296-800-16040 Require your employees to use necessary PPE on the job. You must(☞
☛) require your employees to use necessary PPE on the job.

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

WAC 296-800-16045 Keep PPE in safe and good condition. (1) You must(☞
☛) make sure all PPE is safe for the work to be performed. It must:
(☞) (a) Be durable.
(☞) (b) Fit snugly.
(☞) (c) Not interfere with the employee's movements.

((*) (2) You must make sure PPE is used and maintained in a clean and reliable condition.

((-) **Defective equipment MUST NOT be used.**

((*) (3) You must make sure if employees provide their own PPE, that it is adequate for the workplace hazards, and maintained in a clean and reliable condition.

AMENDATORY SECTION (Amending WSR 10-09-088, filed 4/20/10, effective 6/1/10)

WAC 296-800-16050 Make sure your employees use appropriate eye and face protection. (1) You must ((-

*) make sure that employees exposed to hazards that could injure their eyes and/or face use appropriate protection. Examples of these hazards include:

((-) (a) Flying particles.

((-) (b) Molten metal.

((-) (c) Liquid chemicals.

((-) (d) Acids or caustic liquids.

((-) (e) Chemical gases or vapors.

((-) (f) Any light that could injure the eyes such as lasers, ultraviolet, or infrared light.

((-) (g) Objects that puncture.

((*) (2) You must make sure employees exposed to hazards from flying objects have eye protection with side protection, such as safety glasses with clip-on or slide-on side shields.

((*) (3) You must make sure eye protection for employees who wear prescription lenses:

((-) (a) Incorporates the prescription into the design of the eye protection; or

((-) (b) Is large enough to be worn over the prescription lenses without disturbing them.

((*) (4) You must make sure PPE used to protect the eyes and face meet the specifics of either the 1989 version, the 1998 revision, or the 2003 version of ANSI Z87.1, American National Standard Practice for Occupational and Educational Eye and Face Protection.

(5) Other protective eye and face protection devices may be used if the employer demonstrates that they are at least as effective as those constructed in accordance with one of the above consensus standards.

Note: ANSI is the American National Standards Institute that publishes nationally recognized safety and health requirements. Their address is:

ANSI (American National Standards Institute)

1819 L Street NW

Washington, DC 20036

Phone: ((202)) 202-293-8020

Fax: ((202)) 202-293-9287

<http://www.ansi.org>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-800-16055 Make sure your employees use appropriate head protection. ((You must*)) (1) You must make sure employees wear appropriate protective helmets.

((*) (a) Where employees are exposed to hazards that could cause a head injury. Examples of this type of hazard include:

((-) (i) Flying or propelled objects.

((-) (ii) Falling objects or materials.

((*) (b) Where employees are working around or under scaffolds or other overhead structures.

(2) Head protection must comply with any of the following consensus standards:

(a) American National Standards Institute (ANSI) Z89.1-2009, "American National Standard for Industrial Head Protection";

(b) American National Standards Institute (ANSI) Z89.1-2003, "American National Standard for Industrial Head Protection";

(c) American National Standards Institute (ANSI) Z89.1-1997, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements."

((-) (d) 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.

(3) You must make sure employees working near exposed electrical conductors that could contact their head wear a protective helmet designed (that meet the above ANSI standards) to reduce electrical shock hazard.

((*) Caps with metal buttons or metal visors must **not** be worn around electrical hazards.

(4) You must make sure employees working around machinery or in locations that present a hair-catching or fire hazard wear caps or head coverings that completely cover their hair.

((*) (a) Employees must wear a hair net that controls all loose ends when:

((-) (i) Hair is as long as the radius of pressure rolls with exposed in-running nip points.

((-) (ii) Hair is twice as long as the circumference of exposed revolving shafts or tools in fixed machines.

((*) (b) Employees must wear a hair covering of solid material when:

((-) The employee is exposed to an ignition source and may run into an area containing category 1 or 2 flammable liquids, such as ether, benzene, or category 3 flammable liquids with a flashpoint between 100°F (37.8°C), or combustible atmospheres if their hair is on fire.

AMENDATORY SECTION (Amending WSR 10-09-088, filed 4/20/10, effective 6/1/10)

WAC 296-800-16060 Make sure your employees use appropriate foot protection. ((You must*)) (1) You must use appropriate foot protection.

((*) (a) Where employees are exposed to hazards that could injure their feet. Examples of these hazards are:

((-) (i) Falling objects,

((-) (ii) Rolling objects,

((-) (iii) Piercing/cutting injuries,

((-) (iv) Electrical hazards,

((*) (b) That meets the specifications of one of the following consensus standards:

((*) (i) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear.

((*) (ii) ANSI Z41-1999, American National Standard for Personal Protection—Protective Footwear.

((*) (iii) ANSI Z41-1991, American National Standard for Personal Protection—Protective Footwear.

((-) (c) Protective footwear that does not meet these standards may be used if you demonstrate that it is equally effective as that constructed in accordance with one of the above consensus standards.

(2) You must make sure your employees wear calks or other suitable footwear to protect against slipping while they are working on top of logs.

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

WAC 296-800-16065 Make sure your employees use appropriate hand protection. (1) You must((+)

+) make sure employees exposed to hazards that could injure their hands use appropriate hand protection. Examples of these hazards include:

- ((-) (a) Absorbing harmful substances,
- ((-) (b) Severe cuts, lacerations or abrasions,
- ((-) (c) Punctures,
- ((-) (d) Chemical burns and/or thermal burns,
- ((-) (e) Harmful temperature extremes,

((*) (2) You must make sure when choosing hand protection, you consider how well the hand protection performs relative to the:

- ((-) (a) Task,
- ((-) (b) Conditions present,
- ((-) (c) Duration of use,
- ((-) (d) Hazards,
- ((-) (e) Potential hazards,

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-16070 Make sure your employees are protected from drowning. ((You must:)) (1) You must provide and make sure your employees wear personal flotation devices (PFD)((-

+) when they work in areas where the danger of drowning exists, such as:

- ((-) (a) On the water.
- ((-) (b) Over the water.
- ((-) (c) Alongside the water.

Note: Employees are not exposed to the danger of drowning when:

- Employees are working behind standard height and strength guardrails.
- Employees are working inside operating cabs or stations that eliminate the possibility of accidentally falling into the water.
- Employees are wearing an approved safety belt with a lifeline attached that prevents the possibility of accidentally falling into the water.

(2) You must((+

+) provide your employees with PFDs approved by the United States Coast Guard for use on commercial or merchant vessels. The following are appropriate or allowable United States Coast Guard-approved PFDs:

Type of PFD	General Description
Type I	Off-shore life jacket - Effective for all waters or where rescue may be delayed.
Type II	Near-shore buoyant vest - Intended for calm, inland water or where there is a good chance of quick rescue.
Type III	Flotation aid - Good for calm, inland water, or where there is a good chance of rescue.
Type V	Flotation aids such as boardsailing vests, deck suits, work vests and inflatable PFDs marked for commercial use.

Note:

- Commercially available PFDs are marked or imprinted with the type of PFD.
- Type IV PFDs are throwable devices. They are used to aid persons who have fallen into the water.

(3) You must((+

+) inspect PFDs before and after each use for defects and make sure that defective PFDs are not used.

((2)) (4) You must provide approved life rings with an attached line on all docks, walkways, and fixed installations on or adjacent to water more than five feet deep.

((*) (a) Life rings must:

- ((-) (i) Be United States Coast Guard approved 30 inch size.
- ((-) (ii) Have attached lines that are at least 90 feet in length.
- ((-) (iii) Have attached lines at least 1/4 inch in diameter.
- ((-) (iv) Have attached lines with a minimum breaking strength of 500 pounds.
- ((-) (v) Be spaced no more than 200 feet apart.
- ((-) (vi) Be kept in easily visible and readily accessible locations.

((*) (b) Life rings and attached lines must:

- ((-) (i) Be maintained to retain at least 75 percent of their designed buoyancy and strength.
- ((-) (ii) Be provided in the immediate vicinity when employees are assigned work at other casual locations where the risk of drowning exists.

((-) (c) Work assigned over water where the vertical drop from an accidental fall would be more than 50 feet, must be subject to specific procedures as approved by the department.

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-800-180 Safety data sheets (SDSs) as exposure records. Important: Exposure records contain information about employees' exposure to toxic substances or harmful physical agents. Safety data sheets (SDSs) are one type of

exposure record. The preservation of and access to exposure records is necessary to improve detection, treatment, and prevention of occupational diseases.

This rule supplements the chemical hazard communication rule by extending access to SDSs, or their alternative, after employment and after the hazardous chemical is no longer used in the workplace.

Your responsibility:

~~((T))~~ You must preserve and provide access to safety data sheets (SDSs) or their alternative as exposure records.

~~((You must:~~

~~Preserve exposure records for at least thirty years.
WAC 296-800-18005.~~

~~Inform current employees of exposure records.
WAC 296-800-18010.~~

~~Provide access to exposure records.
WAC 296-800-18015.~~

~~Transfer records when ceasing to do business.
WAC 296-800-18020.)~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Preserve exposure records for at least thirty years</u>	<u>WAC 296-800-18005</u>
<u>Inform current employees of exposure records</u>	<u>WAC 296-800-18010</u>
<u>Provide access to exposure records</u>	<u>WAC 296-800-18015</u>
<u>Transfer records when ceasing to do business</u>	<u>WAC 296-800-18020</u>

- Note:**
- Employee medical and exposure records, chapter 296-802 WAC, requires the preservation and access to other exposure records including records such as workplace monitoring data and biological monitoring results and medical records. If you keep these other types of employee exposure records or employee medical records, you must comply with these additional requirements.
 - This rule applies to every employer who maintains, makes, contracts for, or has access to SDSs for chemicals used in their workplace.
 - The specific identity of a toxic substance may be withheld from a disclosable record if it is a verifiable trade secret. For trade secret requirements see WAC 296-901-14018 Trade secrets.

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-800-18005 Preserve exposure records for at least ~~((30))~~ thirty years. You must(~~(:~~

•) keep safety data sheets (SDSs) and analysis using SDSs for at least thirty years, including current, former, and future employers receiving transferred records. Preserve SDSs in any form, as long as the information is not altered and is retrievable. You may keep alternative records instead of SDSs concerning the identity of a substance. The alternative record must also be kept for thirty years and contain the following information:

- ~~((-~~) (1) Some record of the identity (chemical name, if known) of a substance or agent.
- ~~((-~~) (2) Where the substance or agent was used.
- ~~((-~~) (3) When the substance or agent was used.

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-800-18010 Inform current employees of exposure records. (1) You must(~~(:~~

•) inform current employees who are, or will be exposed to a toxic chemical of:

- Note:**
- A chemical is toxic if:
 - The latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) lists the substance. This may be obtained online, CD-ROM, or on a computer tape.
 - Testing by or known to the employer has shown positive evidence that the substance is an acute or chronic health hazard.
 - A safety data sheet (SDS) kept by or known to the employer shows the material may be a hazard to human health.

~~((-~~) (a) The existence, location, and availability of SDSs or alternative records, and any other records covered by this rule.

~~((-~~) (b) The person responsible for maintaining and providing access to records.

~~((-~~) (c) Exposure records when the employee first enters into employment and then once a year thereafter.

~~((-~~) (d) Existence and their rights of access to these records.

Note: Informing employees of the availability of these records may be accomplished by posting, group discussion or by individual notifications.

(2) You must(~~(:~~ •) keep a copy of this rule and make copies available upon request to employees.

~~((•)~~ (3) You must distribute to employees any informational materials about this rule that are made available to the employer by the department.

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-800-18015 Provide access to exposure records. (1) You must(~~(:~~

•) provide access, whenever requested by an employee or their designated representative, to a relevant exposure record:

~~((-~~) (a) In a reasonable time, place, and manner.

~~((-~~) (b) Within fifteen working days. If the employer cannot meet this requirement, they must inform the requesting party of the reason for the delay and the earliest date the record will be made available.

- Note:**
- Employee means any current, former or transferred worker.
 - A relevant exposure record is an SDS or its alternative or analysis using SDSs or their alternative.

(2) You must(~~(:~~ •) make sure labor and industries has prompt access to any exposure records and related analysis. This must be done

without violation of any rights under the Constitution or the Washington Industrial Safety and Health Act that the employer chooses to exercise.

Note: Nothing in this rule is meant to prevent employees and collective bargaining agents from getting access to information beyond that is required by this rule.

(3) You must(=

•) make sure that whenever an employee or designated representative requests an initial copy of an exposure record, related analysis or new information added to the record:

(-) (a) A copy of the record is provided without cost to the employee or their representative; or

(-) (b) The facilities are made available for copying without cost to the employee or their representative; or

(-) (c) The record is loaned to the employee or their representative for a reasonable time to enable a copy to be made.

Note: Whenever a record has been previously provided without cost to an employee or designated representative, and they request additional copies, the employer may charge reasonable, non-discriminatory administrative costs (e.g., search and copying expenses, but no overhead expenses).

AMENDATORY SECTION (Amending WSR 17-02-066, filed 1/3/17, effective 2/3/17)

WAC 296-800-18020 Transfer records when ceasing to do business. (1) You must(=

•) transfer all safety data sheets (SDSs) as exposure records to the successor employer, who must do the following to these records:

(-~~Received~~

-) (a) Received.

(b) Preserve.

(-) (c) Keep unchanged.

(•) (2) You must if there is no successor to receive and preserve the employee exposure records:

(-) (a) Notify affected current employees of their rights of access to records at least 3 months prior to the cessation of the employer's business; and

(-) (b) Transfer the records to the department, if required by a specific WISHA safety and health rule.

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

WAC 296-800-190 Summary/rule. (~~Your responsibility: To~~) You must provide a safety bulletin board.

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

WAC 296-800-19005 Provide a safety bulletin board in your workplace. You must(=

•) install and maintain a safety bulletin board in every fixed workplace (establishment) that has eight or more employees. Make sure the safety bulletin board is large enough to post information such as the following:

(-) (1) Safety bulletins.

(-) (2) Safety newsletters.

(-) (3) Safety posters.

(-) (4) Accident statistics.

(-) (5) Other safety educational material.

Note: You may want to post your emergency phone numbers on the safety bulletin board.

((WISHA)) JOB SAFETY AND HEALTH LAW POSTER

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

WAC 296-800-200 ((WISHA)) Job safety and health law poster. (~~Your responsibility: To~~) You must post the ((WISHA)) job safety and health law poster, which informs your employees of their job safety and health protection rights.

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-20005 Post and keep a ((WISHA)) job safety and health law poster in your workplace. You must(=

•) post it where it can easily be seen by employees and keep it in good condition.

Note:

- Other programs within labor and industries may require other workplace posters. These are:
 - Job safety and health protection
- ((AND))
- Notice to employees—If a job injury occurs
- ((AND))
- Your rights as a nonagricultural worker
- You can obtain a free copy of labor and industries posters from any labor and industries office or by printing it off our web site (<http://www.lni.wa.gov/ipub/101-054-000.htm>) <https://www.lni.wa.gov/FormPub/Detail.asp?DocID=1738>). You can find the labor and industries office closest to you by:
 - Checking the resource section of this book for regional offices(=); or
- ((OR))
- Calling 1-800-4BE SAFE (1-800-423-7233).
- ((OR
- <http://www.lni.wa.gov/wisha/question.htm#contact>))

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-21005 Provide and maintain adequate lighting.

Note: This section establishes minimal levels of lighting for safety purposes only. Guidelines pertaining to optimal levels of lighting and illumination may be found in Practice for Industrial Lighting, ANSI/IES RP7-1979. (See the resource section of this book on how to contact ANSI.)

(1) You must(=

•) Provide and maintain adequate lighting for all work activities in your workplace. See the following table.

Lighting Table		
Activity	Minimum acceptable average lighting level in an area: (Foot-candles)	Any one single measurement used to determine the average lighting level* cannot be less than: (Foot-candles)
Indoor task	10	5
Outdoor task	5	2.5
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) You must(☞
☛) have adequate light for employees to see nearby objects that might be potential hazards or to see to operate emergency controls or other equipment, if general lighting is not available.

- Note:**
- Lighting levels can be measured with a light meter.
 - Conversion information: 1 foot-candle = 1 lumen incident per square foot = 10.76 lux.

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

WAC 296-800-220 Housekeeping, drainage, and storage—Summary.

Your responsibility:

To provide your employees with a clean, dry, pest-free workplace.

- Note:** The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See "How do the WISHA rules relate to building, fire, and electrical codes" in the introduction section of this book.

((You must:

Housekeeping

~~Keep your workplace clean.~~

~~WAC 296-800-22005.~~

~~Sweep and clean your workplace to minimize dust.~~

~~WAC 296-800-22010.~~

~~Keep your workplace free of obstacles that interfere with cleaning.~~

~~WAC 296-800-22015.~~

~~Control pests in your workplace.~~

~~WAC 296-800-22020.~~

~~Make sure floors are maintained in a safe condition.~~

~~WAC 296-800-22022.~~

Drainage

~~Keep your workroom floors dry, when practical.~~

~~WAC 296-800-22025.~~

~~Provide proper drainage.~~

~~WAC 296-800-22030.~~

Storage areas

~~Store things safely.~~

~~WAC 296-800-22035.~~

~~Control vegetation in your storage areas.~~

~~WAC 296-800-22040.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
Housekeeping	
<u>Keep your workplace clean</u>	<u>WAC 296-800-22005</u>
<u>Sweep and clean your workplace to minimize dust</u>	<u>WAC 296-800-22010</u>
<u>Keep your workplace free of obstacles that interfere with cleaning</u>	<u>WAC 296-800-22015</u>
<u>Control pests in your workplace</u>	<u>WAC 296-800-22020</u>
<u>Make sure floors are maintained in a safe condition</u>	<u>WAC 296-800-22022</u>
Drainage	
<u>Keep your workroom floors dry, when practical</u>	<u>WAC 296-800-22025</u>
<u>Provide proper drainage</u>	<u>WAC 296-800-22030</u>
Storage areas	
<u>Store things safely</u>	<u>WAC 296-800-22035</u>
<u>Control vegetation in your storage areas</u>	<u>WAC 296-800-22040</u>

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

WAC 296-800-22005 Keep your workplace clean.

You must(☞

☛) keep all areas of you workplace, passageways, storage rooms, and service rooms in a clean, orderly and sanitary condition to the extent the nature of the work allows.

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

WAC 296-800-22010 Sweep and clean your workplace to minimize dust. (1) You must(☞

☛) sweep and clean your workplace in a way that minimizes dust in the air as much as possible.

((☛) (2) You must, when practical, clean after hours so that your employees are not exposed to dust in the air on the job.

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

WAC 296-800-22015 Keep your workplace free of obstacles that interfere with cleaning. You must(☞

•) keep your workplace clear of obstructions such as nails, splinters, loose boards and unnecessary holes and openings to make cleaning easier and more effective.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-22020 Control pests in your workplace. (1) You must(:

•) make sure each building in your workplace is constructed, equipped and maintained so it restricts pests from entering or living in it. Pests include animals such as:

- ((-) (a) Rodents (rats, mice, and squirrels).
- ((-) (b) Birds (starlings, pigeons, and swallows).
- ((-) (c) Insects (bees, wasps, and mosquitoes).

(*) (2) You must take steps to effectively control pests in your workplace, if they are detected.

((-) Carry out a continuing and effective control program in the areas of your workplace where pests have been detected.

Note:

- By handling dead or live pests including their waste products, attached parasites and other contaminated materials, your employees may be exposed to certain health risks. These risks include, but are not limited to: Hanta virus, rabies, lyme disease and psittacosis. Contact your local L&I office (see resource section of this book) or the public health department for more information about health risks and proper pest handling and disposal techniques.
- "Workplace" includes storage areas.

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

WAC 296-800-22022 Make sure floors are maintained in a safe condition. (1) You must(:

•) make sure floors are kept free of debris. This includes:

- ((-) (a) Buildings.
- ((-) (b) Platforms.
- ((-) (c) Walkways and driveways.
- ((-) (d) Storage yards.
- ((-) (e) Docks.

((*) (2) You must use a nonslip coating on all polished floors.

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

WAC 296-800-22025 Keep your workroom floors dry, when practical. You must(:

•) do the following to help keep your employees dry if wet processes are used in your work area:

- ((-) (1) Maintain drainage away from the work area; and
- ((-) (2) Provide false floors, platforms, or other dry places where employees can stand, where practical(:
- ((-) (3) Provide appropriate waterproof footwear.

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

WAC 296-800-22030 Provide proper drainage. You must(:

•) provide all areas where employees work, such as yards, basements, or garages, with adequate drainage.

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

WAC 296-800-22035 Store things safely. (1) You must(:

•) store materials so they do not create a hazard.

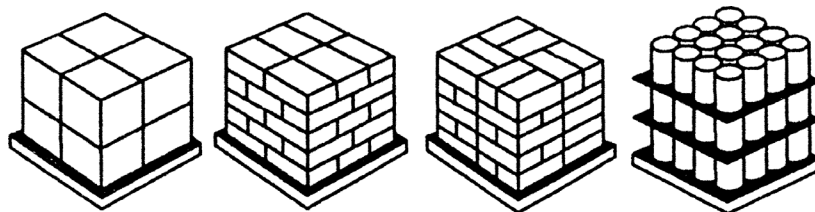
((*) (2) You must keep workplace storage areas free from accumulation of materials that could create hazards from tripping, fire, or explosion.

((*) (3) You must secure stored items such as bundles, containers, and bags to prevent them from falling, sliding, or collapsing by doing one or more of the following:

- ((-) (a) Stacking.
- ((-) (b) Racking.
- ((-) (c) Blocking.
- ((-) (d) Interlocking.
- ((-) (e) Otherwise securing them.

((*) (4) You must make sure stored items are limited in height so that they are stable and secure to prevent sliding or collapse.

Examples of Proper Material Storage



Block Pattern Brick Pinwheel Rigid Spacer

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

WAC 296-800-22040 Control vegetation in your storage areas. You must((
 •) control vegetation in your storage areas when necessary to create a safe working environment.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-230 Summary.

Your responsibility:

((~~☐~~)) You must provide safe drinking (potable) water, bathrooms, washing facilities, eating areas and garbage and waste disposal in your workplace.

((~~**You must:**~~))

General requirements for all workplaces.

((~~**Drinking water**~~

Provide safe drinking (potable) water in your workplace.
~~WAC 296-800-23005.~~

Clearly mark water outlets that are not fit for drinking (nonpotable).

~~WAC 296-800-23010.~~

Make sure systems delivering not fit for drinking (nonpotable) water prevent backflow into drinking water systems.

~~WAC 296-800-23015.~~

Bathrooms and washing facilities

Provide bathrooms for your employees.

~~WAC 296-800-23020.~~

Provide convenient, clean washing facilities.

~~WAC 296-800-23025.~~

Eating areas and food service

Make sure eating areas are safe and healthy.

~~WAC 296-800-23040.~~

Follow these requirements if you provide food service to your employees.

~~WAC 296-800-23045.~~

Garbage and waste disposal

Dispose of garbage and waste safely.

~~WAC 296-800-23050.~~

Remove garbage and waste in a way that does not create a health hazard.

~~WAC 296-800-23055.~~

Lunchrooms and personal service rooms

Provide a separate lunchroom if employees are exposed to toxic substances if they are allowed to eat and drink on the job site.

~~WAC 296-800-23060.~~

Provide showers when required for employees working with chemicals.

~~WAC 296-800-23065.~~

Provide change rooms when required.

~~WAC 296-800-23070.~~

Make sure any work clothes you provide are dry.

~~WAC 296-800-23075.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Drinking water</u>	
<u>Provide safe drinking (potable) water in your workplace</u>	<u>WAC 296-800-23005</u>
<u>Clearly mark water outlets that are not fit for drinking (nonpotable)</u>	<u>WAC 296-800-23010</u>
<u>Make sure that systems delivering not-fit-for-drinking (nonpotable) water prevent backflow into drinking water systems</u>	<u>WAC 296-800-23015</u>
<u>Bathrooms and washing facilities</u>	
<u>Provide bathrooms for your employees</u>	<u>WAC 296-800-23020</u>
<u>Provide convenient and clean washing facilities</u>	<u>WAC 296-800-23025</u>
<u>Eating areas and food service</u>	
<u>Make sure eating areas are safe and healthy</u>	<u>WAC 296-800-23040</u>
<u>Follow these requirements if you provide food service to your employees</u>	<u>WAC 296-800-23045</u>
<u>Garbage and waste disposal</u>	
<u>Dispose of garbage and waste safely</u>	<u>WAC 296-800-23050</u>
<u>Remove garbage and waste in a way that does not create a health hazard</u>	<u>WAC 296-800-23055</u>
<u>Lunchrooms and personal service rooms</u>	
<u>Provide a separate lunchroom if employees are exposed to toxic substances if they are allowed to eat and drink on the job site</u>	<u>WAC 296-800-23060</u>
<u>Provide showers when required for employees working with chemicals</u>	<u>WAC 296-800-23065</u>
<u>Provide change rooms when required</u>	<u>WAC 296-800-23070</u>
<u>Make sure any work clothes you provide are dry</u>	<u>WAC 296-800-23075</u>

Note: Some industries may have additional rules on bathrooms and washing facilities. Some examples include:

Industry	WAC
Agriculture; indoor sanitation and temporary labor camps	chapter 296-307 WAC

Industry	WAC
Carcinogens; general regulated area requirements	WAC 296-62-07308
Charter boats	WAC 296-115-050
Compressed air work	WAC 296-36-160(5)
Construction	WAC 296-155-140
Temporary labor camps	WAC 296-24-12507

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23005 Provide safe drinking (potable) water in your workplace. ((You must*)) (1) You must provide safe drinking (potable) water for employees for:

- ((*) (a) Washing themselves.
 - ((*) (b) Personal service rooms.
 - ((*) (c) Cooking.
 - ((*) (d) Washing premises where food is prepared or processed.
 - ((*) (e) Washing food, eating utensils, or clothing.
- (2) You must make sure when providing movable or portable drinking water dispensers that they are:
- ((*) (a) Capable of being closed.
 - ((*) (b) Kept in sanitary condition.
 - ((*) (c) Equipped with a tap.
- (3) You must prohibit employees from:
- ((*) (a) Using shared drinking cups or utensils.
 - ((*) (b) Using open containers such as barrels, pails, and tanks that require employees to dip or pour drinking water, even if the containers have covers.

Definition:

((*) 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.

((*) Personal service rooms are used for activities not directly connected with a business' production or service function such as first aid, medical services, dressing, showering, bathrooms, washing and eating.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

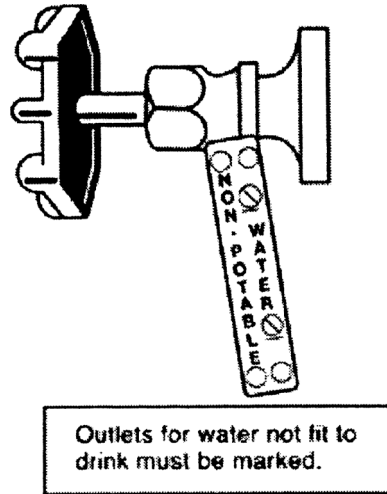
WAC 296-800-23010 Clearly mark the water outlets that are not fit for drinking (nonpotable). ((You must*))

- (1) You must mark water outlets that are not fit for drinking (nonpotable), such as those used for industrial processes or firefighting, so they will not be used for:
- ((*) (a) Drinking.
 - ((*) (b) Washing themselves, except in emergencies.
 - ((*) (c) Cooking.
 - ((*) (d) Washing food, eating utensils, or clothing.
- (2) You must prohibit the use of nonpotable water containing substances that could create unsafe conditions such as:
- ((*) (a) Concentrations of chemicals, such as lead or chlorine.

((*) (b) Fecal coliform bacteria.

Note: As long as the nonpotable water is free of substances that could create unsafe conditions, the water can be used for cleaning both:
 -Work premises used for activities other than food preparation or processing; and
 ((AND))
 -Personal service rooms, such as bathrooms.

Reference: You may need to follow additional requirements for emergency washing facilities. See WAC 296-800-150 First aid, for more information.



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

WAC 296-800-23015 Make sure that systems delivering not-fit-for-drinking (nonpotable) water prevent backflow into drinking water systems. You must((

***)** make sure that systems delivering not-fit-for-drinking (nonpotable) water prevent backflow into drinking water systems.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23020 Provide bathrooms for your employees.

Exemption: You do not have to provide bathrooms:
 For mobile crews or at work locations not normally attended by employees, if there is transportation immediately available to nearby bathrooms that meet the requirements of this section.

((**You must***))

(1) You must provide bathrooms with the appropriate number of toilets for your employees at every workplace based on Table 1.

((*) (2) You must have an appropriate number of toilets for each gender, based on the number of male and female employees at your workplace.

((-)) For example, if you have thirty-seven men and seventeen women, you need to have three toilets for the men and two toilets for the women, based on Table 1.

((*) (3) You must make sure each toilet is in a separate compartment with a door and walls or partitions for privacy.

Table 1
Required Number of Employee Toilets at Every Workplace

Maximum Number of Employees Present at Any One Time During a Shift	Minimum Number of Toilets Required
1 to 15	1
16 to 35	2
36 to 55	3
56 to 80	4
81 to 110	5
111 to 150	6
Over 150	One additional toilet for each additional 40 employees

Note: A shared bathroom (multiple toilets without enclosures) counts as one toilet no matter how many toilets it contains. In bathrooms used only by men, urinals may be substituted for up to 1/3 of the required toilets.

~~((You must~~

~~(2))~~ (4) You must provide toilet paper and a toilet paper holder for each toilet.

~~((3))~~ (5) You must make sure bathrooms are maintained in a clean and sanitary condition.

~~((4))~~ (6) You must make sure the sewage disposal method does not endanger the health of employees.

Exemption: Separate bathrooms for men and women are not required if the bathroom:

- Will only be occupied by one person at a time.
- Can be locked from the inside.
- Contains at least one toilet.

AMENDATORY SECTION (Amending WSR 12-24-071, filed 12/4/12, effective 1/4/13)

WAC 296-800-23025 Provide convenient and clean washing facilities.

Exemption: You do **not** have to provide washing facilities for:

- Mobile crews or work locations not normally attended by employees, if there is immediately available transportation to nearby washing facilities that meet the requirements of this rule.

You must(~~(~~

~~*)~~ provide convenient and clean washing facilities for employees including:

- ((-) (1) Sinks or basins for personal washing.
- ((-) (2) Hot and cold water, or lukewarm (tepid), running water in each sink and basin.
- ((-) (3) Hand soap or similar cleaning agents.
- ((-) (4) One of the following:

((*) (a) Individual paper or cloth hand towels.

((*) (b) Individual sections of clean continuous cloth toweling.

((*) (c) Air blowers for drying hands, located near the sinks and basins.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23040 Make sure eating areas are safe and healthy. ~~((You must~~) (1) You must make sure employees are not allowed to eat and drink in:

((*) (a) Bathrooms.

((*) (b) Areas exposed to toxic substances.

(2) You must make sure food is not stored in bathrooms or areas exposed to toxic substances.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23045 Follow these requirements if you provide food service to your employees. ~~((You must~~

~~*)~~ (1) You must make sure all food service facilities and operations you make available follow sound hygiene principles.

((*) (2) You must make sure the food is:

((-) (a) Unspoiled.

((-) (b) Protected from contamination during processing, preparation, handling, and storage.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23050 Dispose of garbage and waste safely. ~~((You must~~) (1) You must make sure garbage containers are:

((*) (a) Kept in a clean and sanitary condition.

((*) (b) Made from smooth, corrosion resistant materials.

((*) (c) Easily cleaned or are disposable.

((*) (d) Equipped with a solid tight-fitting cover unless you can keep them in a sanitary condition without a cover.

(2) You must provide enough garbage containers to make sure they:

((*) (a) Are conveniently located to encourage their use.

~~((Won't~~) (b) Will not be overfilled.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23055 Remove garbage and waste in a way that does not create a health hazard. You must(~~(~~

~~*)~~ remove all sweepings, solid and liquid wastes, refuse, and garbage as often as needed to keep the workplace in a sanitary condition.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23060 Provide a separate lunchroom if employees are exposed to toxic substances if they are

allowed to eat and drink on the job site. ~~((You must:))~~ (1) You must provide a lunchroom separate from the work area if employees are exposed to toxic substances.

(2) You must use Table 2 to determine the required square footage in your lunchroom based on the number of employees using the room at any one time.

Table 2

Maximum Number of Employees Using Lunchroom at One Time

Number of Persons	Square Feet per Person
25 and less	13
26-74	12
75-149	11
150 and over	10

Note: You do not have to provide a separate lunchroom if it is convenient for employees to leave the workplace to eat and drink.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23065 Provide showers when required for employees working with chemicals. ~~((You must:~~

•)) (1) You must provide showers for employees if:

((-) (a) They work with chemicals that could cause an occupational illness; and

~~((AND~~

-)) (b) The chemicals remain on the skin between work shifts.

((•) (2) You must make sure employees who work with such chemicals shower at the end of their shifts.

((-) (a) Make sure showers have:

((•) (i) Soap or other cleansing agents.

((•) (ii) Hot and cold water with a common discharge line.

((-) (b) Provide individual, clean towels for each employee who is required to shower.

((•) (c) Provide at least one shower for every ten employees (or every fraction of 10) of each gender.

Note: Table 3 shows the number of showers to provide based on a "fraction of 10."

Table 3

Number of Employees of Each Gender	Number of Showers
1-10	1
11-20	2
21-30	3
31-40	4
41-50	5

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23070 Provide change rooms when required. ~~((You must:~~

•)) (1) You must provide change rooms when employees are required by a particular standard to wear protective clothing because of the possibility of contamination with toxic materials.

((•) (2) You must make sure change rooms have separate storage facilities for street clothes and protective clothing.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-23075 Make sure any work clothes you provide are dry. You must(~~:~~

•)) make sure when providing work clothes to employees that the clothing provided is dry if the clothing:

((-) (1) Gets wet during use; or

~~((OR~~

-)) (2) Is washed before it is reused.

AMENDATORY SECTION (Amending WSR 06-22-023, filed 10/24/06, effective 12/1/06)

WAC 296-800-240 Summary.

Your responsibility:

~~((Tø))~~ You must eliminate exposure to *environmental tobacco smoke* in your office work environment.

~~((You must:~~

~~Prohibit tobacco smoke in your office work environment WAC 296-800-24005-))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Prohibit tobacco smoke in your office work environment</u>	<u>WAC 296-800-24005</u>

Note: This rule does not preempt any federal, state, municipal, or other local authority's regulation of indoor smoking that is more protective than this section.

Definition: Office work environment is an indoor or enclosed occupied space where clerical work, administration, or business is carried out. In addition, it includes:

- Other workplace spaces controlled by the employer and used by office workers, such as cafeterias, meeting rooms, and washrooms.
- Office areas of manufacturing and production facilities, not including process areas.
- Office areas of businesses such as food and beverage establishments, agricultural operations, construction, commercial trade, services, etc.

Link: For work environments outside the office, contact your local health department using the link <http://www.secondhandsmokesyou.com> or by calling them directly.

AMENDATORY SECTION (Amending WSR 06-22-023, filed 10/24/06, effective 12/1/06)

WAC 296-800-24005 Prohibit tobacco smoke in your office work environment. Exemption: The minimum criteria specified in this rule do not apply to outdoor structures provided for smokers such as gazebos or lean-tos that maintain the twenty-five feet distance from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

~~((You must:))~~

(1) You must prohibit smoking in your office work environment.

(2) You must use administrative controls to prevent tobacco smoke from entering your office from outside the building.

(~~(*)~~) (3) You must make sure that outside smoking areas used by your employees are at least twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-250 Summary.

Your responsibility:

To make sure stairs used by employees are safe,

~~((You must:~~

~~Provide fixed stairs where required~~

~~WAC 296-800-25005~~

~~Provide stairs that minimize hazards~~

~~WAC 296-800-25010~~

~~Provide handrails and stair railings~~

~~WAC 296-800-25015.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Provide fixed stairs where required</u>	<u>WAC 296-800-25005</u>
<u>Provide stairs that minimize hazards</u>	<u>WAC 296-800-25010</u>
<u>Provide handrails and stair railings</u>	<u>WAC 296-800-25015</u>

Exemptions:

This rule does **not** apply to:

- ◆ Stairs used exclusively for fire exit purposes
- ◆ Construction operations (See WAC 296-24-76503 for the specifications for the safe design and construction of fixed general industrial stairs.)
- ◆ Private buildings or residences
- ◆ Articulated stairs (for example, stairs used at a marina)
- ◆ Nonindustrial and monumental stairs are excluded as they are not industrial stairs; however, when public and private building steps are located at loading or receiving docks, in maintenance areas, etc., or are used exclusively by employees, the requirements of this rule must apply.

Note:

The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See "How do the WISHA rules relate to building, fire, and electrical codes" in the introduction section of this book.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-25005 Provide fixed stairs where required. (1) You must(~~(=~~

~~*)~~) install fixed stairs where:

((~~(-~~) (a) Employees travel between different levels on a predictable and regular basis.

((~~(-~~) (b) Access to platforms is required to give routine attention to equipment under operation.

((~~(-~~) (c) Daily movement between elevations is required to gauge, inspect, and maintain equipment where those work assignments may expose employees to acids, caustics, gases, or other harmful substances.

((~~(-~~) (d) Carrying tools or equipment by hand is a normal work requirement.

((~~(*)~~) (2) You must not use spiral stairways except as secondary exit routes.

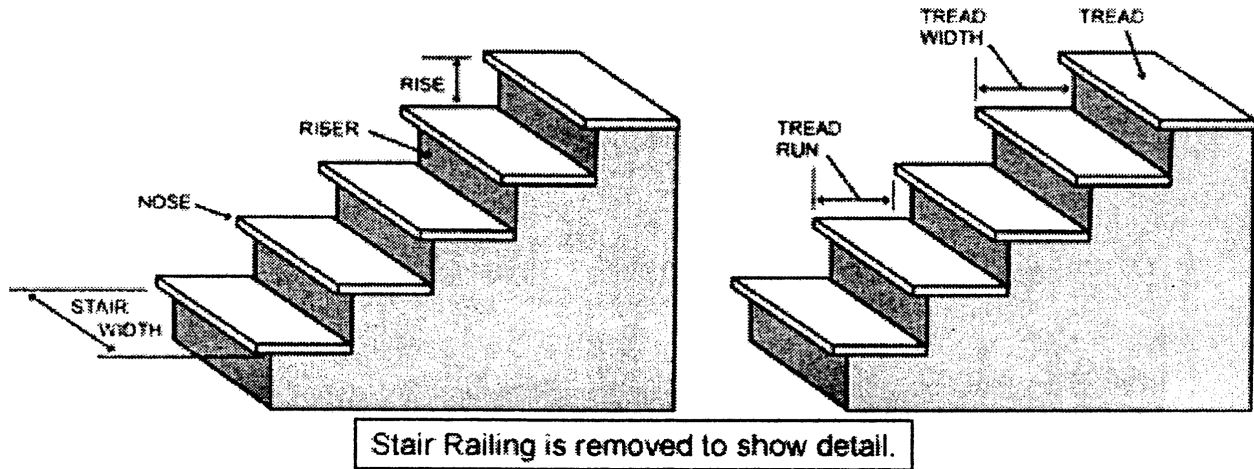
Note:

- You can use fixed ladders for climbing elevated structures, such as tanks, towers, and overhead traveling cranes, when their use is common practice in your industry.
- You can use winding stairways on tanks and similar round structures if the structure's diameter is at least five feet.
- You could use a spiral stairway as an exit route in a restricted area that lacks room for a conventional stairway.

Definitions:

- A stairway or fixed stairs is a series of steps and landings:
 - Leading from one level or floor to another.
 - Leading to platforms, pits, boiler rooms, crossovers, or around machinery, tanks, and other equipment.
 - Used more or less continuously or routinely by employees or only occasionally by specific individuals.
 - With three or more risers.
- A riser is the vertical part of the step at the back of a tread that rises to the front of the tread above.
- A tread is the horizontal part of the step. Tread width is the distance from the front of the tread to the back.

Stair Components



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

WAC 296-800-25010 Provide stairs that minimize hazards. ~~((You must:))~~ (1) You must make sure stairs have slip-resistant treads.

(2) You must make sure that stairs with four or more risers have:

((*) (a) Railings on the open sides of all exposed stairways and stair platforms.

((*) (b) Handrails on at least one side of closed stairways, preferably on the right side while descending.

(3) You must provide a platform where doors or gates open directly on a stairway. The swing of the door must not reduce the effective width of the platform to less than 20 inches.

Note: To see all of the rules for building fixed stairs, refer to WAC 296-24-75011 and 296-24-765 of the General safety and health standard.

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-25015 Provide handrails and stair railings.

Exemption: Vehicle service pit stairways are exempt from the rules for stairway railing and guards, if they would prevent a vehicle from moving into a position over the pit.

Definition:

- A handrail is a single bar or pipe on brackets from a wall or partition to provide a continuous handhold for persons using a stair.
- A 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.

(1) You must(~~;~~ *) make sure stairways less than forty-four inches wide have:

((-) (a) At least one handrail, preferably on your right side as you go down the stairs, if both sides are enclosed(~~;~~ OR

- ~~);~~ or
- (b) At least one stair railing on the open side, if one side is open(~~;~~ OR
- ~~);~~ or
- (c) One stair railing on each side, if both sides are open.
- ((*) (2) You must make sure stairways more than forty-four inches wide but less than eighty-eight inches wide have:
- ((-) (a) One handrail on each enclosed side.
- ((-) (b) One stair railing on each open side.
- ((*) (3) You must make sure stairways at least eighty-eight inches wide have:
- ((-) (a) One handrail on each enclosed side.
- ((-) (b) One stair railing on each open side.
- ((-) (c) One intermediate stair railing located approximately midway of the width.
- ((*) (4) You must equip winding stairs with a handrail, offset to prevent walking on all portions of the treads, less than six inches wide.

Reference: Railings must consist of a top rail, intermediate rail, and posts. To see all of the rules for building handrails and stairway railings, refer to WAC 296-24-75011, of the general safety and health standard.

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

WAC 296-800-260 Summary.

Your responsibility:

To safely guard floor openings, floor holes, and open-sided floors in your workplace.

~~((You must:~~

~~Guard or cover floor openings and floor holes.~~

~~WAC 296-800-26005.~~

~~Protect open-sided floors and platforms.~~

~~WAC 296-800-26010.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Guard or cover floor openings and floor holes</u>	<u>WAC 296-800-26005</u>

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Protect open-sided floors and platforms</u>	<u>WAC 296-800-26010</u>

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

WAC 296-800-26005 Guard or cover floor openings and floor holes.

Definition: A **floor opening** is an opening in any floor, platform, pavement, or yard that measures at least twelve inches in its smallest dimension and through which a person can fall.

Examples of floor openings are:

- Hatchways
- Stair or ladder openings
- Pits
- Large manholes.

The following are **not** considered **floor openings**:

- Openings occupied by elevators
- Dumbwaiters
- Conveyors
- Machinery
- Containers

A **floor hole** is an opening in any floor, platform, pavement, or yard that measures at least one inch but less than twelve inches at its smallest dimension and through which materials and tools (but not people) can fall.

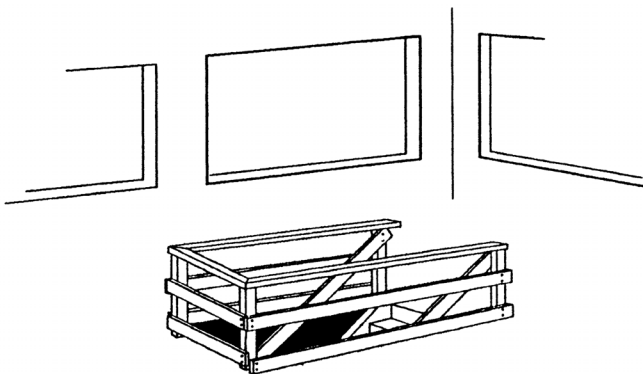
Examples of floor holes are:

- Belt holes
- Pipe openings
- Slot openings

~~((You must:))~~

(1) You must guard stairway floor openings, temporary floor openings and floor holes.

((*) (a) Protect all stairway floor openings with a railing. The railing must protect all open sides except the stairway entrance side.



Guardrail installed around all sides of stairway opening except at the entrance.

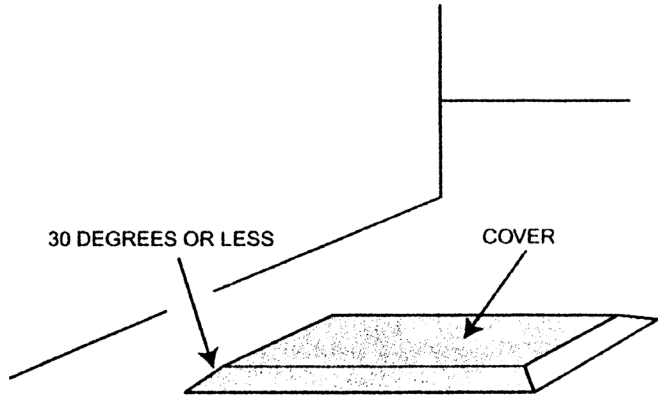
((*) (b) Use a hinged cover and a removable railing where traffic across an infrequently used stairway floor opening prevents the installation of a fixed railing. This removable railing must protect all open sides except the stairway entrance side.

((*) (c) Protect temporary floor openings by either a railing or by a person who constantly attends the opening.

((*) (d) Protect exposed floor holes into which a person can accidentally walk by either:

- ((-) (i) A railing with a toeboard on all open sides; or
- ((-) (ii) A floor hole cover of standard strength and construction that can be hinged in place. When a floor hole cover is not in place, the hole must be protected by a removable railing or constantly attended by someone.

((*) (e) Provide covers for floor openings. Floor opening covers may be of any material that has a safety factor of four, or is strong enough to hold up to four times the intended load. Covers that do not project more than one inch above the floor level may be used providing all edges are beveled (slanted) to prevent tripping. All hinges, handles, bolts, or other parts of a cover must set flush with the floor or cover surface.

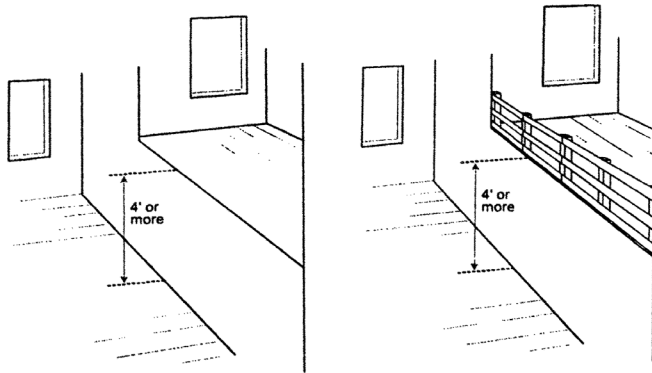


A cover that projects above the surface must be beveled to reduce the tripping hazard.

(2) You must prevent tools and materials from falling through a floor hole. The floor hole must be protected by a cover that leaves an opening no more than one inch wide and is securely held in place. This applies only to floor holes that persons cannot accidentally walk into on account of fixed machinery, equipment, or walls.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-26010 Protect open-sided floors and platforms.



OPEN FLOOR (Unguarded)

GUARDED FLOOR

~~((You must:))~~

(1) ~~You must guard open-sided floors and platforms.~~

(*) (a) Guard open-sided floors and platforms four feet or more above adjacent floor or ground level by a railing. The entrance to a ramp, stairway, or fixed ladder does not need a railing.

(*) (b) Guard open-sided floors, walkways and platforms above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units, and other similar hazards, regardless of height with a railing and toeboard.

(2) You must make sure tools and loose materials are not left on overhead platforms and scaffolds.

- Note:**
- Where the guarding rules above do not apply because employees exposure to falls is infrequent (not on a predictable and regular basis), you must comply with the Personal Protective Equipment (PPE) rules (WAC 296-800-160) or other effective fall protection must be provided.
 - You can find the minimum requirements for standard railings of various types of construction in WAC 296-24-75011.

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

WAC 296-800-270 Summary.

Your responsibility:

To make sure that the buildings, floors, and other structures in your workplace are safe, well-built, and not overloaded.

~~((You must:~~

~~Not overload floors or roofs~~

~~WAC 296-800-27005.~~

~~Make sure that floors are safe~~

~~WAC 296-800-27010.~~

~~Make sure floors can support equipment that moves or has motion~~

~~WAC 296-800-27015.~~

~~Post approved load limits (weight limits) for floors~~

~~WAC 296-800-27020.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Do not overload floors or roofs</u>	<u>WAC 296-800-27005</u>
<u>Make sure that floors are safe</u>	<u>WAC 296-800-27010</u>
<u>Make sure floors can support equipment that moves and has motion</u>	<u>WAC 296-800-27015</u>
<u>Post approved load limits (weight limits) for floors</u>	<u>WAC 296-800-27020</u>

Note: The introduction has important information about fire, building and electrical codes that may apply to you in addition to WISHA rules. See "How do the WISHA rules relate to fire, building and electrical codes" in the introduction section of this book.

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

WAC 296-800-27005 Do not overload floors or roofs.

You must((:

•) prohibit overloading roofs and floors of any building or other structure with more weight than is approved by the building official.

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

WAC 296-800-27010 Make sure that floors are safe.

(1) You must((:

•) make sure that floors including their parts and structural members are safe.

(*) (2) You must make sure floors are of substantial construction and kept in good repair. This includes floors of:

((-) (a) Buildings,

((-) (b) Platforms,

((-) (c) Walks and driveways,

((-) (d) Storage yards,

((-) (e) Docks,

(*) (3) You must make sure that structures are designed, constructed, and maintained to provide a safety factor of 4 times the imposed maximum strain.

((-) (4) If you notice bowing, cracking, or other indications of excessive strain on a structure, you must take action to make sure it is safe.

Note: This rule applies to all buildings or those that have had complete or major changes or repairs built after 5/7/74.

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

WAC 296-800-27015 Make sure floors can support equipment that moves or has motion. You must((:

•) make sure flooring of buildings, ramps, docks, trestles and other fixed structures that supports equipment that moves or has motion such as vibration, must not be less than two and one-half inch material.

Note: Where flooring is covered by steel floor plates, 2-inch material may be used.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-27020 Post approved load limits (weight limits) for floors. (1) You must(~~±~~ ~~•~~) post approved load limits (weight limits) for floors used for mercantile, business, industrial or storage purposes in an obvious place.

(~~•~~) (2) You must as the owner, or owner's agent, of a building (or other part of a workplace) post the load approved by the building official by:

(-)(a) Supplying and affixing a durable metal sign that is marked with the approved load.

(-)(b) Placing the metal sign in an obvious spot in the space to which it applies.

(-)(c) Replacing the metal sign if it is lost, defaced, damaged, or removed.

Note: This rule applies to the floor that supports shelving, but not to the shelves themselves.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-280 Basic electrical rules.

Summary.

Your responsibility:

To protect your employees from hazards when working with electrical equipment, tools, and appliances.

~~((You must:~~

~~Inspect all electrical equipment your employees use to make sure the equipment is safe.~~

~~WAC 296-800-28005.~~

~~Make sure all electrical equipment is used for its approved or listed purpose.~~

~~WAC 296-800-28010.~~

~~Make sure electrical equipment used or located in wet or damp locations is designed for such use.~~

~~WAC 296-800-28015.~~

~~Make sure electrical equipment that is not marked by the manufacturer cannot be used.~~

~~WAC 296-800-28020.~~

~~Identify disconnecting means.~~

~~WAC 296-800-28022.~~

~~Maintain electrical fittings, boxes, cabinets, and outlets in good condition.~~

~~WAC 296-800-28025.~~

~~Maintain all flexible cords and cables in good condition and use safely.~~

~~WAC 296-800-28030.~~

~~Guard electrical equipment to prevent your employees from electrical hazards.~~

~~WAC 296-800-28035.~~

~~Make sure electrical equipment is effectively grounded.~~

~~WAC 296-800-28040.~~

~~Make sure electrical equipment has overcurrent protection.~~

~~WAC 296-800-28045.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Inspect all electrical equipment your employees use to make sure the equipment is safe</u>	<u>WAC 296-800-28005</u>
<u>Make sure all electrical equipment is used for its approved or listed purpose</u>	<u>WAC 296-800-28010</u>
<u>Make sure electrical equipment used or located in wet or damp locations is designed for such use</u>	<u>WAC 296-800-28015</u>
<u>Make sure electrical equipment that is not marked is not used</u>	<u>WAC 296-800-28020</u>
<u>Identify disconnecting means</u>	<u>WAC 296-800-28022</u>
<u>Maintain electrical fittings, boxes, cabinets, and outlets in good condition</u>	<u>WAC 296-800-28025</u>
<u>Working space around electrical equipment</u>	<u>WAC 296-800-28027</u>
<u>Maintain all flexible cords and cables in good condition and use safely</u>	<u>WAC 296-800-28030</u>
<u>Guard electrical equipment to prevent your employees from electrical hazards</u>	<u>WAC 296-800-28035</u>
<u>Make sure electrical equipment is effectively grounded</u>	<u>WAC 296-800-28040</u>
<u>Make sure electrical equipment has overcurrent protection</u>	<u>WAC 296-800-28045</u>

Exemptions:

•These rules apply to all electrical equipment used in the workplace, except for:

- Electrical installations and equipment on ships, watercraft, railway rolling stock, aircraft and all automotive vehicles other than mobile homes and recreational vehicles.

- Electrical installations and equipment used to generate, transmit, transform or distribute power exclusively for operation of rolling stock.

- Electrical installations of railways used exclusively for signaling and communication purposes.

- Installations underground in mines.

- Installations of communication equipment under the exclusive control of communications utilities, located outdoors or in building spaces used exclusively for such installations.

- Installations controlled and used exclusively by electric utilities for:

- Communication or metering purposes; or

- Generating, controlling, transforming, transmitting and distributing electric energy that are located:
 - ◆ In buildings used exclusively by the utility for such purposes; or
 - ◆ Outdoors on property owned or leased by the utility; or
 - ◆ On public highways, streets and roads; or
 - ◆ Outdoors by established rights on private property.

Note:

- The introduction has important information about fire, building and electrical codes that may apply to you in addition to WISHA rules. See "How do the WISHA rules relate to fire, building and electrical codes" in the introduction section of this book.
- These rules guide how electrical equipment is used and maintained in your workplace. They should not be used in place of your local electrical codes if you are installing electrical wiring, electrical circuits or electrical distribution equipment.
- This rule applies to 600 volts or less. Requirements for specific equipment or special installation are found in chapter 296-24 WAC, Part L.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28005 Inspect all electrical equipment your employees use to make sure the equipment is safe. You must((±

•) inspect electrical equipment to make sure there are no recognized hazards likely to cause death or serious physical harm to employees. Determine the safety of the equipment by considering the following:

Suitability for installation and use as evidenced by:

((-) (1) Approved or listed by a recognized testing laboratory, such as Underwriters Laboratories (UL) or other approving agency.

((-) (2) Labeled or listed for the purpose it is being used.

((-) (3) Mechanical strength and durability, including the adequacy of the protection provided by parts designed to enclose and protect other equipment.

((-) (4) Wire-bending and connection space.

((-) (5) Electrical insulation.

((-) (6) Heating effects under all conditions of use.

((-) (7) Arcing effects.

((-) (8) Classification by type, size, voltage, current capacity, and specific use.

((-) (9) Other factors that contribute to the practical safeguarding of persons using or likely to come in contact with the equipment.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28010 Make sure all electrical equipment is used for its approved or listed purpose.


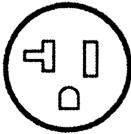

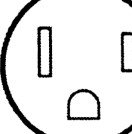



- Definitions:**
- Electrical outlets are places on an electric circuit where power is supplied to equipment through receptacles, sockets and outlets for attachment plugs.
 - Receptacles are outlets that accept a plug to supply electric power to equipment through a cord or cable.

(1) You must((±
•) make sure electrical outlets have an ampere rating that is not less than the electrical load to be served.

((*) (2) You must make sure the proper mating configuration exists when connecting the attachment plug to a receptacle.

((*) (3) You must make sure electrical outlets, cord connectors, attachment plugs and receptacles will not accept an attachment plug with a different voltage or current rating than that for which the device is intended.

Note: A 20-ampere T-slot receptacle or cord connector may accept a 15-ampere attachment plug of the same voltage rating.

SOME COMMON ELECTRICAL OUTLET (RECEPTACLE) CONFIGURATIONS				
	15 Ampere	20 Ampere	30 Ampere	50 Ampere
Two Pole 3 - Wire Grounding 125 Volt				
Three Pole 3 - Wire 125/250 Volt				
Note: A 20-ampere "T-slot" outlet or cord connector may accept a 15-ampere attachment plug of the same voltage rating.				

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28015 Make sure electrical equipment used or located in wet or damp locations is designed for such use. (1) You must:

(*) **(1)** make sure fixtures and receptacles located in wet or damp locations are approved for such use. They must be constructed or installed so that water cannot enter or accumulate in wireways, lampholders, or other electrical parts.

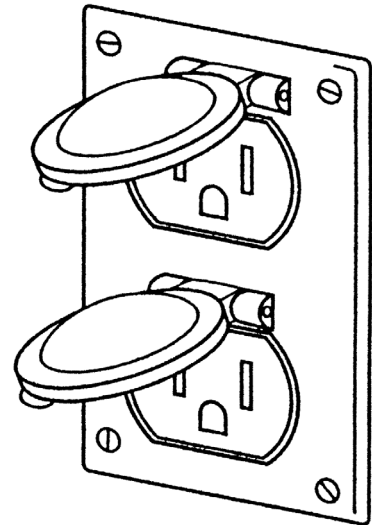
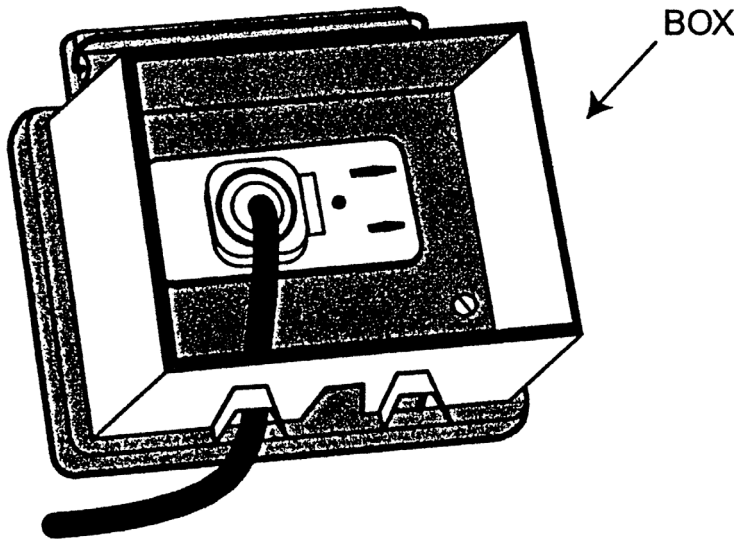
(*) **(2)** You must make sure cabinets, cutout boxes, fittings, boxes, and panelboard enclosures in damp or wet locations are:

(-) **(a)** Installed to prevent moisture or water from entering and accumulating inside.

(-) **(b)** Mounted so there is at least a 1/4 inch airspace between the enclosure and the wall or other supporting surface. Non-metallic enclosures may be installed on a concrete, masonry, tile, or similar surface without the airspace.

(-) **(c)** Weatherproof when used in wet locations.

Switches, circuit breakers, and switchboards located in wet locations must be in weatherproof enclosures.



Electrical equipment used in wet locations must be weatherproof.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28020 Make sure electrical equipment that is not marked is not used. (You must:

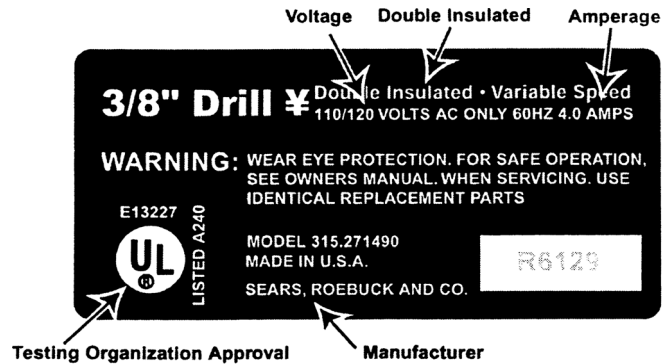
(*) **(1)** Electric equipment may not be used unless the following markings have been placed on the equipment:

(-) **(a)** The manufacturer's name, trademark, or other descriptive marking by which the organization responsible for the product may be identified; and

(AND

(-) **(b)** Voltage, current and wattage, or other ratings as necessary.

(*) **(2)** You must make sure markings are durable and appropriate to the environment.

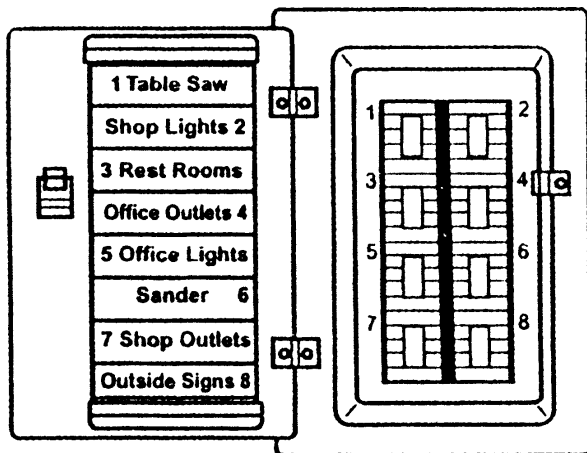


Electrical tools and equipment marked to show manufacturer, approvals and power requirements.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28022 Identify disconnecting means.

- (1) You must(±)
 - (*) make sure the disconnecting means (such as on/off switches and circuit breakers) is marked to show when it is open and closed and what equipment it controls, unless located and arranged so the purpose is obvious.
 - (*) (2) You must install the disconnecting means at a readily accessible location nearest the point of entrance of the service-entrance conductors.
 - (*) (3) You must make sure the disconnecting means for each motor and appliance is marked, at the disconnecting means or overcurrent device, to show when the circuit is open and closed and what circuit it controls, unless located and arranged so the purpose is obvious.
 - (*) (4) You must make sure each service, feeder and branch circuit is marked, at its disconnecting means or overcurrent device, to show when the circuit is open and closed and what circuit it controls, unless located and arranged so the purpose is obvious.
 - (*) (5) You must make sure markings are durable and appropriate to the environment.



Electrical panel circuit breakers labeled to show the equipment or circuits they control.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28025 Maintain electrical fittings, boxes, cabinets and outlets in good condition. You must(±) do the following when using covers and openings:

- (*) (1) When conductors enter boxes, cabinets, or fittings:
 - (-) (a) Protect the conductor (wires) from abrasion.
 - (-) (b) Effectively close the openings where conductors enter.
 - (-) (c) Effectively close all unused openings.
- (*) (2) Provide pull boxes, junction boxes, and fittings with covers approved for the purpose.

(*) (3) Make sure each outlet box has a cover, faceplate, or fixture canopy in completed installations.

(*) (4) Make sure covers for outlet boxes with openings for flexible cord pendants have bushings to protect the cord, or have a smooth and well rounded surface where the cord touches the opening.

(*) (5) Ground metal covers.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28027 Working space around electrical equipment. This section applies to equipment that operates at 100 volts or less.

(1) You must provide and maintain sufficient access and working space around all electrical equipment to permit ready and safe operation and maintenance of the equipment.

(2) You must make sure equipment likely to require examination, adjustment, servicing, or maintenance while energized has:

(*) (a) Working space in front of the equipment that is equal to the width of the equipment or thirty inches, whichever is greater.

(*) (b) Sufficient working space to permit equipment doors or hinged panels to open at least 90 degrees.

(*) (c) Working space in the direction of access to live parts that is not less than that listed in Table XX. Distances are measured from the live parts if they are exposed or from the enclosure front or opening if they are enclosed.

(*) (d) Clear working space about service equipment, switchboards, panelboards, or motor control centers that extends from the grade, floor, or platform to a height of:

(-) (i) 6.25 Feet for installations built before August 13, 2007.

(-) (ii) 6.5 Feet for installations built on or after August 13, 2007. If the height of the equipment is greater than 6.5 feet, the minimum headroom may not be less than the height of the equipment.

Note: • Other equipment associated with the electrical installation and located above or below the electric equipment may extend not more than 6 inches beyond the front of the electric equipment.

(3) You must make sure working space is:

(*) (a) Not used for storage.

(*) (b) Suitably guarded when normally enclosed live parts are exposed for inspection or servicing in a passageway or general open space.

(4) You must provide at least one entrance of sufficient area to give access to the working space about electric equipment.

(5) You must provide adequate lighting (WAC 296-800-210) for all working spaces about service equipment, switchboards, panelboards, and motor control centers installed indoors. In electric equipment rooms, the illumination must not be controlled by automatic means only.

(*) This table shows the area you must keep clear depending on the layout of the electrical equipment.

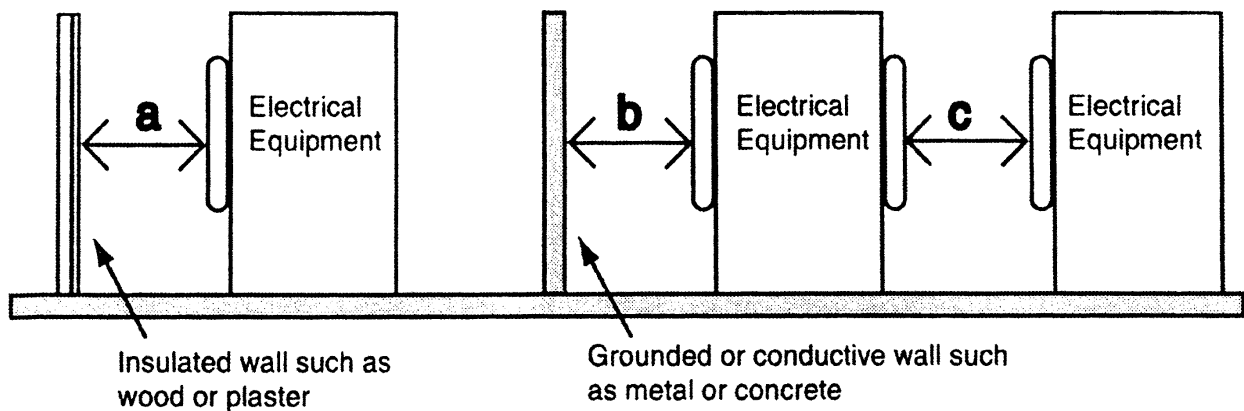
Table XX

Conditions ²	Minimum Clear Distance ³	Minimum Clear Distance ³
	0 - 150 volts to ground	151 - 600 volts to ground
A ¹	3 ft.	3 ft.
B	3 ft. ¹	3 1/2 ft.
C	3 ft.	4 ft.

- Minimum clear distances may be 0.7 m (2.5 ft) for installations built before April 16, 1981.
- Conditions A, B, and C are as follows:
 A = Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides effectively guarded by suitable wood or other insulating material. Insulated wire or insulated bus bars operating at not over 300 volts aren't considered live parts.

B = Exposed live parts on one side and grounded parts on the other side.
 C = Exposed live parts on both sides of the workspace (not guarded as provided in condition A with the operator between the panels).

- Working space is not required in back of assemblies such as dead-front switchboards or motor control centers where there are no renewable or adjustable parts (such as fuses or switches) on the back and where all connections are accessible from locations other than the back. Where rear access is required to work on deenergized parts on the back of enclosed equipment, a minimum working space of 30 in. horizontally ((shall)) must be provided.



Distances are measured from live parts if they are exposed or from the enclosure front if live parts are enclosed.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28030 Maintain all flexible cords and cables in good condition and use safely.

Exemption: These rules do not apply to cords and cables that are an internal part of factory assembled appliances and equipment, like the windings on motors or wiring inside electrical panels.

Note: Flexible cords and cables are typically used to connect electrical equipment to a power source. These cords can have an electrical plug to connect to a power source or can be permanently wired into the power source. The terms flexible cords, extension cord, cables and electrical cords all refer to a type of flexible cord.

~~((You must:))~~

(1) You must perform visual inspections.

(*) On portable cord- and plug-connected equipment and extension cords before use on each work shift. Defects and damage to look for include:

- ~~((-))~~ (a) Loose parts.
- ~~((-))~~ (b) Deformed or missing pins.
- ~~((-))~~ (c) External defects and damage.
- ~~((-))~~ (d) Damage to the outer covering or insulation.
- ~~((-))~~ (e) Pinched or crushed covering or insulation that might indicate internal damage.

Exemption: You do not need to visually inspect portable cord- and plug-connected equipment and extension cords that stay connected once in place and are not exposed to damage until they are moved.

(2) You must(~~(=~~ *) remove from service any defective or damaged cord until repaired and tested.

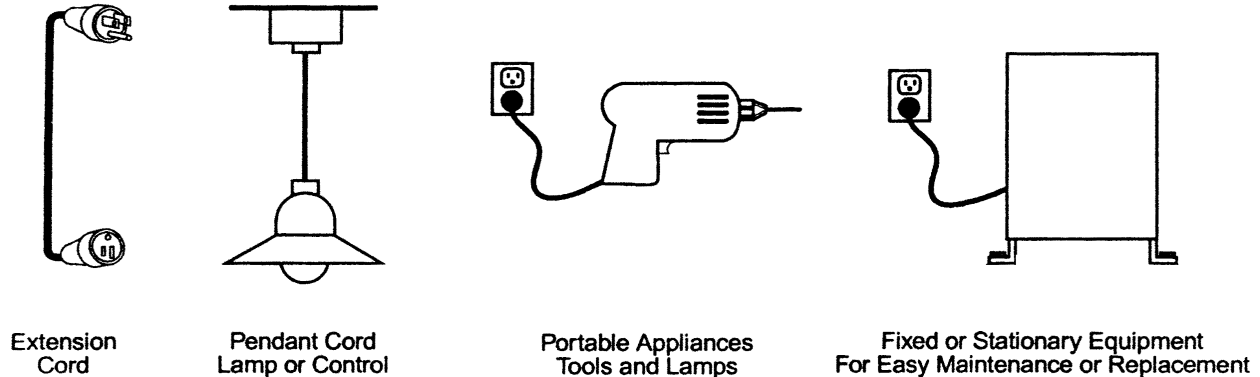
~~((2))~~ (3) You must use(~~(=~~ * Use)) flexible cords only as follows:

- ~~((-))~~ (a) Wiring of equipment and appliances.
- ~~((-))~~ (b) Data processing cables approved as a part of the data processing system.
- ~~((-))~~ (c) Pendants.

- ((-) (d) Wiring for fixtures.
- ((-) (e) Connecting portable lamps or appliances to an approved outlet with an attachment plug.
- ((-) (f) Connecting stationary equipment that is frequently changed with an attachment plug energized from an approved outlet.
- ((-) (g) Preventing noise or vibration transmission.

- ((-) (h) Appliances where the fastening means and mechanical connections are designed to permit removal for maintenance and repair if the appliance is equipped with an attachment plug energized from an approved outlet.
- ((-) (i) Elevator cables.
- ((-) (j) Wiring of cranes and hoists.
- ((-) (k) Portable and mobile signs.
- ((-) (l) Connection of moving parts.

Common Acceptable Uses of Flexible Cords



Note: Extension cords (flexible cord sets) may be used on a temporary basis if you follow the rules described in the temporary use section, WAC 296-800-28030(3).

- (4) You must:
 - (*) make sure flexible cords are not:
 - ((-) (a) Used as a substitute for fixed wiring of a structure.
 - ((-) (b) Run through holes in walls, ceilings, or floors.
 - ((-) (c) Run through doorways, windows, or similar openings.
 - ((-) (d) Attached to building surfaces.
 - ((-) (e) Concealed behind building walls, ceilings, or floors.
 - ((-) (f) Used to raise or lower equipment.
 - (*) (5) You must make sure flexible cords and cables are approved and suitable for:
 - ((-) (a) The way they will be used.
 - ((-) (b) The location where they will be used.
 - (*) (6) You must not fasten or hang cords and equipment in any way that could cause damage to the outer jacket or insulation of the cord.
 - (*) (7) You must make sure insulation on flexible cords and cables is intact.
 - (*) (8) You must make sure flexible cords and electrical cords are:
 - ((-) (a) Connected to devices and fittings so that any pulling force on the cord is prevented from being directly transmitted to joints or terminal screws on the plug.
 - ((-) (b) Used only in continuous lengths without splice or tap.

Note: Hard service flexible cords No. 12 or larger may be repaired or spliced if the insulation, outer sheath properties, and use characteristics of the cord are retained.

(*) (9) You must prohibit your employees from using wet hands to plug or unplug equipment or extension cords if the equipment is energized.

- ((*) (10) You must provide the following for temporary use.
 - (*) (a) Make sure temporary electrical power and lighting installations that operate at 600 volts or less are used only:
 - ((-) (i) During and for remodeling, maintenance, repair or demolition of buildings, structures, or equipment, and similar activities.
 - ((-) (ii) For experimental or developmental work.
 - ((-) (iii) During emergencies.
 - ((-) (iv) For no more than ninety days for:
 - (*) (A) Christmas decorative lighting.
 - (*) (B) Carnivals.
 - (*) (C) Other similar purposes.
 - (*) (b) Make sure flexible cords and cables are protected from accidental damage as might be caused, for example, by sharp corners, projections, and doorways or other pinch points.
 - (*) (c) Remove temporary wiring immediately upon completion of the project or purpose for which the wiring was installed.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28035 Guard electrical equipment to prevent your employees from electrical hazards. ((You must)) (1) You must guard live parts of electric equipment operating at 50 volts or more against accidental contact by any of the following means:

- (*) (a) By approved cabinets or other forms of approved enclosures.

((*) (b) By location in a room, vault, or similar enclosure that is accessible only to employees qualified to work on the equipment. Entrances to rooms and other guarded locations containing exposed live parts must be marked with conspicuous warning signs forbidding unqualified persons to enter.

((*) (c) By permanent, substantial partitions or screens so that only employees qualified to work on the equipment will have access within reach of the live parts. Any openings must prevent accidental contact with live parts by employees or objects employees carry.

((*) (d) By location on a balcony, gallery, or platform that will exclude unqualified persons.

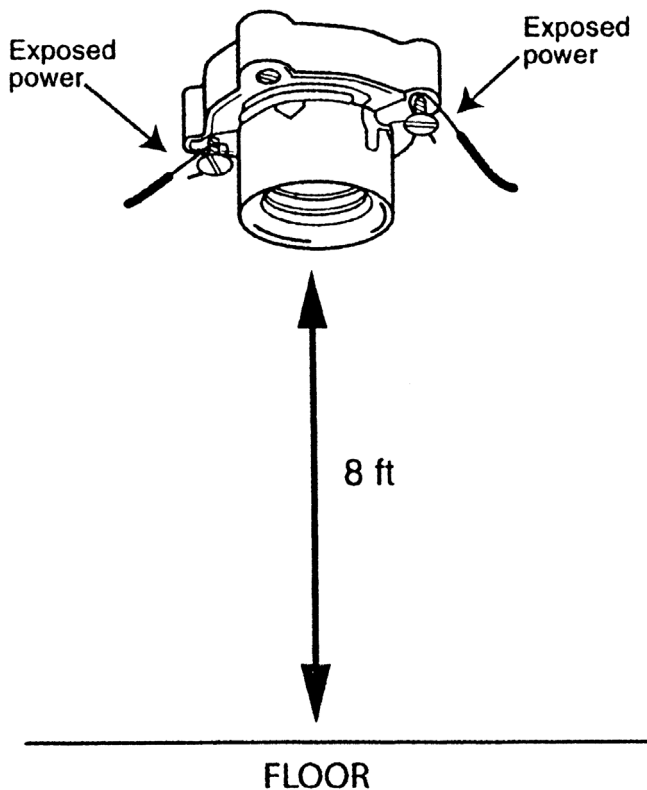
((*) (e) By being located eight feet or more above the floor or other working surface.

(2) You must make sure all electrical appliances, fixtures, lampholders, lamps, rosettes, and receptacles do not have live parts normally exposed to employee contact.

((-) Rosettes and cleat type lampholders at least 8 feet above the ground may have exposed parts.

(3) In locations where electric equipment would be exposed to physical damage, enclosures or guards must be so arranged and of such strength as to prevent such damage.

Live Parts Guarded by Distance



(4) You must mark entrances to rooms and other guarded locations containing exposed live parts with conspicuous warning signs forbidding unqualified persons to enter.

AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28040 Make sure electrical equipment is effectively grounded. (1) You must((:

*) make sure the path to ground from circuits, equipment, and enclosures is permanent, continuous, and effective.

((*) (2) You must make sure exposed noncurrent-carrying metal parts of cord- and plug-connected equipment that may become energized are grounded under any of the following conditions:

((-) (a) If operated at over 150 volts to ground, except for guarded motors and metal frames of electrically heated appliances if the appliance frames are permanently and effectively insulated from ground.

((-) (b) Equipment in hazardous locations. (WAC 296-24-95613)

((-) (c) If the equipment is of the following types:

((-) (i) Hand-held motor-operated tools.

((-) (ii) Stationary and fixed motor-operated tools.

((-) (iii) Light industrial motor-operated tools.

((-) (iv) Refrigerators.

((-) (v) Freezers.

((-) (vi) Air conditioners.

((-) (vii) Clothes washers and dryers.

((-) (viii) Dishwashers.

((-) (ix) Electrical aquarium equipment.

((-) (x) Sump pumps.

((-) (xi) Hedge clippers.

((-) (xii) Electric lawn mowers.

((-) (xiii) Electric snow blowers.

((-) (xiv) Wet scrubbers.

((-) (xv) Tools likely to be used in damp or wet locations.

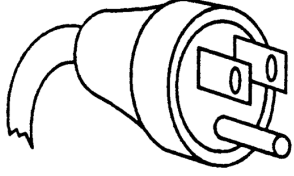

((-) (xvi) Appliances used by employees standing on the ground, on metal floors or working inside of metal tanks or boilers.

((-) (xvii) Portable hand lamps.

((-) (xviii) Portable and mobile X-ray and associated equipment.

((-) (xix) Tools likely to be used in wet and conductive locations.

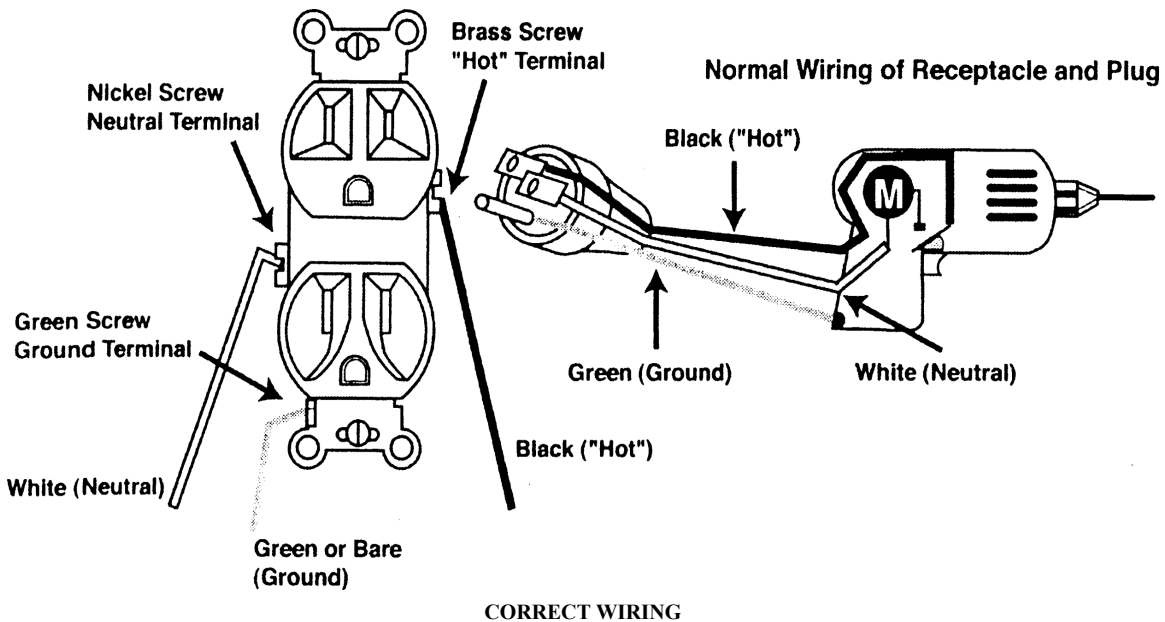
Note: Grounding can be achieved by using tools and appliances equipped with an equipment grounding conductor (three-prong plug and grounded electrical system).

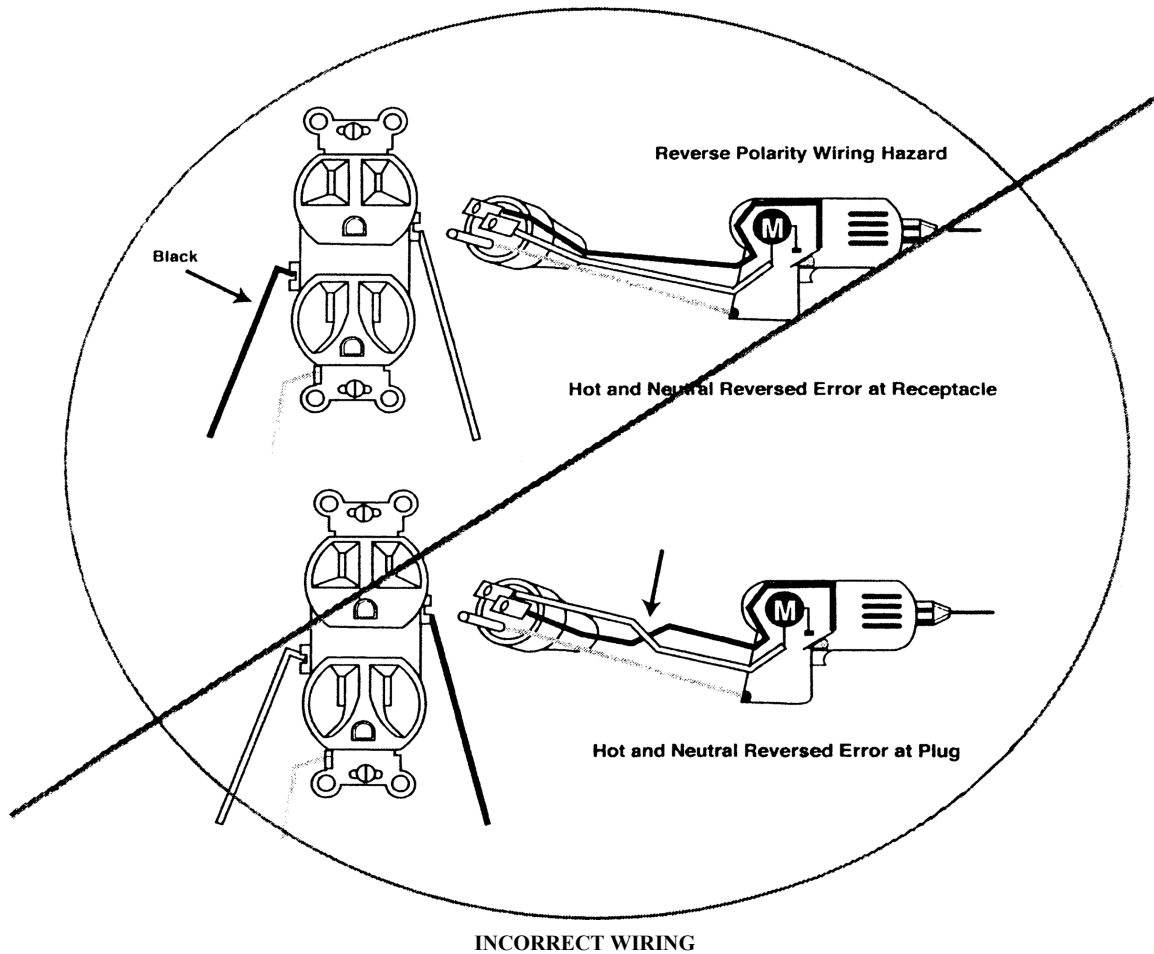
Grounded Plug	Double Insulated
	<div style="font-size: 2em; font-weight: bold;">Double Insulated</div> 
<p>Hand held tools and some other types of equipment must use a 3-wire plug or the tool label must show the tool as insulated by words or symbol.</p>	

- (3) You must(=
-) make sure exposed metal parts of fixed equipment that do not conduct electricity, but may become energized, are grounded under any of the following conditions:
 - (-) (a) If the equipment is in a wet or damp location and is not isolated.
 - (-) (b) If within 8 feet vertically or 5 feet horizontally of ground or grounded metal objects and subject to employee contact.
 - (-) (c) If in electrical contact with metal.
 - (-) (d) If in a hazardous (classified) location.
 - (-) (e) If supplied by a metal-clad, metal-sheathed, or grounded metal raceway wiring method.
 - (-) (f) If equipment operates with any terminal at over 150 volts to ground.

- (*) (4) You must make sure a conductor used as a grounded conductor is identifiable and distinguishable from all other conductors.
- (*) (5) You must make sure a conductor used as an equipment grounding conductor is identifiable and distinguishable from all other conductors.
- (*) (6) You must make sure grounded conductors are not attached to any terminal or lead so as to reverse polarity of the electrical outlet or receptacle. See illustration - Examples of wiring.
- (*) (7) You must make sure grounding terminals or grounding-type devices on receptacles, cords, connectors, or attachments plugs are not used for purposes other than grounding.

Examples of Wiring





AMENDATORY SECTION (Amending WSR 12-16-064, filed 7/31/12, effective 9/1/12)

WAC 296-800-28045 Make sure electrical equipment has overcurrent protection. (1) You must

(*) (2) You must protect conductors and equipment from overcurrent according to their ability to safely conduct electrical current.

(*) (3) You must make sure overcurrent devices do not interrupt the continuity of grounded conductors unless all conductors are opened at the same time, except for motor running overload protection.

(-) (a) Locate or shield fuses and circuit breakers so that employees will not be burned or otherwise injured by their operation.

(-) (b) Make sure handles or levers of circuit breakers, and similar parts that may move suddenly in such a way that persons in the vicinity are likely to be injured by being struck by them, are guarded or isolated.

(*) (4) You must make sure the following fuses and thermo cutouts have disconnecting means:

(-) (a) All cartridge fuses accessible to nonqualified persons.

(-) (b) All fuses in circuits over 150 volts to ground.

(-) (c) All thermal cutouts on circuits over 150 volts to ground.

(*) (5) The disconnecting means must be installed so you can disconnect the fuses or thermal cutouts without disrupting service to equipment and circuits unrelated to those protected by the overcurrent device.

(*) (6) You must provide easy access to overcurrent devices for each employee or authorized building management personnel.

(*) (7) You must locate overcurrent devices:

(-) (a) Away from easily ignitable material.

(-) (b) Where they are not exposed to physical damage.

(*) (8) You must make sure circuit breakers clearly indicate whether they are open (off) or closed (on).

(*) (9) You must install circuit breakers that operate vertically so the handle is in the "up" position when the breaker is closed (on).

(-) Circuit breakers used as switches in 120-volt, fluorescent lighting circuits must be approved for that purpose and marked "SWD."

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-300 Summary—Portable fire extinguishers.

Important:

The following WISHA rule applies to the placement, use, maintenance, and testing of portable fire extinguishers provided for the use of employees. Your local fire marshal also enforces fire codes which address fire safety that are more comprehensive and may go beyond WISHA rules.

Your responsibility:

To provide readily accessible, appropriate portable fire extinguishers for employees in your workplace,

~~((You must:~~

~~Provide portable fire extinguishers in your workplace
WAC 296-800-30005~~

~~Select and distribute portable fire extinguishers in your workplace~~

~~WAC 296-800-30010~~

~~Make sure that portable fire extinguishers are kept fully charged, in good operating condition, and left in their designated places~~

~~WAC 296-800-30015~~

~~Inspect and test all portable fire extinguishers~~

~~WAC 296-800-30020~~

~~Train your employees to use portable fire extinguishers~~

~~WAC 296-800-30025))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Provide portable fire extinguishers in your workplace</u>	<u>WAC 296-800-30005</u>
<u>Select and distribute portable fire extinguishers in your workplace</u>	<u>WAC 296-800-30010</u>
<u>Make sure that portable fire extinguishers are kept fully charged, in operable condition, and left in their designated places</u>	<u>WAC 296-800-30015</u>
<u>Inspect and test all portable fire extinguishers</u>	<u>WAC 296-800-30020</u>
<u>Train your employees to use portable fire extinguishers</u>	<u>WAC 296-800-30025</u>

Exemptions:

- You are exempt from the requirements of portable fire extinguishers if you have the following:
 - A written fire safety policy that requires the immediate and total evacuation of employees from the workplace when there is a fire alarm signal(~~;~~ ~~AND~~); and
 - An emergency action plan and a fire prevention plan which meet the requirements of WAC 296-24-567; and ~~((AND))~~
 - Portable fire extinguishers in your workplace that are not accessible for employee use

- If another WISHA rule requires portable fire extinguishers, then you must comply with these requirements.

- Where extinguishers are provided but are not intended for employee use and you have an emergency action plan and a fire prevention plan (which meet the requirements of WAC 296-24-567), then only the requirements of WAC 296-800-30020 apply.

Note: The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See "How do the WISHA rules relate to building, fire and electrical codes" in the introduction section of this book.

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

WAC 296-800-30005 Provide portable fire extinguishers in your workplace. ~~((You must:))~~ (1) You must provide approved portable fire extinguishers for your workplace and distribute them so they are readily accessible.

(~~(*)~~) Make sure that your portable fire extinguisher does not use extinguishing agents such as carbon tetrachloride or chlorobromomethane extinguishing agents. In addition, soda-acid foam, loaded stream, antifreeze and water extinguishers of the inverting type (~~(shah))~~ must not be recharged or placed into service.

(2) You must mount, locate, and identify portable fire extinguishers so employees can easily reach them, without being subjected to possible injury.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-30010 Select and distribute portable fire extinguishers in your workplace. Exemption:

- This does not apply to the portable fire extinguishers provided for employees to use outside of workplace buildings or structures.

- You are exempt from the distribution requirements of this rule if you have an emergency action plan (that meets requirements of WAC 296-24-567):

- Which designates certain employees to be the only employees authorized to use the available portable fire extinguishers; and

- Requires all other employees in the fire area to immediately evacuate the affected work area upon the sounding of the fire alarm.

You must(~~;~~

-) provide the correct type of portable fire extinguishers and distribute them in your workplace, depending on the type, size, and severity of fire that could occur.

(~~(-)~~) The type of portable fire extinguishers you must have in your workplace depends on the types of fire hazards that exist in your workplace.

Fire Extinguisher Distance Table

Type of fire hazard extinguisher	Maximum distance from the fire hazard to a fire extinguisher
Type of fire hazard Wood, cloth, paper, rubber (Class A fire hazards)	No more than 75 feet (22.9 m) Note: You may use uniformly spaced standpipe systems or hose stations instead of Class A portable fire extinguishers, if they meet the requirements of WAC 296-24-602 or 296-24-607.
Liquids, grease, gases (Class B fire hazards)	No more than 50 feet (15.2 m) Note: You may choose to use a smaller fire extinguisher in lieu of that required for the 50 foot distance. If you choose to have the smaller fire extinguisher, the travel distance must not be greater than 30 feet. See UFC Standard 10 Chapter 3 for the basic minimum extinguisher rating allowed.
Live electrical equipment and circuits (Class C fire hazards)	Distribute any Class C portable fire extinguishers the same pattern that you have for any Class A or Class B fire hazards. Note: If the electrical equipment is deenergized, you may use a Class A or Class B portable fire extinguisher.
Powder, flakes, and residue from combustible metals, like magnesium and titanium, that build up over a 2-week period (Class D fire hazards)	No more than 75 feet (22.9 m)

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

WAC 296-800-30015 Make sure that portable fire extinguishers are kept fully charged, in operable condition, and left in their designated places. You must((=

•)) make sure that fire extinguishers found with deficiencies are removed from service and replaced with a suitable fire extinguisher.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-30020 Inspect and test all portable fire extinguishers. (1) You must((=

•)) perform inspections:

((-) Make sure that portable fire extinguishers or hose systems (used instead of fire extinguishers) are visually inspected monthly.

((*) (2) You must perform maintenance checks:

((-) (a) Make sure that all portable fire extinguishers are subjected to an annual maintenance check.

((-) (b) Keep records of all annual maintenance checks and make available to the department upon request.

((*) (i) For 1 year after the last maintenance check; or
((OR

•)) (ii) For the life of the shell, whichever is less.

((-) (c) Make sure that equal protection is provided when portable fire extinguishers are removed from service for maintenance and recharging

Exemption: Most stored pressure extinguishers do not require an internal examination. Examples of those that do require an internal examination are those containing a loaded stream agent.

(3) You must((=

•)) perform hydrostatic testing:

Exemption:

• Dry chemical extinguishers that have nonrefillable disposable containers are exempt from this requirement.

• Manually pressurized pumptanks are exempt from this requirement.

(4) You must((=

•)) make sure that portable extinguishers are hydrostatically tested:

((-) (a) At the intervals listed in Table 1, of this section.

((-) (b) Whenever they show evidence of corrosion or mechanical injury.

((*) (5) You must not perform hydrostatic testing on fire extinguishers if:

((-) (a) The unit has been repaired by soldering, welding, brazing, or use of patching compounds.

((-) (b) The cylinder or shell threads are damaged.

((-) (c) Corrosion has caused pitting, including corrosion under removable name plate assemblies.

((-) (d) The extinguisher has been burned in a fire.

((-) (e) Calcium chloride extinguishing agents have been used in a stainless steel shell.

Note: Specific rules regarding conducting hydrostatic tests are covered in WAC 296-24-59212.

(6) You must((=

•)) maintain records showing that hydrostatic testing has been performed. Provide the following evidence to the department upon request:

((-) (a) Date of test.

((-) (b) Test pressure used.

((-) (c) The serial number, or other identifier of the fire extinguisher that was tested.

((-) (d) Person or agency performing the test.

((*) (7) You must keep records until:

((-) (a) The extinguisher is retested; or

((OR

-) (b) The extinguisher is taken out of service, whichever comes first.

((*) (8) You must empty and maintain stored-pressure dry chemical extinguishers requiring a 12-year hydrostatic test, every six years:

((-) When recharging or hydrostatic testing is performed, the 6-year requirement begins from that date

Hydrostatic Test Table

Type of Extinguisher	Test Interval (Years)
Stored pressure water and/or antifreeze	5
Wetting agent	5
Foam (stainless steel shell)	5
Aqueous film forming form (AFFF)	5
Loaded stream	5
Dry chemical with stainless steel	5
Carbon dioxide	5
Dry chemical, stored pressure, with mild steel, brazed brass or aluminum shells	12
Halon 1211	12
Halon 1301	12
Dry powder, cartridge or cylinder operated, with mild steel shell	12

Note: Due to a manufacturer's recall, stored pressure water extinguishers with fiberglass shell (pre-1976) are prohibited from hydrostatic testing.

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

WAC 296-800-30025 Train your employees to use portable fire extinguishers. (1) You must((:

*) train your employees where you have provided portable fire extinguisher for their use in:

((-) (a) The hazards involved with incipient stage fire-fighting (the early stage of a fire when it can be extinguished by a portable fire extinguisher),

((-) (b) The general principles of fire extinguisher use,

((*) (2) You must provide the training when they are first hired and then annually.

AMENDATORY SECTION (Amending WSR 12-24-071, filed 12/4/12, effective 1/4/13)

WAC 296-800-310 Summary.

Your responsibility:

To provide and maintain emergency exit routes and to install and maintain adequate employee alarm systems.

IMPORTANT:

An employer who demonstrates compliance with the exit route provisions of NFPA 101-2009, the Life Safety Code, will be in compliance with the corresponding requirements of this section.

~~((Exit routes:~~

~~You must:~~

~~Provide an adequate number of exit routes.~~

~~WAC 296-800-31005.~~

~~Make sure that exit routes are large enough.~~

~~WAC 296-800-31010.~~

~~Make sure that exit routes meet their specific design and construction requirements.~~

~~WAC 296-800-31015.~~

~~Make sure that each exit route leads outside.~~

~~WAC 296-800-31020.~~

~~Provide unobstructed access to exit routes.~~

~~WAC 296-800-31025.~~

~~Exit doors must be readily opened from the inside.~~

~~WAC 296-800-31030.~~

~~Use side-hinged doors to connect rooms to exit routes.~~

~~WAC 296-800-31035.~~

~~Provide outdoor exit routes that meet requirements.~~

~~WAC 296-800-31040.~~

~~Minimize danger to employees while they are using emergency exit routes.~~

~~WAC 296-800-31045.~~

~~Mark exits adequately.~~

~~WAC 296-800-31050.~~

~~Provide adequate lighting for exit routes and signs.~~

~~WAC 296-800-31053.~~

~~Maintain the fire retardant properties of paints or other coatings.~~

~~WAC 296-800-31055.~~

~~Maintain emergency safeguards.~~

~~WAC 296-800-31060.~~

~~Maintain exit routes during construction and repair.~~

~~WAC 296-800-31065.~~

~~Provide doors in freezer or refrigerated rooms that open from the inside.~~

~~WAC 296-800-31067.~~

~~Employee alarm systems:~~

~~You must:~~

~~Install and maintain an appropriate employee alarm system.~~

~~WAC 296-800-31070.~~

~~Establish procedures for sounding emergency alarms.~~

~~WAC 296-800-31075.~~

~~Test the employee alarm system.~~

~~WAC 296-800-31080.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Exit routes</u>	
<u>Provide an adequate number of exit routes</u>	<u>WAC 296-800-31005</u>
<u>Make sure that exit routes are large enough</u>	<u>WAC 296-800-31010</u>
<u>Make sure that exit routes meet their specific design and construction requirements</u>	<u>WAC 296-800-31015</u>
<u>Make sure that each exit route leads outside</u>	<u>WAC 296-800-31020</u>
<u>Provide unobstructed access to exit routes</u>	<u>WAC 296-800-31025</u>

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Exit doors must be readily opened from the inside</u>	<u>WAC 296-800-31030</u>
<u>Use side-hinged doors to connect rooms to exit routes</u>	<u>WAC 296-800-31035</u>
<u>Provide outdoor exit routes that meet these requirements</u>	<u>WAC 296-800-31040</u>
<u>Minimize danger to employees while they are using emergency exit routes</u>	<u>WAC 296-800-31045</u>
<u>Mark exits adequately</u>	<u>WAC 296-800-31050</u>
<u>Provide adequate lighting for exit routes and signs</u>	<u>WAC 296-800-31053</u>
<u>Maintain the fire retardant properties of paints or other coatings</u>	<u>WAC 296-800-31055</u>
<u>Maintain emergency safeguards</u>	<u>WAC 296-800-31060</u>
<u>Maintain exit routes during construction and repair</u>	<u>WAC 296-800-31065</u>
<u>Provide doors in freezer or refrigerated rooms that open from the inside</u>	<u>WAC 296-800-31067</u>
<u>Install and maintain an appropriate employee alarm system</u>	<u>WAC 296-800-31070</u>
<u>Establish procedures for sounding emergency alarms</u>	<u>WAC 296-800-31075</u>
<u>Test the employee alarm system</u>	<u>WAC 296-800-31080</u>

Exemption: This rule does not apply to vehicles, vessels, or other mobile structures.

Note: The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See "How do the WISHA rules relate to building, fire, and electrical codes" in the introduction section of this book.

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

WAC 296-800-31005 Provide an adequate number of exit routes. (1) You must(⊕

⊕) provide a minimum of two exit routes to provide different ways for employees to leave the workplace safely during an emergency (at least two of the exit routes must be remote from one another so employees can safely exit if one exit route becomes blocked or unavailable).

(⊕) (2) You must provide an adequate number (at least two) of exit routes, considering the kind, number, location and capacity, appropriate to each building according to the following conditions:

- ((-) (a) Number of employees.
- ((-) (b) Size of building.
- ((-) (c) Arrangement of workplace.
- ((-) (d) Building occupancy.

Note: A single exit route is permitted where the number of employees, the size of the building, its occupancy, or the arrangement of the workplace indicates that a single exit will allow all employees to exit safely during an emergency. Other means of escape, such as fire exits or accessible windows, should be available where only one exit route is provided.

AMENDATORY SECTION (Amending WSR 11-04-080, filed 2/1/11, effective 4/1/11)

WAC 296-800-31010 Make sure that exit routes are large enough. (1) You must(⊕

⊕) make sure each exit route is large enough to accommodate the maximum-permitted occupant load for each floor served by the route.

(⊕) (2) You must make sure the capacity of an exit route does not decrease at any point.

(⊕) (3) You must make sure the exit route has a minimum ceiling height of 7 feet 6 inches and that no projection from the ceiling is less than 6 feet 8 inches from the floor.

((-) Objects that stick out into the exit route, such as fans hanging from the ceilings or cabinets on walls, must not reduce the minimum height of the exit route to less than 6 feet 8 inches from the floor.

(⊕) (4) You must make sure exit routes are at least 28 inches wide at all points between any handrails.

((-) (a) If necessary, routes must be wider than 28 inches to accommodate the expected occupant load.

((-) (b) Make sure objects that stick out into the exit route, such as cabinets on walls, do not reduce the minimum width of the exit route.

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

WAC 296-800-31015 Make sure that exit routes meet their specific design and construction requirements. (1) You must(⊕

⊕) make sure each exit is a permanent part of the workplace.

(⊕) (2) You must make sure an exit route has only those openings necessary to permit access to, or exit from, occupied areas of the workplace.

(⊕) (3) You must make sure any opening into an exit through a fire wall is protected by a self-closing fire door that remains closed.

(⊕) (4) You must make sure each fire door, its frame, and its hardware is listed or approved by a nationally recognized testing laboratory.

(⊕) (5) You must make sure construction materials, used to separate an exit route, have at least:

((-) (a) One-hour fire resistance rating if the exit connects three stories or less.

((-) (b) Two-hour fire resistance rating if the exit connects four stories or more.

((*) (6) You must make sure employees are provided with stairs or a ramp, if the exit route is not substantially level.

AMENDATORY SECTION (Amending WSR 08-18-056, filed 9/2/08, effective 11/2/08)

WAC 296-800-31020 Make sure that each exit route leads outside. (1) You must((:

*) make sure that building exit routes lead:

((-) (a) Directly outside or to a street, walkway, refuge area, or to an open space with access to the outside.

((-) (b) To streets, walkways, or open spaces large enough to accommodate all building occupants likely to use the exit.

((*) (2) You must make sure the exit routes clearly show the route employees use to leave the building in an emergency.

((*) (3) You must install a standard safeguard with a warning sign, if a doorway or corner of a building could allow an employee to walk in front of an engine or trolley.

((*) (4) You must use doors, partitions, or other effective means to show employees the correct route out of the building, if the stairs in your exit route lead anywhere but out of the building.

Note: If the stairs in your exit route lead past the exit to the basement, you might install a gate at the point they lead towards that basement. The gate could help your employees stay on the exit route taking them out of the building.

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

WAC 296-800-31025 Provide unobstructed access to exit routes. ((You must:)) (1) You must provide exit routes that are always free of obstructions so all employees can safely exit the building during an emergency.

(2) You must make sure employees are not required to travel to a dead end or through a room that can be locked, such as a restroom.

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

WAC 296-800-31030 Exit doors must be readily opened from the inside.

Exemption: An exit door may be locked or blocked from the inside in a mental, penal, or correctional institution, if supervisory personnel are continuously on duty and a plan exists to remove employees and inmates during an emergency.

You must((:

*) make sure all exit doors readily open from the inside without keys, tools, or special knowledge. A device that locks only from the outside, such as a panic bar, is permitted. An exit door must be free of any device or alarm that could restrict emergency use of an exit if the device or alarm fails.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-31035 Use side-hinged doors to connect rooms to exit routes. You must((:

*) use a side-hinged exit door to connect any room to an exit route. The door must swing out when the room:

((-) (1) Is occupied by more than fifty persons; or

((-) (2) Contains highly flammable or explosive materials.

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

WAC 296-800-31040 Provide outdoor exit routes that meet these requirements. You must((:

*) make sure an outdoor exit route (such as an interior balcony, porch, gallery, or roof) meets all requirements for an indoor exit route. In addition, an outdoor exit route must also:

((-) (1) Have guardrails to protect unenclosed sides.

((-) (2) Be covered if snow or ice is likely to accumulate without regular removal.

((-) (3) Be reasonably straight with smooth, solid, substantially level floors.

((-) (4) Have no dead ends more than twenty feet long that branch off of the exit route.

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

WAC 296-800-31045 Minimize danger to employees while they are using emergency exit routes. (1) You must((:

*) maintain each exit route to minimize danger to employees during an emergency.

((*) (2) You must keep each exit route free of explosive or highly flammable furnishings and decorations.

((*) (3) You must not require employees to travel toward areas where high hazard materials are stored, unless the route is protected by partitions or physical barriers. High hazard materials are materials that:

((-) (a) Burn quickly.

((-) (b) Emit poisonous fumes when burned.

((-) (c) Are explosive.

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

WAC 296-800-31050 Mark exits adequately. ((You must:

*) (1) You must mark each exit with a clearly visible, distinctive sign reading "exit."

((*) (2) You must make sure the letters in the word "EXIT" are at least six inches high and 3/4 inch wide.

((*) (3) You must mark any doorway or passage that might be mistaken for an exit with "not an exit" or with an indication of its actual use.

((*) (4) You must make sure exit signs are a distinctive color.

((*) (5) You must make sure signs are posted and arranged along exit routes to adequately show how to get to the nearest exit and clearly indicate the direction of travel.

((*) (6) You must not obstruct or conceal exit signs in any way.

((*) (7) You must keep exit doors free of signs or decorations that obscure their visibility.

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

WAC 296-800-31053 Provide adequate lighting for exit routes and signs. (1) You must((:

•) illuminate each exit route adequately and reliably.

((*) (2) You must have at least five foot-candles illumination from a reliable light source.

((*) (3) You must make sure any exit signs illuminated by artificial lights and made of translucent material (other than internally illuminated types).

((-) (a) Have screens, discs or lens of at least twenty-five square inches in size; and

((-) (b) Show red or other designated color on the approach side of the exit.

((*) (4) You must make sure brightly lit signs, displays, or objects in or near the line of vision do not distract attention from the exit sign.

((*) (5) You must make sure exit signs that are self-lighting have a minimum luminance surface value of .06 footlamberts.

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

WAC 296-800-31055 Maintain the fire retardant properties of paints or other coatings. You must((:

•) maintain any paints or other coatings with fire retardant properties so they retain their fire retardant properties.

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

WAC 296-800-31060 Maintain emergency safeguards. You must((:

•) maintain each safeguard in proper working order to protect employees during an emergency. Emergency safeguards include items such as:

((-) (1) Sprinkler systems.

((-) (2) Alarm systems.

((-) (3) Fire doors.

((-) (4) Exit lighting.

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

WAC 296-800-31065 Maintain exit routes during construction and repair. (1) You must((:

•) have enough exit routes that comply with these rules before letting your employees occupy a workplace under new construction.

((*) (2) You must make sure that employees do not occupy an existing workplace unless:

((-) (a) All exits and existing fire protection are maintained; or

((-) (b) Alternate fire protection is provided that ensures an equivalent level of safety.

((*) (3) You must make sure that flammable or explosive materials used during construction or repair do not expose employees to additional hazards or prevent emergency escape.

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

WAC 296-800-31067 Provide doors in freezer or refrigerated rooms that open from the inside. You must((:

•) make sure that walk-in refrigerators or freezer rooms have doors with opening devices allowing them to be opened from the inside even when they are locked from the outside.

AMENDATORY SECTION (Amending WSR 08-18-056, filed 9/2/08, effective 11/2/08)

WAC 296-800-31070 Install and maintain an appropriate employee alarm system.

Exemptions:

- If you have ten or fewer employees in a particular workplace, you can use direct voice communication to sound the alarm, if all employees can hear it. For this kind of workplace, you do not need a back-up system.
- In workplaces where employees would not otherwise be able to recognize audible or visible alarms, you can use tactile devices to alert them.

(1) You must((:

•) make sure that a working employee alarm system with a distinctive signal to warn employees of fire or other emergencies is installed and maintained.

Exemption:

You do not need an alarm system if employees can promptly see or smell a fire or other hazard in time to provide adequate warning to other employees.

((*) (2) You must make sure that the following systems meet the requirements of this rule, if you use them as your employee alarm system:

((-) (a) Supervisory alarms.

((-) (b) Discharge alarms.

((-) (c) Detection systems required on fixed extinguishing systems.

((-) (d) Detection systems required on fire suppression systems.

((*) (3) You must make sure that your employee alarm systems are:

((-) (a) Providing enough warning to allow employees to safely escape from the workplace, the immediate work area, or both.

((-) (b) Noticeable above surrounding noise or light levels by all employees in the affected portions of the workplace.

((-) (c) Distinctive and recognizable as a signal, to evacuate the work area.

((-) (d) Restored to working order as soon as possible, after each test or alarm.

((-) (e) Supervised, if installed after July 1, 1982, and if it has that capacity.

((-) (f) Able to alert assigned personnel whenever a malfunction exists in the system.

((-) (g) Adequately warning employees of emergencies.

((-) (h) Serviced, maintained, and tested by a person trained in the alarm system's design and functions to keep the system operating reliably and safely.

((-) (i) In working order, except when undergoing repairs or maintenance.

((-) (j) Warning employees of fire or other emergencies with a distinctive signal, if they are not able to see or smell a fire or other hazard.

((-) (k) Manual actuation devices that, if provided, are unobstructed, easy to find, and readily accessible.

((-) (l) Using alarm devices, components, combinations of devices, or systems with approved construction and installation. This applies to steam whistles, air horns, strobe lights, or similar lighting devices, as well as tactile devices.

((-) (m) Supplied with spare alarm devices available to restore the system promptly if a component breaks, is worn, or destroyed.

((-) (n) Kept in full operating condition by maintaining and replacing power supplies as often as necessary.

((-) (o) Supplied with a back-up means of alarm, such as employee runners or telephones, when regular systems are out of service.

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

WAC 296-800-31075 Establish procedures for sounding emergency alarms. (1) You must((=

•) explain to each employee how to sound the alert for emergencies. Methods of reporting emergencies can include:

((-) (a) Manual pull box alarms.

((-) (b) Public address systems.

((-) (c) Radio.

((-) (d) Telephones.

((•) (2) You must post emergency numbers near telephones, employee notice boards, or other conspicuous locations, if you use telephones to report emergencies.

((•) (3) You must require that all emergency messages have priority over all nonemergency messages if the communication system also serves as an employee alarm system.

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

WAC 296-800-31080 Test the employee alarm system. (1) You must((=

•) test the reliability and adequacy of your employee alarm system every two months.

((-) Use a different activation device in each test of a multiactuation device system, so the entire alarm system gets tested.

((•) (2) You must make sure that supervised (monitored) employee alarm systems are tested at least once a year for reliability and adequacy.

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

WAC 296-800-320 Summary.

Your responsibility:

To conduct an investigation of certain types of accidents.

~~((You must:~~

~~Make sure equipment involved in a work-related accident is not moved.~~

~~WAC 296-800-32010~~

~~Assign people to assist the department of labor and industries~~

~~WAC 296-800-32015~~

~~Conduct a preliminary investigation for all serious injuries~~

~~WAC 296-800-32020~~

~~Document the investigation findings~~

~~WAC 296-800-32025))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Make sure equipment involved in a work-related accident is not moved</u>	<u>WAC 296-800-32010</u>
<u>Assign people to assist the department of labor and industries</u>	<u>WAC 296-800-32015</u>
<u>Conduct a preliminary investigation for all serious injuries</u>	<u>WAC 296-800-32020</u>
<u>Document the preliminary investigation findings</u>	<u>WAC 296-800-32025</u>

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

WAC 296-800-32010 Make sure equipment involved in a work-related accident is not moved. (1) You must((=

•) not move equipment involved in a work-related accident if any of the following results:

((-) (a) A death.

((-) (b) An inpatient hospitalization.

((-) (c) An amputation.

((-) (d) The loss of an eye.

((•) (2) You must not move the equipment until a representative of the department of labor and industries investigates the incident and releases the equipment unless:

((-) Moving the equipment is necessary to:

((■) (a) Remove any victims.

((■) (b) Prevent further incidents and injuries.

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

WAC 296-800-32015 Assign people to assist the department of labor and industries. You must((=

•) assign witnesses and other employees to assist department of labor and industries personnel who arrive at the scene to investigate the incident involving:

- ((-) (1) A death.
- ((-) (2) An inpatient hospitalization.
- ((-) (3) An amputation.
- ((-) (4) The loss of an eye.

Include:

- ((-) (5) The immediate supervisor.
- ((-) (6) Employees who were witnesses to the incident.
- ((-) (7) Other employees the investigator feels are necessary to complete the investigation.

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

WAC 296-800-32020 Conduct a preliminary investigation for all serious injuries. (1) You must((:

*) make sure your preliminary investigation is conducted to evaluate the facts relating to the cause of the incident by the following people:

- ((-) (a) A person designated by the employer.
- ((-) (b) The immediate supervisor of the injured employee.
- ((-) (c) Witnesses.
- ((-) (d) An employee representative, such as a shop steward or other person chosen by the employees to represent them.
- ((-) (e) Any other person who has the experience and skills.

((*) (2) If the employee representative is the business agent of the employee bargaining unit and is unavailable to participate without delaying the investigation group, you may proceed, by using one of the following:

- ((-) (a) The shop steward.
- ((-) (b) An employee representative member of your safety committee.
- ((-) (c) A person selected by all employees to represent them.

Note: A preliminary investigation includes noting information such as the following:

- Where did the accident or incident occur?
- What time did it occur?
- What people were present?
- What was the employee doing at the time of the accident or incident?
- What happened during the accident or incident?

AMENDATORY SECTION (Amending WSR 02-16-047, filed 8/1/02, effective 10/1/02)

WAC 296-800-32025 Document the preliminary investigation findings. You must((:

*) document the preliminary investigation findings for use at any formal investigation.

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

WAC 296-800-330 Releasing accident investigation reports. (1) The department must((:

*) keep accident investigations and related reports confidential.

((*) (2) The department must not freely release results of accident investigations and related reports that are confidential.

((*) (3) The department must make available accident investigation reports, without the need of a court order, only to the following:

- ((-) (a) Injured workers, their legal representatives, or their labor organization representatives.
- ((-) (b) The legal representative or labor organization representative of a deceased worker.
- ((-) (c) The employer of any injured or deceased worker.
- ((-) (d) Any other employer or person whose actions or business operations are the subject of the report or investigation.

((-) (e) Any attorney representing a party in any pending legal action in which an investigative report constitutes material and relevant evidence.

((-) (f) Employees of governmental agencies in the performance of their official duties.

((-) (g) Any beneficiary of a deceased worker actually receiving benefits under the terms of Title 51 RCW, the Industrial Insurance Act.

Note: The records officer may provide accident investigation reports to the closest surviving member of the deceased worker's immediate family.

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

WAC 296-800-340 Protecting the identity of the source of confidential information. (1) The department must((:

*) not reveal the source of information when a promise has been made to keep the identity of the source confidential.

((*) (2) The department must not disclose information that would reveal the source's identity, whenever a department file contains an investigative report or information from a source under a promise of confidentiality.

((-) (a) The contents of an investigative report may be withheld only to the extent necessary to conceal the identity of the source.

((-) (b) When information is withheld, the records officer must give a general characterization of the information withheld, but must not reveal the identity of the information's source.

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

WAC 296-800-360 Rule. (~~Your responsibility: To~~) You must use the safety and health standards from national organizations and federal agencies, when directed to by WISHA rules.

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

WAC 296-800-36005 Comply with standards national organizations or of federal agencies when referenced in WISHA rules. You must((:

4) use the following to be in compliance with WISHA rules:

(-) (1) The edition of the standard specified in the WISHA rule; or

(-) (2) Any edition published after the edition specified in the WISHA rule.

Note: The specific standards referenced in the WISHA rules are available:

- For review at your local department of labor and industries office.
- See <http://www.wa.gov/lni/pa/direct.htm>.
- Through the local library system.
- Through the issuing organization.

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

WAC 296-800-370 Definitions. Abatement action plans. Refers to your written plans for correcting a WISHA violation.

Abatement date. The date on the citation when you must comply with specific safety and health standards listed on the citation and notice of assessment or the corrective notice of redetermination.

Acceptable. As used in Electrical, WAC 296-800-280 means an installation or equipment is acceptable to the director of labor and industries, and approved:

- If it is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a nationally recognized testing laboratory; or

- With respect to an installation or equipment of a kind which no nationally recognized testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another federal agency, or by a state, municipal, or other local authority responsible for enforcing occupational safety provisions of the National Electrical Code, and found in compliance with the provisions of the National Electrical Code as applied in this section; ~~(OR)~~ **OR**

- With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by a particular customer, if it is determined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection to the director and his/her authorized representatives. Refer to federal regulation 29 C.F.R. 1910.7 for definition of nationally recognized testing laboratory.

Accepted. As used in Electrical, WAC 296-800-280 means an installation is accepted if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes.

Access. As used in safety data sheets (SDSs) as exposure records, WAC 296-901-14014 means the right and opportunity to examine and copy exposure records.

Affected employees. As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means employees exposed to hazards identified as violations in a citation.

Analysis using exposure or medical records.

- An analysis using exposure records or medical records can be any collection of data or a statistical study. It can be based on either:

- Partial or complete information from individual employee exposure or medical records; or
- Information collected from health insurance claim records.

- The analysis is not final until it has been:

- Reported to the employer; or
- Completed by the person responsible for the analysis.

ANSI. This is an acronym for the American National Standards Institute.

Approved (~~means~~).

- Approved by the director of the department of labor and industries or their authorized representative, or by an organization that is specifically named in a rule, such as Underwriters' Laboratories (UL), Mine Safety and Health Administration (MSHA), or the National Institute for Occupational Safety and Health (NIOSH).

- As used in Electrical, WAC 296-800-280 means acceptable to the authority enforcing this section. The authority enforcing this section is the director of labor and industries. The definition of acceptable indicates what is acceptable to the director and therefore approved.

Assistant director. The assistant director for the WISHA services division at the department of labor and industries or his/her designated representative.

ASTM. This is an acronym for American Society for Testing and Materials.

Attachment plug or plug. As used in the basic electrical rules, WAC 296-800-280 means the attachment at the end of a flexible cord or cable that is part of a piece of electrical equipment. When it is inserted into an outlet or receptacle, it connects the conductors supplying electrical power from the outlet to the flexible cable.

Bare conductor. A conductor that does not have any covering or insulation.

Bathroom. A room maintained within or on the premises of any place of employment, containing toilets that flush for use by employees.

Biological agents. Organisms or their by-products.

Board. As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means the board of industrial insurance appeals.

Ceiling. An exposure limit that must not be exceeded during any part of the employee's workday. The ceiling must be determined over the shortest time period feasible and should not exceed fifteen minutes.

Certification. As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means refers to an employer's written statement describing when and how a citation violation was corrected.

C.F.R. This is an acronym for Code of Federal Regulations.

Chemical. Any element, chemical compound, or mixture of elements and/or compounds.

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

- Airborne chemical agent which is any of the following:

- Dust((—)), solid particles suspended in air, that are created by actions such as:

- Handling.
- Drilling.
- Crushing.
- Grinding.
- Rapid impact.
- Detonation.

• Decrepitation of organic or inorganic materials such as rock, ore, metal, coal, wood, and grain.

- Fume((—)), solid particles suspended in air, that are created by condensation from the gaseous state.

- Gas((—)), a normally formless fluid, such as air, which can be changed to the liquid or solid state by the effect of increased pressure or decreased temperature or both.

- Mist((—)), liquid droplets suspended in air. Mist is created by:

• Condensation from the gaseous to the liquid state;
((OR)) or

• Converting a liquid into a dispersed state with actions such as splashing, foaming, spraying or atomizing.

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

• Contact chemical agent which is any of the following:

- Corrosive((—)), A substance that, upon contact, causes destruction of living tissue by chemical action, including acids with a pH of 2.5 or below or caustics with a pH of 11.0 or above.

- Irritant((—)), A substance that will induce a local inflammatory reaction upon immediate, prolonged, or repeated contact with normal living tissue.

- Toxicant((—)), A substance that has the inherent capacity to produce personal injury or illness to individuals by absorption through any body surface.

Chemical manufacturer. An employer with a workplace where one or more chemicals are produced for use or distribution.

Chemical name. The scientific designation of a chemical in accordance with one of the following:

• The nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC).

• The Chemical Abstracts Service (CAS) rules of nomenclature.

• A name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

Circuit breaker.

• Is a device used to manually open or close a circuit. This device will also open the circuit automatically and without damage to the breaker when a predetermined overcurrent is applied. (600 volts nominal or less).

• Is a switching device capable of making, carrying, and breaking currents under normal circuit conditions, and also making, carrying for a specified time, and breaking currents under specified abnormal circuit conditions, such as those of short circuit. (Over 600 volts nominal).

Citation. Refers to the citation and notice issued to an employer for any violation of WISHA safety and health rules. A citation and notice may be referred to as a citation and notice of assessment but is more commonly referred to as a citation.

Commercial account. As used in Hazard communication, WAC 296-901-140 means an arrangement in which a retail distributor sells hazardous chemical(s) to an employer, generally in large quantities over time, and/or at costs that are below the regular retail price.

Common name. As used in Hazard communication, WAC 296-901-140 means any designation or identification such as:

- Code name.
- Code number.
- Trade name.
- Brand name.
- Generic name used to identify a chemical other than by its chemical name.

Compressed gas. A gas or mixture of gases that, when in a container, has an absolute pressure exceeding:

- 40 psi at 70°F (21.1°C) ((OR)); or
- 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C).

Compressed gas can also mean a liquid with a vapor pressure that exceeds 40 psi at 100°F (37.8°C).

Conductor. Wire that transfers electric power.

Container. As used in Hazard communication, WAC 296-901-140 means any container, except for pipes or piping systems, that contains a hazardous chemical. It can be any of the following:

- Bag.
- Barrel.
- Bottle.
- Box.
- Can.
- Cylinder.
- Drum.
- Reaction vessel.
- Storage tank.

Correction date. The date by which a violation must be corrected. Final orders or extensions that give additional time to make corrections establish correction dates. A correction date established by an order of the board of industrial insurance appeals remains in effect during any court appeal unless the court suspends the date.

Corrective notice. Refers to a notice changing a citation and is issued by the department after a citation has been appealed.

Corrosive. A substance that, upon contact, causes destruction of living tissue by chemical action, including acids with a pH of 2.5 or below or caustics with a pH of 11.0 or above.

Covered conductor. A conductor that is covered by something else besides electrical insulation.

Damp location. As used in basic electrical rules, WAC 296-800-280 means partially protected areas that are exposed to moderate moisture. Outdoor examples include roofed open porches and marquees. Interior examples include basements and barns.

Department. Those portions of the department of labor and industries responsible for enforcing the Washington Industrial Safety Act (WISHA).

Designated representative.

- Any individual or organization to which an employee gives written authorization.
- A recognized or certified collective bargaining agent without regard to written authorization.
- The legal representative of a deceased or legally incapacitated employee.

Director. The director means the director of the department of labor and industries or their designee.

Distributor. A business, other than a chemical manufacturer or importer, that supplies hazardous chemicals to other distributors or to employers.

Documentation. As used in WISHA appeals, penalties and other procedural rules, WAC 296-800-350 means material that you submit to prove that a correction is completed. Documentation includes, but is not limited to, photographs, receipts for materials and/or labor.

Dry location. As used in basic electrical rules, WAC 296-800-280 means areas not normally subjected to damp or wet conditions. Dry locations may become temporarily damp or wet, such as when constructing a building.

Dust. Solid particles suspended in air that are created by actions such as:

- Handling.
- Drilling.
- Crushing.
- Grinding.
- Rapid impact.
- Detonation.
- Decrepitation of organic or inorganic materials such as rock, ore, metal, coal, wood, and grain.

Emergency washing facilities. Emergency washing facilities are emergency showers, eyewashes, eye/face washes, hand-held drench hoses, or other similar units.

Electrical outlets. Places on an electric circuit where power is supplied to equipment through receptacles, sockets, and outlets for attachment plugs.

Employee. Based on chapter 49.17 RCW, the term employee and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, means an employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is personal labor for an employer under this standard whether by way of manual labor or otherwise.

Employee exposure record. As used in safety data sheets (SDSs) as exposure records, WAC 296-901-14014 means a record containing any of the following kinds of information:

- Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;
- Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine,

breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs;

- Safety data sheets indicating that the material may pose a hazard to human health; ~~((OR))~~ or
- In the absence of the above, a chemical inventory or any other record which reveals where and when used and the identity (e.g., chemical, common or trade name) of a toxic substance or harmful physical agent.

Employer. Based on chapter 49.17 RCW, an employer is any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: Provided, That any persons, partnership, or business entity not having employees, and who is covered by the Industrial Insurance Act must be considered both an employer and an employee.

Exit. Provides a way of travel out of the workplace.

Exit route. A continuous and unobstructed path of exit travel from any point within a workplace to safety outside.

Explosive. A chemical that causes a sudden, almost instant release of pressure, gas, and heat when exposed to a sudden shock, pressure, or high temperature.

Exposed live parts. Electrical parts that are:

- Not suitably guarded, isolated, or insulated ~~((AND))~~; and
- Capable of being accidentally touched or approached closer than a safe distance.

Exposed wiring methods. Involve working with electrical wires that are attached to surfaces or behind panels designed to allow access to the wires.

Exposure or exposed. As used in Hazard communication, WAC 296-901-140 and safety data sheets (SDSs) as exposure records, WAC 296-901-14014. An employee has been, or may have possibly been, subjected to a hazardous chemical, toxic substance or harmful physical agent while working. An employee could have been exposed to hazardous chemicals, toxic substances, or harmful physical agents in any of the following ways:

- Inhalation.
- Ingestion.
- Skin contact.
- Absorption.
- Related means.

The terms exposure and exposed only cover workplace exposure involving a toxic substance or harmful physical agent in the workplace different from typical ~~((non-occupational))~~ nonoccupational situations in the way it is:

- Used.
- Handled.
- Stored.
- Generated.
- Present.

Exposure record. See definition for employee exposure record.

Extension ladder. A portable ladder with 2 or more sections and is not self-supporting. The 2 or more sections travel in guides or brackets that let you change the length. The size of a portable ladder is determined by adding together the length of each section.

Failure-to-abate. Any violation(s) resulting from not complying with an abatement date.

Final order. Any of the following (unless an employer or other party files a timely appeal):

- Citation and notice;
- Corrective notice;
- Decision and order from the board of industrial insurance appeals;
- Denial of petition for review from the board of industrial insurance appeals; or
- Decision from a Washington State superior court, court of appeals, or the state supreme court.

Final order date. The date a final order is issued.

First aid. 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.

Flammable. A chemical covered by one of the following categories:

- Aerosol flammable means a flammable aerosol as defined by WAC 296-901-14024, Appendix B—Physical hazard criteria;

- Gas, flammable means:

- A gas that, at temperature and pressure of the surrounding area, forms a flammable mixture with air at a concentration of 13% by volume or less; or

- A gas that, at temperature and pressure of the surrounding area, forms a range of flammable mixtures with air wider than 12% by volume, regardless of the lower limit.

- Liquid, flammable means any liquid having a flashpoint at or below 199.4°F (93°C). Flammable liquids are divided into four categories as follows:

((a)) - Category 1 ((shall)) must include liquids having flashpoints below 73.4°F (23°C) and having a boiling point at or below 95°F (35°C).

((b)) - Category 2 ((shall)) must include liquids having flashpoints below 73.4°F (23°C) and having a boiling point above 95°F (35°C).

((c)) - Category 3 ((shall)) must include liquids having flashpoints at or above 73.4°F (23°C) and at or below 140°F (60°C). When a Category 3 liquid with a flashpoint at or above 100°F (37.8°C) is heated for use to within 30°F (16.7°C) of its flashpoint, it ((shall)) must be handled in accordance with the requirements for a Category 3 liquid with a flashpoint below 100°F (37.8°C).

((d)) - Category 4 ((shall)) must include liquids having flashpoints above 140°F (60°C) and at or below 199.4°F (93°C). When a Category 4 flammable liquid is heated for use to within 30°F (16.7°C) of its flashpoint, it ((shall)) must be handled in accordance with the requirements for a Category 3 liquid with a flashpoint at or above 100°F (37.8°C).

((e)) - When liquid with a flashpoint greater than 199.4°F (93°C) is heated for use to within 30°F (16.7°C) of

its flashpoint, it ((shall)) must be handled in accordance with the requirements for a Category 4 flammable liquid.

- Solid, flammable means a solid, other than a blasting agent or explosive as defined in 29 C.F.R. 1910.109(a), that is likely to cause fire through friction, moisture absorption, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily. Solid, inflammable also means that when the substance is ignited, it burns so powerfully and persistently that it creates a serious hazard. A chemical must be considered to be a flammable solid if, when tested by the method described in 16 C.F.R. 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

Flashpoint.

- The minimum temperature at which a liquid gives off a vapor within a test vessel in sufficient concentration to form an ignitable mixture with air near the surface of the liquid and ((shall)) must be determined as follows:

- The flashpoint of liquids having a viscosity less than 45 Saybolt Universal Second(s) at 100°F (37.8°C) and a flashpoint below 175°F (79.4°C) ((shall)) must be determined in accordance with the Standard Method of Test for Flash Point by the Tag Closed Tester, ASTM D-56-69, or an equivalent method as defined by WAC 296-901-14024, Appendix B—Physical hazard criteria.

Flexible cords and cables. Typically used to connect electrical equipment to an outlet or receptacle. These cords can have an attachment plug to connect to a power source or can be permanently wired into the power source. Flexible cords, extension cords, cables and electrical cords are all examples of flexible cord.

Floor hole. An opening in any floor, platform, pavement, or yard that measures at least one inch but less than 12 inches at its smallest dimension and through which materials and tools (but not people) can fall.

Examples of floor holes are:

- Belt holes,
- Pipe openings,
- Slot openings.

Floor opening. An opening in any floor, platform, pavement, or yard that measures at least 12 inches in its smallest dimension and through which a person can fall.

Examples of floor openings are:

- Hatchways,
- Stair or ladder openings,
- Pits,
- Large manholes,

The following are NOT considered floor openings:

- Openings occupied by elevators,
- Dumbwaiters,
- Conveyors,
- Machinery,
- Containers.

Foreseeable emergency. As used in Hazard communication, WAC 296-901-140 means any potential event that could result in an uncontrolled release of a hazardous chemical into the workplace. Examples of foreseeable emergencies include equipment failure, rupture of containers, or failure of control equipment.

Fume. Solid particles suspended in air that are created by condensation from the gaseous state.

Gas. A normally formless fluid, such as air, which can be changed to the liquid or solid state by the effect of increased pressure or decreased temperature or both.

Ground. As used in Electrical, WAC 296-800-280, a connection between an electrical circuit or equipment and the earth or other conducting body besides the earth. This connection can be intentional or accidental.

Grounded. A connection has been made between an electrical circuit or equipment and the earth or another conducting body besides the earth.

Grounded conductor. A system or circuit conductor that is intentionally grounded.

Ground-fault circuit-interrupter. 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 overcurrent protective device of the supply circuit.

Grounding conductor. Is used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

Grounding conductor, equipment. A conductor used to connect noncurrent-carrying metal parts of equipment, raceways, and other enclosures to the system grounded conductor and/or the grounding electrode conductor at the service equipment or at the source of a separately derived system.

Guarded. Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats, or platforms to remove the likelihood of being accidentally touched or approached closer than a safe distance.

Hand-held drench hoses. Hand-held drench hoses are single-headed emergency washing devices connected to a flexible hose that can be used to irrigate and flush the face or other body parts.

Handrail. A single bar or pipe supported on brackets from a wall or partition to provide a continuous handhold for persons using a stair.

Harmful physical agent. Any physical stress such as noise, vibration, repetitive motion, heat, cold, ionizing and nonionizing radiation, and hypo- or hyperbaric pressure which:

- Is listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances*(RTECS); or

- Has shown positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer; ~~((OR))~~ or

- Is the subject of a safety data sheet kept by or known to the employer showing that the material may pose a hazard to human health.

Hazard. Any condition, potential or inherent, which can cause injury, death, or occupational disease.

Hazard warning. As used in Hazard communication, WAC 296-901-140 can be a combination of words, pictures, symbols, or combination appearing on a label or other appropriate form of warning which shows the specific physical and

health hazard(s), including target organ effects, of the chemical(s) in the container(s).

Note: See definition for physical hazard and health hazard to determine which hazards must be covered.

Hazardous chemical. Any chemical that is a physical or health hazard.

Health hazard. A chemical, mixture, biological agent, or physical agent that may cause health effects in short- or long-term exposed employees. Based on statistically significant evidence from at least one study conducted using established scientific principles. Health hazards include:

- Carcinogens₂
- Toxic or highly toxic agents₂
- Reproductive toxins₂
- Irritants₂
- Corrosives₂
- Sensitizers₂
- Hepatotoxins (liver toxins)₂
- Nephrotoxins (kidney toxins)₂
- Neurotoxins (nervous system toxins)₂
- Substances that act on the hematopoietic system (blood or blood-forming system)₂
- Substances that can damage the lungs, skin, eyes, or mucous membranes₂
- Hot or cold conditions.

Identity. As used in Hazard communication, WAC 296-901-140 means any chemical or common name listed on the safety data sheet (SDS) for the specific chemical. Each identity used must allow cross-references among the:

- Required list of hazardous chemicals₂
- Chemical label₂
- MSDSs₂

Imminent danger violation. Any violation(s) resulting from conditions or practices in any place of employment, which are such that a danger exists which could reasonably be expected to cause death or serious physical harm, immediately or before such danger can be eliminated through the enforcement procedures otherwise provided by the Washington Industrial Safety and Health Act.

Importer. The first business within the Customs Territory of the USA that:

- Receives hazardous chemicals produced in other countries ~~((AND))~~; and
- Supplies them to distributors or employers within the USA₂

Inpatient hospitalization. To be admitted into a hospital or equivalent facility for medical treatment.

Insulated. A conductor has been completely covered by a material that is recognized as electrical insulation and is thick enough based on:

- The amount of voltage involved ~~((AND))~~; and
- The type of covering material₂

Interim waiver. An order granted by the department allowing an employer to vary from WISHA requirements until the department decides to grant a permanent or temporary waiver.

Irritant. A substance that will induce a local inflammatory reaction upon immediate, prolonged, or repeated contact with normal living tissue.

Ladder₂ Consists of 2 side rails joined at regular intervals by crosspieces called steps, rungs, or cleats. These steps are used to climb up or down.

Listed₂ Equipment is listed if it:

- Is listed in a publication by a nationally recognized laboratory (such as UL, underwriters laboratory) that inspects the production of that type of equipment(~~(-AND))~~; and
- States the equipment meets nationally recognized standards or has been tested and found safe to use in a specific manner.

Medical treatment₂ Treatment provided by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first-aid treatment even if provided by a physician or registered professional personnel.

Mist₂ Liquid droplets suspended in air. Mist is created by:

- Condensation from the gaseous to the liquid state; (~~(OR))~~ or
- Converting a liquid into a dispersed state with actions such as splashing, foaming, spraying or atomizing.

Mixture₂ As used in Hazard communication, WAC 296-901-140, any combination of 2 or more chemicals (if that combination did not result from a chemical reaction).

Movable equipment₂ As used in WAC 296-800-35052, a hand-held or nonhand-held machine or device;

- That is powered or nonpowered; (~~(AND))~~ and
- Can be moved within or between worksites.

Must (~~(Must means))~~, Mandatory.

NEMA₂ These initials stand for National Electrical Manufacturing Association.

NFPA₂ This is an acronym for National Fire Protection Association.

Nose₂ The portion of the stair tread that projects over the face of the riser below it.

Occupational Safety and Health Administration (OSHA)₂ Created in 1970 when the U.S. Congress passed the Occupational Safety and Health Act, the Occupational Safety and Health Administration (OSHA) provides safety on the job for workers. OSHA oversees state plans (such as WISHA in Washington) that have elected to administer the safety and health program for their state. OSHA requires WISHA rules to be at least as effective as OSHA rules.

Office work environment₂ An indoor or enclosed occupied space where clerical work, administration, or business is carried out.

In addition, it includes:

- Other workplace spaces controlled by the employer and used by office workers, such as cafeterias, meeting rooms, and washrooms.
- Office areas of manufacturing and production facilities, not including process areas.
- Office areas of businesses such as food and beverage establishments, agricultural operations, construction, commercial trade, services, etc.

Open riser₂ A stair step with an air space between treads has an open riser.

Organic peroxide₂ This is an organic compound containing the bivalent-O-O-structure. It may be considered a

structural derivative of hydrogen peroxide if one or both of the hydrogen atoms has been replaced by an organic radical.

Outlet₂ See definition for electrical outlets.

Oxidizer₂ A chemical other than a blasting agent or explosive as defined in WAC 296-52-60130 or C.F.R. 1910.109(a), that starts or promotes combustion in other materials, causing fire either of itself or through the release of oxygen or other gases.

Permissible exposure limits (PELs)₂ Permissible exposure limits (PELs) are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are specified in applicable WISHA rules.

Person₂ Based on chapter 49.17 RCW, one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

Personal eyewash units₂ 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.

Personal service room₂ Used for activities not directly connected with a business' production or service function such as:

- First aid₂
- Medical services₂
- Dressing₂
- Showering₂
- Bathrooms₂
- Washing₂
- Eating₂

Personnel₂ See the definition for employees.

Physical hazard₂ Means a chemical that is classified as posing one of the following hazardous effects: Explosive; flammable (gases, aerosols, liquids, or solids); oxidizer (liquid, solid or gas); self-reactive; pyrophoric (liquid or solid); self-heating; organic peroxide; corrosive to metal; gas under pressure; or in contact with water emits flammable gas. WAC 296-901-14024, Appendix B—Physical hazard criteria.

Platform₂ Platform means an extended step or landing that breaks a continuous run of stairs.

Plug₂ See definition for attachment plug.

Potable water₂ Water that is suitable for drinking by the public and meets the requirements of chapter 246-290 or 246-291 WAC.

Predictable and regular basis₂ Employee functions such as, but not limited to, inspection, service, repair and maintenance which are performed:

- At least once every 2 weeks (~~(OR))~~; or
- ((4)) Four man-hours or more during any sequential 4-week period (to calculate man-hours multiply the number of employees by the number of hours during a 4-week period).

Produce₂ As used in Hazard communication, WAC 296-901-140, any one of the following:

- Manufacture₂
- Process₂
- Formulate₂
- Blend₂
- Extract₂
- Generate₂
- Emit₂

- Repackage.

Purchaser. As used in Hazard communication, WAC 296-901-140, an employer who buys one or more hazardous chemicals to use in their workplace.

Pyrophoric. A chemical is pyrophoric if it will ignite spontaneously in the air when the temperature is 130°F (54.4°C) or below.

Qualified person. A person who has successfully demonstrated the ability to solve problems relating to the subject matter, work, or project, either by:

- Possession of a recognized degree, certificate, or professional standing; ~~((OR))~~ **or**
- Extensive knowledge, training and experience.

Railing or standard railing. A vertical barrier erected along exposed edges of a floor opening, wall opening, ramp, platform, or runway to prevent falls of persons.

Reassume jurisdiction. The department has decided to take back its control over a citation and notice being appealed.

Receptacle or receptacle outlet. As used in basic electrical rules, WAC 296-800-280 means outlets that accept a plug to supply electric power to equipment through a cord or cable.

Record. A record is any item, collection, or grouping of information. Examples include:

- Paper document.
- Microfiche.
- Microfilm.
- X-ray film.
- Computer record.

Refuge area.

• A protected space along an exit route that is separated from other spaces inside the building by a barrier with at least a one-hour fire resistance rating; ~~((OR))~~ **or**

• A floor in a building with an automatic sprinkler system that has at least two spaces that are separated by smoke-resistant partitions. See WAC 296-24-607 for requirements for automatic sprinkler systems.

Repeat violation. A violation is a repeat violation if the employer has been cited one or more times previously for a substantially similar hazard.

Responsible party. As used in Hazard communication, WAC 296-901-140. Someone who can provide appropriate information about the hazardous chemical and emergency procedures.

Rise. The vertical distance from the top of a tread to the top of the next higher tread.

Riser. The vertical part of the step at the back of a tread that rises to the front of the tread above.

Rungs. Rungs are the cross pieces on ladders that are used to climb up and down the ladder.

Runway. An elevated walkway above the surrounding floor or ground level. Examples of runways are footwalks along shafting or walkways between buildings.

Safety data sheet (SDS). Written, printed, or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors, employers or employees about a hazardous chemical, its hazards, and protective measures as required by safety data sheet and label preparation, WAC 296-901-140.

Safety factor. The term safety factor means the ratio of when something will break versus the actual working stress or safe load when it is used.

Self-lighting or self-luminous. A light source that:

- Is illuminated by a self-contained power source other than batteries; ~~((AND))~~ **and**
- Operates independently from external power sources.

Serious violation. Serious violation must be deemed to exist in a workplace if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such workplace, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

Short-term exposure limit (STEL). An exposure limit, averaged over a short time period (usually measured for 15 minutes) that must not be exceeded during any part of an employee's workday.

Should. Should means recommended.

Single ladder. A type of portable ladder with one section.

It is distinguished by all of the following:

- It has one section.
- It cannot support itself.
- Its length cannot be adjusted.

Smoking. A person is smoking if they are:

- Lighting up.
- Inhaling.
- Exhaling.
- Carrying a pipe, cigar or cigarette of any kind that is burning.

Specific chemical identity. This term applies to chemical substances. It can mean the:

- Chemical name.
- Chemical Abstracts Service (CAS) registry number.
- Any other information that reveals the precise chemical designation of the substance.

Stair railing. 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. A series of steps and landings:

- (-)** • Leading from one level or floor to another.
- (-)** • Leading to platforms, pits, boiler rooms, cross-overs, or around machinery, tanks, and other equipment.
- (-)** • Used more or less continuously or routinely by employees, or only occasionally by specific individuals.
- (-)** • With three or more risers.

Standard safeguard. Safety devices that prevent hazards by their attachment to:

- Machinery.
- Appliances.
- Tools.
- Buildings.
- Equipment.

These safeguards must be constructed of:

- Metal.
- Wood.
- Other suitable materials.

The department makes the final determination about whether a safeguard is sufficient for its use.

Step ladder. A portable ladder with:

- Flat steps.
- A hinge at the top allowing the ladder to fold out and support itself.
- Its length that cannot be adjusted.

Time weighted average (TWA_{(8)(h)}). An exposure limit, averaged over 8 hours, that must not be exceeded during an employee's work shift.

Toeboard. A barrier at floor level along exposed edges of a floor opening, wall opening, platform, runway, or ramp, to prevent falls of materials.

Toxic chemical. As used in first aid, WAC 296-800-150, is a chemical that produces serious injury or illness when absorbed through any body surface.

Toxic substance. Any chemical substance or biological agent, such as bacteria, virus, and fungus, which is any of the following:

- Listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS).
- Shows positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer.
- The subject of a safety data sheet kept by or known to the employer showing the material may pose a hazard to human health.

Toxicant. A substance that has the inherent capacity to produce personal injury or illness to individuals by absorption through any body surface.

Trade secret. Any confidential:

- Formula.
- Pattern.
- Process.
- Device.
- Information.
- Collection of information.

The trade secret is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it.

See WAC 296-901-14018 for requirements dealing with trade secrets.

Tread. As used in stairs and stair railings, WAC 296-800-250 means the horizontal part of the stair step.

Tread run. As used in stairs and stair railings, WAC 296-800-250 means the distance from the front of one stair tread to the front of an adjacent tread.

Tread width. The distance from front to rear of the same tread including the nose, if used.

UL (Underwriters' Laboratories, Inc.). 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.

Unstable (reactive). As used in Hazard communication, WAC 296-901-140. An unstable or reactive chemical is one that in its pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure or temperature.

Use. As used in Hazard communication, WAC 296-901-140, means to:

- Package.
- Handle.
- React.
- Emit.
- Extract.
- Generate as a by-product.
- Transfer.

Vapor. The gaseous form of a substance that is normally in the solid or liquid state.

Voltage of a circuit. The greatest effective potential difference between any two conductors or between a conductor and ground.

Voltage to ground. The voltage between a conductor and the point or conductor of the grounded circuit. For underground circuits, it is the greatest voltage between the conductor and any other conductor of the circuit.

Voltage, nominal. Nominal voltage 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.

WAC. This is an acronym for Washington Administrative Code, which are rules developed to address state law.

Water-reactive. As used in Hazard communication, WAC 296-901-140, a water-reactive chemical reacts with water to release a gas that is either flammable or presents a health hazard.

Watertight. Constructed so that moisture will not enter the enclosure or container.

Weatherproof. Constructed or protected so that exposure to the weather will not interfere with successful operation. Rainproof, raintight, 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.

Wet location. As used in basic electrical rules, WAC 296-800-280 means:

- Underground installations or in concrete slabs or masonry that are in direct contact with the earth.
- Locations that can be saturated by water or other liquids.
- Unprotected locations exposed to the weather (like vehicle washing areas).

WISHA. This is an acronym for the Washington Industrial Safety and Health Act.

Work area. As used in Hazard communication, WAC 296-901-140, a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

Worker. See the definition for employee.

Working days. Means a calendar day, except Saturdays, Sundays, and legal holidays. Legal holidays include:

- (-) • New Year's Day - January 1
- (-) • Martin Luther King, Jr. Day
- (-) • Presidents' Day
- (-) • Memorial Day
- (-) • Independence Day - July 4
- (-) • Labor Day

- ((-)) • Veterans' Day - November 11;
- ((-)) • Thanksgiving Day;
- ((-)) • The day after Thanksgiving Day; and
- ((-)) • Christmas Day - December 25.

The number of working days must be calculated by not counting the first working day and counting the last working day.

~~((Worker See the definition for employee.))~~

Workplace.

• The term workplace means:

- Any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all workplaces covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

- As used in Hazard communication, WAC 296-901-140 means an establishment, job site, or project, at one geographical location containing one or more work areas.

You. See definition of employer.

Your representative. Your representative is the person selected to act in your behalf.

NEW SECTION

The following section of the Washington Administrative Code is decodified and recodified as follows:

Old WAC Number	New WAC Number
296-800-370	296-800-099

NEW SECTION

WAC 296-802-099 Definitions. Access. The right and opportunity to examine and copy an employee record.

Analysis using exposure or medical records. Any collection of data or a statistical study based on either:

- (a) Information from individual employee exposure or medical records; or
- (b) Information collected from health insurance claim records.

Designated representative.

- (a) Any individual or organization to which an employee gives written authorization.
- (b) A recognized or certified collective bargaining agent without regard to written employee authorization.
- (c) The legal representative of a deceased or legally incapacitated employee.

Employee exposure record. A record containing any of the following kinds of information:

- (a) Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained.
- (b) Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (such as the level of a chemical in the blood, urine, breath, hair, or fingernails) but not including results

which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs.

(c) Safety data sheets indicating that the material may pose a hazard to human health; or

(d) In the absence of the above:

(i) A chemical inventory or any other record that reveals where and when used and the identity (e.g., chemical, common or trade name) of a toxic substance or harmful physical agent.

(ii) Exposure records of other employees with past or present job duties or related working conditions.

Employee medical record.

(a) A record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician, including:

(i) Medical and employment questionnaires or histories (including job description and occupational exposures).

(ii) The results of medical examinations (preemployment, preassignment, periodic, or episodic) and laboratory tests (including chest and other X-ray examinations taken for purposes of establishing a baseline or detecting occupational illness, and all biological monitoring not defined as an "employee exposure record").

(iii) Medical opinions, diagnoses, progress notes, and recommendations.

(iv) First-aid records.

(v) Descriptions of treatments and prescriptions.

(vi) Employee medical complaints.

(b) An employee medical record does **not** include any of these types of medical information:

(i) Physical specimens (for example, blood or urine samples), which are routinely discarded as a part of normal medical practice.

(ii) Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier, such as Social Security number or payroll number.

(iii) Records created solely in preparation for litigation that are privileged from discovery under applicable rules of procedure or evidence.

(iv) Records concerning voluntary employee assistance programs, such as alcohol, drug abuse, or personal counseling programs, if maintained separately from the employer's medical program and records.

Exposure or exposed. The contact an employee has with a toxic substance, harmful physical agent or oxygen deficient condition. Exposure can occur through various routes, such as inhalation, ingestion, skin contact, or skin absorption.

First aid. Any of the following are considered first aid:

- (a) Using a nonprescription medication at nonprescription strength.
- (b) Administering tetanus immunizations. Other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment.
- (c) Cleaning, flushing or soaking wounds on the surface of the skin.
- (d) Using wound coverings such as bandages, Band-Aids™, or gauze pads.

- (e) Using butterfly bandages or Steri-Strips™.
- (f) Using hot or cold therapy.
- (g) Using any nonrigid means of support, such as elastic bandages, wraps, or nonrigid back belts.
- (h) Using temporary immobilization devices, such as splints, slings, neck collars, or back boards, while transporting an accident victim.
- (i) Drilling a fingernail or toenail to relieve pressure.
- (j) Draining fluid from a blister.
- (k) Using eye patches.
- (l) Removing foreign bodies from the eye using only irrigation or a cotton swab.
- (m) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means.
- (n) Using finger guards.
- (o) Using massages.
- (p) Drinking fluids for relief of heat stress.

Harmful physical agent. Any physical stress such as noise, vibration, repetitive motion, heat, cold, ionizing and nonionizing radiation, and hypo- or hyperbaric pressure which:

- (a) Is listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS); or
- (b) Has shown positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer; or
- (c) Is the subject of a safety data sheet kept by or known to the employer showing that the material may pose a hazard to human health.

Health professional. A physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist, who provides medical or other occupational health services to exposed employees.

Record. Any item, collection, or grouping of information. Examples include:

- (a) Paper document.
- (b) Microfiche.
- (c) Microfilm.
- (d) X-ray film.
- (e) Computer record.

Specific chemical identity. Any other information that reveals the precise chemical designation of the substance, such as:

- (a) Chemical name; or
- (b) Chemical abstracts service (CAS) registry number.

Specific written authorization. A written authorization containing at least the following:

- (a) The name and signature of the employee authorizing the release of medical information.
- (b) The date of the written authorization.
- (c) The name of the individual or organization that is authorized to release the medical information.
- (d) The name of the designated representative (individual or organization) that is authorized to receive the information.
- (e) A general description of the medical information that is authorized to be released.

(f) A general description of the purpose for the release of the medical information.

(g) A date or condition upon which the written authorization will expire.

Toxic substance. Any chemical substance or biological agent, such as bacteria, virus, and fungus, which is any of the following:

- (a) Listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS).
- (b) Shows positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer.
- (c) The subject of a safety data sheet kept by or known to the employer showing the material may pose a hazard to human health.

Trade secrets. Any confidential information that is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it. It can be a:

- (a) Formula.
- (b) Pattern.
- (c) Process.
- (d) Device.
- (e) Information.
- (f) Collection of information.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-200 Keep employee medical and exposure records.

Summary:

Your responsibility:

To keep employee medical records, exposure records, and analyses.

IMPORTANT:

- Physicians or other health care personnel may keep medical records for you.
- You may keep information in any form as long as the information is retrievable.
- Unless a specific occupational safety and health rule provides a different time period, you must keep records for the period required by this chapter.

~~((You must:~~

~~Keep employee medical records~~

~~WAC 296-802-20005.~~

~~Keep employee exposure records~~

~~WAC 296-802-20010.~~

~~Keep analyses of medical or exposure records~~

~~WAC 296-802-20015.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Keep employee medical records</u>	<u>WAC 296-802-20005</u>
<u>Keep employee exposure records</u>	<u>WAC 296-802-20010</u>
<u>Keep analyses of medical or exposure records</u>	<u>WAC 296-802-20015</u>

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-20005 Keep employee medical records. (1) You must(†

•) keep medical records for at least as long as the employee works for you plus thirty years.

- Exemption:**
- If an employee works for you for less than one year and you provide the records to them when they leave employment, you do not have to keep their medical records.
 - You do not need to keep the following records for any specific period:
 - Health insurance claims records maintained separately from your medical program and records.
 - Records of first-aid treatment, if made on-site by a non-physician and if kept separately from the employee medical record.

(2) You must(†

•) keep chest X-ray films in their original state, such as film or electronic image.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-20010 Keep employee exposure records.

IMPORTANT:

You do not need to keep employee exposure records for exposure to toxic substances when they are:

- Purchased as a consumer product; ~~((AND))~~ and
- Used in the same manner and frequency that a consumer would use them.

(1) You must(†

•) keep employee exposure records for at least thirty years from the date the exposure record was made. These records include the following:

- ((-) (a) The sampling results.
- ((-) (b) The collection methodology (sampling plan).
- ((-) (c) A description of the analytical and mathematical methods used.
- ((-) (d) Background data to environmental monitoring or measuring, such as laboratory reports and work sheets.

Note: You do not have to keep the actual background data for more than one year if you keep a summary of the data for thirty years.

(2) You must(†) keep a record, for at least thirty years, of the identity of any toxic substance used in your workplace. You must include:

- ((*) (a) Where the substance was used.
- ((*) (b) When the substance was used.

Note: The identity may be retained either as part of the exposure record or as a separate record.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-20015 Keep analyses of medical or exposure records. You must(†

•) keep each analysis using medical or exposure records for at least thirty years.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-300 Inform employees about records.
Summary:

Your responsibility:

To inform current employees about their medical and exposure records.

~~((You must:~~

~~inform current employees about their medical and exposure records~~

~~WAC 296-802-30005:))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Inform current employees about their medical and exposure records</u>	<u>WAC 296-802-30005</u>

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-30005 Inform current employees about their medical and exposure records. (1) You must(†

•) inform employees covered by this rule about medical and exposure records when they first start employment, and then at least annually. Include the following information:

- ((-) (a) Where the records are located.
- ((-) (b) Who is responsible for the records.
- ((-) (c) Who to contact for access to the records.
- ((-) (d) Their rights to copy the records.
- ((*) (2) You must make copies of this rule available upon request to employees.

((*) (3) You must distribute to your employees any information about this chapter that you are given by the department.

Note: Some of the ways to inform employees that you have medical and exposure records include email, letters, posters, or classroom training.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-400 Provide employees access to records and analyses.

Summary:

Your Responsibility:

To provide employees access to records and analyses.

IMPORTANT:

- Employees or their designated representatives can use the collective bargaining process to gain access to records beyond what is required by this chapter.
- The requirements of this section apply to both current and former employees.

~~((You must:~~

~~provide access to employee medical records, exposure records, and analyses~~

~~WAC 296-802-40005.~~

~~Provide employee medical records~~

~~WAC 296-802-40010.~~

~~Provide employee exposure records~~

~~WAC 296-802-40015.))~~

- A reasonable fee for copying, as defined in chapter 70.02 RCW, should not exceed sixty-five cents per page for the first thirty pages and fifteen cents per page for all additional pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars.

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Provide access to employee medical records, exposure records, and analyses</u>	<u>WAC 296-802-40005</u>
<u>Provide employee medical records</u>	<u>WAC 296-802-40010</u>
<u>Provide employee exposure records</u>	<u>WAC 296-802-40015</u>

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-40010 Provide employee medical records. (1) You must((+)

•)) make sure employees have access, upon request, to their own medical records.

Note:

- A physician, nurse, or other responsible health care professional who maintains employee medical records may delete from requested medical records the identity of individuals who provided confidential information regarding an employee's health status.

- If a physician represents you and believes that providing an employee access to their specific diagnosis of a terminal illness or psychiatric condition could harm the employee, they may request that the record be released only to a designated representative having specific written authorization.

- The physician representing you may recommend that the employee or designated representative do one of the following:

- Consult with the physician to review and discuss requested records.

- Accept a summary of facts and opinions instead of requested records.

- Accept the release of requested records only to another physician or designated representative.

(2) You must((+)

•)) make sure that individual employees are not identified in any portion of analyses that report the contents of employee medical records. ((-)) Identifying information includes:

(a) Both direct identifiers such as name, address, Social Security number, and payroll number((:)); and

(b) Other information that could reasonably be used in the circumstances to identify individual employees such as exact age, height, or weight.

Note: If it is not feasible to remove personal identifying information from a document, you do not have to provide the portions where personal identifiers cannot be moved.

(3) You must((+)

•)) provide designated representatives access to employee medical records when the employee provides specific written authorization.

((-)) (a) If the written authorization does not contain an expiration date, it expires ninety days after it is signed.

((-)) (b) Release only medical information that exists on the date of the written employee consent, unless the consent specifically states that future information may be released.

Note: An employee may revoke the specific written authorization in writing at any time.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-802-40015 Provide employee exposure records. (1) You must((+)

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-40005 Provide access to employee medical records, exposure records, and analyses. (1) You must((+)

•)) provide employees and their designated representatives access to requested records and analyses as follows:

((-)) (a) In a reasonable time, place, and manner.

((-)) (b) Within fifteen working days.

((■)) (c) If there is a delay, inform the requesting party of the reason and the earliest date the record will be made available.

Exemption: You do not have to provide analyses that are currently being worked on or have not been reported to you.

(2) You must((+)

•)) provide a copy of the record, when requested, to the employee or designated representative without cost. This may be done by one of the following methods:

((-)) (a) Make a copy for the requestor.

((-)) (b) Make the record and a copier available.

((-)) (c) Loan the record to the employee or designated representative for a reasonable time, so a copy can be made.

Note:

- Access to employee medical records will be provided to designated representatives only when the employee provides specific written authorization. See WAC 296-802-40010.

- To locate or identify the records being requested, you may request, from employees or their designated representatives, only known and necessary information. For example, you may request dates and location of where the employee worked during the time period in question.

- You are not required to perform an analysis of medical or exposure records at the request of an employee or designated representative.

- When there is an original X-ray you may restrict access to an on-site examination or make other arrangements for a temporary loan.

- When a record has been provided without cost to an employee or designated representative, and they request additional copies, you may charge a reasonable, nondiscriminatory administrative cost. For example, you may charge search and copying expenses but not overhead expenses.

•) provide requested exposure records that show the type and amount of toxic substances or harmful physical agents to which the employee is or has been exposed, for an employee's current or transfer work assignment.

((-) In the absence of records specific to the employee, exposure records of other employees with the same job duties or related working conditions will be used to the extent necessary to respond to the request.

((*) (2) You must provide a designated representative, who does not have specific employee consent, access to employee exposure records only when a reasonable written request is made that includes the following:

((-) (a) The records requested.

((-) (b) The occupational health need for accessing these records.

Note: Trade secret information may be withheld from exposure records. See WAC 296-901-14018, Trade secrets, for more information.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-500 Respond to medical record access orders.

Summary:

IMPORTANT:

This section describes how WISHA accesses employee medical records and your related rights and obligations.

Your responsibility:

To post written WISHA access orders.

~~((You must:~~

~~Respond to WISHA access orders for employee medical records~~

~~WAC 296-802-50005.~~

~~Content of WISHA written access orders~~

~~WAC 296-802-50010.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Respond to WISHA access orders for employee medical records</u>	<u>WAC 296-802-50005</u>
<u>Content of WISHA written access orders</u>	<u>WAC 296-802-50010</u>

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-50005 Respond to WISHA access orders for employee medical records. (1) You must((*

•) promptly respond to a written access order you receive from WISHA for personally identifiable employee medical information.

((*) (2) You must post a copy of the cover letter you receive from WISHA for fifteen working days where employees can easily review it.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-50010 Content of WISHA written access orders. A written access order from WISHA will contain at least the following information:

((*) (1) The identity of employees whose medical information is being requested. ((-) This may be either by name, job classification, time clock number, department, or similar identifier.

((*) (2) A description of the medical information that will be examined.

((*) (3) The purpose for seeking access to this medical information((-

-), and any additional evidence supporting access to the medical information.

((*) (4) A step-by-step description of how the records will be obtained, copied, reviewed, and stored, specifying the following:

((-) (a) Who will be in charge of on-site review of the records, or who will take possession of the records for ((~~off-site~~) off-site review.

((-) (b) Where the records will be reviewed.

((-) (c) When review or receipt of the records is to take place.

((-) (d) If the records are to be reviewed on-site, what type of information will be copied and removed ((~~offsite~~) off-site.

((*) (5) How personal identifiers will be separated from the medical information and how long this information will be kept.

((*) (6) The principal WISHA investigator's full name, business address and telephone number.

((*) (7) The full names and titles of all individuals that will review the records.

((*) (8) The WISHA industrial hygiene program manager's full name, business address and telephone number.

Note: WISHA does not need a written access order for the following types of employee medical records:

- Medical records and analyses that do not contain personal identification information.
- Examination of records to verify compliance with the medical surveillance requirements of another occupational health and safety rule.
- The following records when required by another occupational health and safety rule:
 - Medical opinions.
 - Biological monitoring results.
 - Results of medical examinations and laboratory tests.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

WAC 296-802-600 Transfer and disposal of employee records.

Summary:

Your responsibility:

To transfer or dispose of employee medical and exposure records when you go out of business.

~~((You must:~~

~~Transfer or dispose of employee medical and exposure records when you go out of business~~

~~WAC 296-802-60005.)~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Transfer or dispose of employee medical and exposure records when you go out of business</u>	<u>WAC 296-802-60005</u>

AMENDATORY SECTION (Amending WSR 12-24-071, filed 12/4/12, effective 1/4/13)

WAC 296-802-60005 Transfer or dispose of employee medical and exposure records when you go out of business. You must((+)

+)) follow the requirements in Table 1 when transferring or disposing of records.

**Table 1
Transfer or Disposal of Records**

If	Then
Another employer continues the business when you go out of business	Transfer all employee records to that employer
No other employer continues the business when you go out of business	Notify affected current employees of their rights of access to records at least three months prior to the termination of your business

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-802-900 Definitions.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-200 Shelter location and structure requirements.

~~((Summary-))~~

Your responsibility:

To provide and maintain safe and healthful housing for your temporary workers.

~~((You must:~~

~~Provide and maintain sufficient grounds and open areas in temporary housing sites~~

~~WAC 296-833-20005~~

~~Follow these design and equipment requirements for shelters~~

~~WAC 296-833-20010.)~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Provide and maintain sufficient grounds and open areas in temporary housing sites</u>	<u>WAC 296-833-20005</u>
<u>Follow these design and equipment requirements for shelters</u>	<u>WAC 296-833-20010</u>

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-20005 Provide and maintain sufficient grounds and open areas in temporary housing sites. ~~((You must:))~~ (1) You must make sure that all temporary housing sites:

((+)) (a) Are adequately drained and are free from ground depressions in which water may accumulate;

((+)) (b) Have no history of flooding;

((+)) (c) Do not endanger any domestic or public water supply with their drainage; and

((+)) (d) Are located at least two hundred feet from a swamp, pool, sink hole, or other surface collection of water unless the water surface can be treated for mosquito control.

(2) You must make sure the housing area is large enough to prevent the buildings from being crowded too closely together.

(3) You must make sure the principal housing areas for sleeping and food preparation/eating are at least five hundred feet from livestock operations.

Note: Livestock operations include, among other things, dairy farms, corrals, slaughterhouses, feedlots, and stockyards. Operations where livestock can roam on a pasture over a distance may be treated as outside the definition.

(4) You must make sure that grounds and open areas surrounding the shelters are maintained in a clean and sanitary condition.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-20010 Follow these design and equipment requirements for shelters. ~~((You must:))~~ (1) You must make sure that every shelter in the camp provides protection against the elements.

(2) You must make sure each dwelling unit:

((+)) (a) Has at least seventy square feet of floor space for the first occupant and at least fifty square feet of floor space for each additional occupant;

((+)) (b) That is designated a family unit has a separate sleeping area for children over six years old;

((+)) (c) With designated sleeping room(s) has at least fifty square feet of floor space in the sleeping room for each occupant;

((*) (d) Has at least a seven-foot ceiling;
 ((*) (e) Has windows(±
 -)) covering a total area equal to at least one-tenth of the floor area ((~~AND~~
 -)) with at least one-half of which can be opened for ventilation;

((*) (f) Has each exterior opening screened with 16-mesh material;

((*) (g) Has screen doors with self-closing devices.

(3) You must make sure that the floors of each shelter are constructed of wood, asphalt, or concrete.

((*) (a) Floors must be kept in good repair.

((*) (b) If wooden floors are used, they must be:

((-) (i) Elevated one foot above ground level at all points to prevent dampness and to permit free air circulation;

((-) (ii) Smooth and tight.

Note: You may "bank" around outside walls with earth or other suitable material to guard against extreme low temperatures.

(4) You must provide beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles in every sleeping room.

((*) (a) Beds must be at least thirty-six inches away from other beds, both side to side and end to end.

((*) (b) The frame of the bed must keep mattresses at least twelve inches off the floor.

((*) (c) Double-deck bunks must be spaced at least forty-eight inches away from other beds, both side to side and end to end.

((*) (d) The minimum clear space between lower and upper bunks must be at least twenty-seven inches.

((*) (e) Triple-deck bunks are not allowed.

(5) You must provide equipment that adequately heats the living area whenever the camp is used during cold weather.

Note: All heating, cooking, and water heating equipment must meet state and local ordinances, codes, and regulations concerning installation.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-300 ((Utilities)) Employers must provide utilities.

((Summary-))

Your responsibility:

To provide utilities to your temporary housing camps.

((You must:

~~Provide electricity and lighting to temporary housing areas~~

~~WAC 296-833-30005~~

~~Provide adequate water~~

~~WAC 296-833-30010~~

~~Provide toilet facilities~~

~~WAC 296-833-30015~~

~~Follow local regulations for sewage disposal~~

~~WAC 296-833-30020.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Provide electricity and lighting to temporary housing areas</u>	<u>WAC 296-833-30005</u>
<u>Provide adequate water</u>	<u>WAC 296-833-30010</u>
<u>Provide toilet facilities</u>	<u>WAC 296-833-30015</u>
<u>Follow local regulations for sewage disposal</u>	<u>WAC 296-833-30020</u>

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-30005 Provide electricity and lighting to temporary housing areas. ((You must:)) (1) You must supply electricity to all:

- ((-) (a) Dwelling units
- ((-) (b) Kitchen facilities
- ((-) (c) Shower/bathroom facilities
- ((-) (d) Common areas
- ((-) (e) Laundry facilities.

Reference:

You need to follow additional requirements for electricity and lighting. See WAC 296-800-280, Basic electrical rules, in the safety and health core rules book for more information.

(2) You must provide lighting to camp buildings.

((*) (a) Make sure general lighting and task lighting are adequate for normal daily activities.

((*) (b) Make sure living quarters have:

((-) (i) One ceiling-type light fixture; and

((~~AND~~

-)) (ii) One separate floor or wall convenience outlet.

((*) (c) Make sure laundry rooms, toilet rooms, and other common areas have at least:

((-) (i) One ceiling light fixture; or

((OR

-)) (ii) A wall light fixture.

AMENDATORY SECTION (Amending WSR 06-05-027, filed 2/7/06, effective 4/1/06)

WAC 296-833-30010 Provide adequate water. ((You must:

*) (1) You must provide a water supply that is adequate and convenient for:

- ((-) (a) Drinking;
- ((-) (b) Cooking;
- ((-) (c) Bathing;
- ((-) (d) Laundry purposes.

((*) (2) You must make sure the water supply system is:

((-) (a) Capable of delivering:

((*) (i) Thirty-five gallons per person per day to the campsite;

((*) (ii) At a peak rate of two and one-half times the average hourly demand.

((-) (b) Able to supply water to all fixtures at the same time with normal operating pressures;

- (-) (c) Approved by the appropriate health authority.
- (*) (3) You must supply water to each housing area by either:
 - (-) (a) Piping water directly to the shelters; or
 - (-) (b) Providing yard hydrants within one hundred feet of the shelters.
- (*) (4) You must prohibit common drinking cups.
- (*) (5) You must provide one or more drinking fountain(s) for each one hundred occupants (or fraction of that number) where water under pressure is available.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-30015 Provide toilet facilities.

Note: For the purposes of this rule, a restroom is a room maintained on the premises for use by employees that contains a toilet. This includes outhouses.

~~((You must:))~~

- (1) You must provide enough toilets for the camp's capacity.
 - (*) (a) Toilets and outhouses must be provided in a ratio of one for every fifteen people(-);
 - (b) With a minimum of two units for any facility shared by men and women.

Note: Check with your local jurisdictions for regulations regarding outhouses.

- (2) You must have enough rest rooms for each sex based on the maximum number of persons the camp is designed to house at any one time.
- (3) You must provide separate rest rooms for each sex wherever rest rooms are in buildings shared by men and women.
 - (*) (a) Distinctly mark the rooms "men" and "women" with:
 - (-) (i) Signs printed in English and in the native language of the persons occupying the camp; or
 - ~~((OR~~
 -) (ii) Easily understood pictures or symbols.
 - (*) (b) If the facilities for each sex are in the same building, they must be separated by:
 - (-) (i) Solid walls; or
 - ~~((OR~~
 -) (ii) Partitions extending from the floor to the roof or ceiling.
- (4) You must make sure:
 - (*) (a) No one has to pass through a sleeping room to reach a rest room;
 - (*) (b) Rest rooms have a window of at least six square feet opening directly to the outside, or are satisfactorily ventilated;
 - (*) (c) All outside openings are screened with 16-mesh material;
 - (*) (d) Fixtures, toilets, chemical toilets, or urinals are not located in a room used for other than toilet purposes;
 - (*) (e) A rest room is within two hundred feet of the door of each sleeping room;
 - (*) (f) Any outhouse is at least one hundred feet away from any sleeping room, dining room, lunch area, or kitchen.

- (5) You must provide urinals as follows:
 - (*) (a) One urinal or two linear feet of urinal trough for each twenty-five men;
 - (*) (b) Construct the floor out of materials that are moisture proof, from the wall and out at least fifteen inches from the outer edge of the urinals;
 - (*) (c) Have an adequate water flush in urinals when water under pressure is available;
 - (*) (d) Urinal troughs in outhouses must:
 - (-) (i) Drain freely into the pit or vault; and
 - ~~((AND~~
 -) (ii) Have a drain constructed to exclude flies and rodents from the pit.
 - (6) You must install any new toilets in a rest room.
 - (7) You must make sure:
 - (*) (a) There is an adequate supply of toilet paper for each rest room, outhouse, or chemical toilet;
 - (*) (b) Toilet facilities are:
 - (-) (i) Kept in sanitary condition; and
 - ~~((AND~~
 -) (ii) Cleaned at least daily.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-30020 Follow local regulations for sewage disposal. (~~You must:~~

***) You must provide sewage disposal systems according to local health jurisdictions.**

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-400 Service facilities: Food preparation, dining, bathing, laundry and handwashing. (~~Summary:~~)

Your responsibility:

To provide facilities for your employees to cook, eat, do laundry, bathe, and wash their hands.

~~((You must:~~

~~Provide service buildings for laundry, handwashing and bathing~~

~~WAC 296-833-40005~~

~~Provide cooking, food handling, and dining facilities~~

~~WAC 296-833-40010.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Provide service buildings for laundry, handwashing and bathing</u>	<u>WAC 296-833-40005</u>
<u>Provide cooking, food-handling, and dining facilities</u>	<u>WAC 296-833-40010</u>

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-40005 Provide service buildings for laundry, handwashing and bathing. (~~You must:~~) (1) You must make sure that every service building has equipment

capable of maintaining a room temperature of at least seventy degrees Fahrenheit.

(2) You must make sure an adequate supply of hot and cold running water is provided for bathing and laundry purposes.

(3) You must provide:

(*) (a) One handwash basin;

(-) (i) Per family shelter; or

~~((OR~~

-)) (ii) Per six persons in shared facilities;

(*) (b) One shower head for every ten persons;

(*) (c) One laundry tray or tub for every thirty persons;

(*) (d) One "deepwell" type sink in each building used for laundry, handwashing, and bathing.

(4) You must make sure all:

(*) (a) Laundry, handwashing and bathing room floors:

(-) (i) Are moisture-resistant and smooth but not slippery; and

(-) (ii) Have coved junctions of the curbing and the floor;

(*) (b) Walls and partitions of shower rooms are smooth and moisture-resistant to the height where water splashes.

(*) (c) Shower baths, shower rooms, or laundry rooms have floor drains to remove wastewater and facilitate cleaning.

(5) You must provide facilities for drying clothes.

(6) You must keep all service buildings clean.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-40010 Provide cooking, food-handling, and dining facilities. ~~((You must:))~~ (1) You must make sure common cooking and dining areas are of adequate size and are separated from sleeping areas by a door.

(2) You must provide enclosed and screened cooking and food-handling facilities for all occupants. The facilities must include:

(*) (a) A working cook stove or hot plate with at least one cooking surface for every two occupants;

(*) (b) A sink with hot and cold running potable water under pressure;

(*) (c) Food storage areas located off the floor;

(*) (d) Nonabsorbent, easily cleanable food preparation counters;

(*) (e) Mechanical refrigeration capable of maintaining a temperature of forty-five degrees Fahrenheit or below, with enough space to store perishable food items for all occupants;

(*) (f) Fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings close to cooking areas;

(*) (g) Nonabsorbent, easily cleanable floors;

(*) (h) At least one ceiling or wall light fixture;

(*) (i) Lighting adequate for normal food preparation activities;

(*) (j) Adequate ventilation for cooking facilities.

(3) You must make sure that dining halls:

(*) (a) Meet the requirements of the department of health's rules in chapter 246-215 WAC, Food service;

(*) (b) Have no direct openings to living or sleeping areas;

(*) (c) Have fire-resistant, nonabsorbent, nonasbestos, and easy-to-clean wall coverings adjacent to cooking areas;

(*) (d) Have nonabsorbent, easy-to-clean floors;

(*) (e) Have at least one ceiling or wall light fixture;

(*) (f) Have lighting adequate for normal dining activities.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-500 Waste disposal and pest control.

~~((Summary:))~~

Your responsibility:

To make sure your temporary housing camps are kept sanitary.

~~((You must:~~

Follow proper waste disposal procedures

WAC 296-833-50005

Control insects, rodents, and other pests

WAC 296-833-50010.))

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Follow proper waste disposal procedures</u>	<u>WAC 296-833-50005</u>
<u>Control insects, rodents, and other pests</u>	<u>WAC 296-833-50010</u>

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-50005 Follow proper waste disposal procedures. ~~((You must:~~

*) (1) You must provide at least one garbage container for each family shelter. Garbage containers must be:

(-) (a) Placed on a wooden, metal, or concrete pad; and

~~((AND~~

-)) (b) Located within one hundred feet of each shelter.

(*) (2) You must provide garbage containers that:

(-) (a) Are nonabsorbent;

(-) (b) Are cleanable OR only used once (for example, a disposable plastic liner);

(-) (c) Can be securely closed.

(*) (3) You must make sure garbage containers are kept clean and emptied:

(-) (a) At least twice a week; and

~~((AND~~

-)) (b) When full.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-50010 Control insects, rodents, and other pests. ~~((You must:~~

*) (1) You must take steps to effectively prevent insects, rodents, and other pests from infesting camp areas;

(*) (2) You must carry out a continuing and effective control program where pests have been detected.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-600 Employee first aid and communicable disease reporting.

~~((Summary:))~~

Your responsibility:

To guard the general health of your employees by providing first-aid facilities and reporting communicable diseases.

~~((You must:~~

~~Provide first-aid facilities~~

~~WAC 296-833-60005~~

~~Report communicable diseases~~

~~WAC 296-833-60010.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Provide first-aid facilities</u>	<u>WAC 296-833-60005</u>
<u>Report communicable diseases</u>	<u>WAC 296-833-60010</u>

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-60005 Provide first-aid facilities.

~~((You must:~~

~~•)) (1) You must provide and maintain adequate first-aid facilities; and~~

~~((AND~~

~~•)) (2) You must make sure a person trained in first aid is in charge of the first-aid facilities.~~

Reference:

See WAC 296-800-150, First aid, in the core rules book for requirements for first-aid training and supplies.

AMENDATORY SECTION (Amending WSR 02-23-073, filed 11/19/02, effective 1/1/03)

WAC 296-833-60010 Report communicable diseases.

~~((You must:~~

~~•)) You must immediately report to the local health officer:~~

~~((-) (1) The name and address of any individual in the camp known to or suspected of having a communicable disease listed in the department of health's list of notifiable conditions, chapter 246-101 WAC;~~

~~((-) (2) Any suspected food poisoning; and~~

~~((-) (3) Any unusual occurrence of:~~

~~((•) (a) Fever;~~

~~((•) (b) Diarrhea;~~

~~((•) (c) Sore throat;~~

~~((•) (d) Vomiting;~~

~~((•) (e) Jaundice.~~

NEW SECTION

WAC 296-843-099 Definitions. Buddy system. A system of organizing employees into work groups so that each employee is assigned to observe another employee in the

same work group. The purpose of this system is to provide rapid assistance to employees in the event of an emergency.

Clean-up operation. An operation where hazardous substances are removed, contained, incinerated, neutralized, stabilized, cleared up, or in any other manner processed or handled with the goal of making the site safer for people or the environment.

Contamination reduction zone. The buffer zone between the exclusion and the clean zone.

Decontamination. The removal of hazardous substances from employees and equipment, to the extent necessary, to avoid foreseeable adverse health effects.

Emergency response or responding to emergencies. An organized response to an anticipated release of a hazardous substance that is, or could become, an uncontrolled release.

Exclusion zone. A controlled area at a site, where contamination occurs, that is a risk to human health or the environment.

Exposure or exposed. Employee contact with a toxic substance, harmful physical agent, or oxygen deficient condition. Exposure can occur through various routes of entry, such as inhalation, ingestion, skin contact, or skin absorption.

Facility. Any building structure, installation, equipment, pipe, or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, storage container, motor vehicle, rolling stock, or aircraft; or

Any site or area where a hazardous substance has been deposited, stored, disposed of, placed, or otherwise located (not including any boat, ship or barge).

Hazardous materials team (HAZMAT team). A group of employees who are expected to perform responses to releases, or possible releases, of hazardous substances for the purpose of control and stabilization. As a result of their duties, HAZMAT team members may have close contact with hazardous substances.

Hazardous substance. Any of the following substances that could adversely affect an exposed employee's health or safety:

(a) Substances defined under section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or "Superfund" Act (found at <http://www.epa.gov>).

(b) Biological or other disease-causing agents released that could reasonably be expected to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations in a person or their offspring when the person:

(i) Is directly exposed to the agent in the environment.

(ii) Directly ingests, inhales, or assimilates the agent from the environment.

(iii) Indirectly ingests the agent through a food chain.

(c) Substances listed by the United States Department of Transportation as hazardous materials under Title 49 (Transportation) in the Code of Federal Regulations (C.F.R.), Part 172, Section 101 and appendices (found at <http://www.nara.gov>, search for "List of C.F.R. subjects").

(d) Hazardous wastes as defined in this chapter.

Hazardous waste. Any substance designated by the department of ecology as a dangerous or extremely hazardous waste by chapter 173-303 WAC, Dangerous waste regulations.

Hazardous waste site. A hazardous waste site is any facility or location within the scope of this chapter.

Health hazard. Means a chemical or a pathogen where acute or chronic health effects may occur in exposed employees. It also includes stress due to temperature extremes. The term health hazard includes chemicals that are classified in accordance with the hazard communication standard, WAC 296-901-140, as posing one of the following hazardous effects: Acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); aspiration toxicity or simple asphyxiant. (See WAC 296-901-14022 Appendix A—Health hazard criteria, mandatory, for the criteria for determining whether a chemical is classified as a health hazard.)

IDLH or immediately dangerous to life or health. Any atmospheric condition that would:

- (a) Cause an immediate threat to life; or
 - (b) Cause permanent or delayed adverse health effects;
- or
- (c) Interfere with an employee's ability to escape.

Incidental release. A release that can be safely controlled at the time of the release and does not have the potential to become an uncontrolled release.

An example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

Oxygen deficiency. An atmosphere where the percentage of oxygen by volume is less than 19.5%.

Permissible exposure limit (PEL). Permissible exposure limits (PELs) are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are specified in applicable DOSH rules.

Postemergency response. The stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started. For more information, see the definition for "emergency response."

Published exposure level. Exposure limits published in "National Institute for Occupational Safety and Health (NIOSH) Recommendations for Occupational Safety and Health" (DHHS publication #92-100, 1992).

If an exposure limit is not published by NIOSH, then "published exposure level" means the exposure limits published by the American Conference of Governmental Industrial Hygienists (ACGIH) in "TLVs and BEIs-Threshold Limit Values for Chemical Substances and Physical Agents" (1999 edition).

Safety data sheet (SDS). Written, printed, or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors, employers or employees about a hazardous chemical, its hazards and protective measures as required by WAC 296-901-14014 Safety data sheets.

Site safety and health supervisor (or official). The individual present at a hazardous waste site who is responsible to the employer and has the authority and knowledge necessary to establish the site-specific health and safety plan and verify compliance with applicable safety and health requirements.

Site work zones. Zones established at a hazardous waste site before clean-up work begins to control work on the site and access to the site. The work zones are: Exclusion zone, contamination reduction zone, and clean zone.

Uncontrolled hazardous waste site. An area where an accumulation of hazardous substances creates a threat to the health and safety of individuals or the environment or both. Examples include: Former municipal, county, or state landfills, locations where illegal or poorly managed waste disposal has taken place, or property of generators or former generators of hazardous substance waste (surface impoundments, landfills, dumps, and tank or drum farms).

Uncontrolled release. A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion, or chemical exposure) are not considered to be uncontrolled releases.

Examples of conditions that could create a significant safety and health risk:

- (a) Large-quantity releases.
- (b) Small releases that could be highly toxic.
- (c) Potentially contaminated individuals arriving at hospitals.
- (d) Airborne exposures that could exceed a DOSH permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

Example of an uncontrolled release:

A forklift driver knocks over a container of a solvent-based liquid, releasing the contents onto the warehouse floor. The driver has been trained to recognize the vapor is flammable and moderately toxic when inhaled. The driver has not been trained or provided appropriate equipment to address this type of spill. In this situation, it is not safe for the driver to attempt a response. The driver needs to notify someone of the release so an emergency response can be initiated.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-100 Scope. This chapter applies if you have any of the following:

((*) (1) Employees working in operations involving hazardous waste at a treatment, storage, and disposal (TSD) facility required to have a permit or interim status AND regulated by any of the following:

((-) (a) 40 C.F.R. Parts 264 and 265 under the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901 et seq.;

((-)) (b) Agencies implementing RCRA through agreements with the United States Environmental Protection Agency (U.S.E.P.A.);

((-)) (c) Chapter 173-303 WAC, Dangerous waste regulations; (~~OR~~

•)) or

(2) Employees conducting initial investigations of government-identified sites before determining whether hazardous substances are present; (~~OR~~

•)) or

(3) Corrective actions, involving clean-up operations, at sites covered by the Resource Conservation and Recovery Act of 1976 (RCRA) as amended (42 U.S.C. 6901 et seq.) or chapter 70.105 RCW, Hazardous waste management; (~~OR~~

•)) or

(4) Employees performing clean-up operations at an uncontrolled hazardous waste site. Sites include, but are not limited to:

((-)) (a) The Environmental Protection Agency's (EPA) National Priority Site List (NPL); see <http://www.epa.gov/superfund/sites/npl/wa.htm>;

((-)) (b) Sites recommended for inclusion on the EPA NPL;

((-)) (c) State priority site lists, for example those listed under chapter 173-340 WAC, Model Toxics Control Act (MTCA); see <http://www.ecy.wa.gov/programs/tcp/cscs/CSCSpag.HTM>;

((-)) (d) Unlisted sites recognized by a federal, state or local government as an uncontrolled hazardous waste site. Examples of such sites include:

((■)) (i) Sites that do not meet clean-up goals established by the MTCA and that pose a threat or potential threat to human health or the environment;

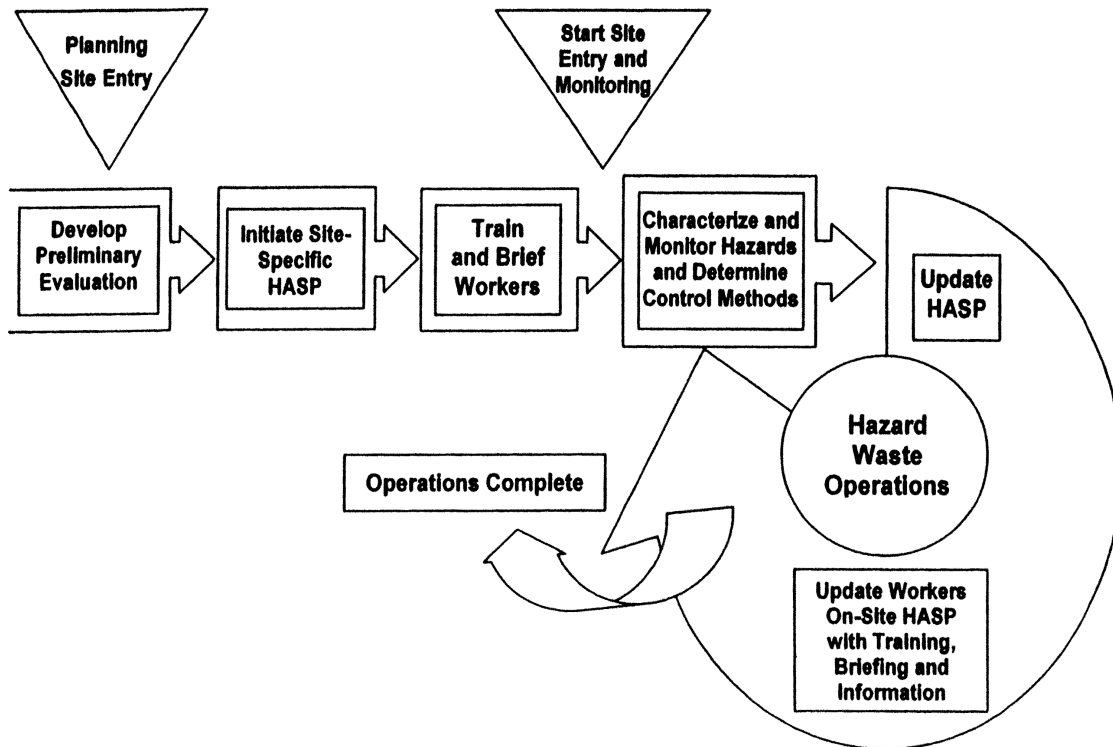
((■)) (ii) Clandestine drug lab sites designated for cleanup;

((-)) (e) Postemergency response cleanup at the site of a hazardous substance release regulated by chapter 296-824 WAC, Emergency response.

IMPORTANT:

This chapter applies to hazardous waste sites until cleanup at the site is determined to be complete by the governing regulatory agency.

**Site Evaluation Health & Safety Plan
(HASP) Development Cycle**



IMPORTANT: This diagram is to illustrate the general flow of the site. Please see the body of the regulation for details.

Illustration 1

Other rules that may apply to hazardous waste operations:

You will find safety and health requirements (for example, personal protective equipment) are addressed in other rules and also in this chapter. If you find a conflict in requirements, you need to meet the more protective requirement. Contact your local L&I office if you need assistance in making this determination.

Examples of other rules that may apply:

(*) 1. Chapter 296-800 WAC, Safety and health core rules:

(-) a. WAC 296-800-140(5) Accident prevention program;

(-) b. WAC 296-800-210(5) Lighting;

(-) c. WAC 296-800-230(5) Drinking water, bathrooms, washing facilities and waste disposal.

(*) 2. Chapter 296-24 WAC, Safety standards for general safety.

(*) 3. Chapter 296-833 WAC, Temporary housing for workers.

(*) 4. Chapter 296-62 WAC, General occupational health.

(*) 5. Chapter 296-155 WAC, Safety standards for construction work.

(*) 6. Chapter 296-824 WAC, Emergency response.

(*) 7. Chapter 296-841 WAC, Respiratory hazards.

(*) 8. Chapter 296-842 WAC, Respirators.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-110 Evaluations and inspections.

Your responsibility:

To conduct evaluations before entering the site and periodically throughout the hazardous waste operations.

~~((You must:~~

~~Complete a preliminary site evaluation before allowing employees to enter the site~~

~~WAC 296-843-11005.~~

~~Conduct ongoing evaluations of safety and health hazards~~

~~WAC 296-843-11010.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Complete a preliminary site evaluation before allowing employees to enter the site</u>	<u>WAC 296-843-11005</u>
<u>Conduct ongoing evaluations of safety and health hazards</u>	<u>WAC 296-843-11010</u>

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-11005 Complete a preliminary site evaluation before allowing employees to enter the site.

You must((±

±)) complete a preliminary site evaluation by doing all the following:

Collect or develop the following information to the extent available:	<ul style="list-style-type: none"> • The site location and approximate size • A description of the response activity and the job tasks to be performed • The time needed to cover all planned activities • The site's topography and all ways to access the site • The current status and capabilities of any emergency response team assisting during an emergency • The safety and health hazards expected at the site • The hazardous substances and health hazards at the site, including their chemical and physical properties • All hazardous substance dispersion pathways • An emergency response plan
Have a qualified person evaluate the preliminary site information to identify:	<ul style="list-style-type: none"> • Potential site hazards and risks • The most appropriate methods to protect employees • Conditions that have the potential to cause death or serious harm, including potential inhalation or skin absorption hazards that are immediately dangerous to life or health (IDLH) <ul style="list-style-type: none"> - Examples include: <ul style="list-style-type: none"> ■ Confined space entry ■ Potentially explosive or flammable environments ■ Visible vapor clouds

	<ul style="list-style-type: none"> ■ Areas where plants or animals have died • Risks related to specific on-site hazardous substances and health hazards <ul style="list-style-type: none"> - Examples include: <ul style="list-style-type: none"> ■ Exposures exceeding the permissible exposure limits (PELs) or published exposure levels ■ IDLH concentrations ■ Potential skin absorption and irritation sources ■ Potential eye irritation sources ■ Explosion sensitivity and flammability ranges ■ Oxygen deficient atmospheres
Have a qualified person prepare an initial site characterization and analysis for the site to:	<ul style="list-style-type: none"> • Identify known and suspected health and safety hazards for the site • Aid in selecting control methods to protect employees from site hazards • Brief employees on site conditions before any work starts • Initiate the site-specific health and safety plan (HASP)

Note: Characterization and analysis of site hazards is an ongoing process for work on the hazardous waste site.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-11010 Conduct ongoing evaluations of safety and health hazards. ~~((You must:))~~ (1) You must have a qualified person complete further evaluation of health and safety hazards at the site immediately after initial entry to:

((±) (a) Identify site hazards in more detail.

((±) (b) Help select appropriate:

((-) (i) Control methods to protect employees from site hazards.

((-) (ii) Personal protective equipment (PPE) for site operations.

Note: For more information, see WAC 296-843-170((±)) Hazard controls, and WAC 296-843-190((±)) Personal protective equipment.

~~((You must:))~~

(2) You must make sure your site safety and health supervisor or another qualified person performs periodic inspections to:

((±) (a) Determine if the site-specific HASP is effective.

((±) (b) Correct any deficiencies.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-120 Health and safety plan (HASP).

Your responsibility:

To establish a written health and safety plan (HASP).

~~((You must:~~

~~Develop and maintain a written site-specific health and safety plan (HASP)~~

WAC 296-843-12005-))

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Develop and maintain a written site-specific health and safety plan (HASP)</u>	<u>WAC 296-843-12005</u>

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-843-12005 Develop and maintain a written site-specific health and safety plan (HASP).

Reference: If your overall program required under WAC 296-800-140(3) Accident prevention program (APP), meets requirements of this chapter, you do not need to duplicate those portions of your APP in the site-specific health and safety plan (HASP).

~~((You must:~~

***) (1) You must** develop a written HASP for each hazardous waste site, **BEFORE** beginning hazardous waste operations, that includes at least the following:

(a) Hazard analysis:

(-) (i) Identification and evaluation of on-site safety and health hazards.

(-) (ii) A safety and health risk (hazard) analysis for each site task and operation that is identified in the comprehensive work plan.

(b) Organization chart:

(-) An organizational structure that reflects current site operations, including the following:

(*) (i) Establish and identify the chain of command.

(*) (ii) Identify the site safety and health supervisor and other personnel responsible for employee safety and health.

(*) (iii) Specify the overall responsibilities of supervisors and employees.

(*) (iv) Include the name and title of the person with responsibility and authority to direct all hazardous waste operations.

(*) (v) Include a site safety and health supervisor responsible for developing and implementing the HASP and verifying compliance.

(*) (vi) Identify the functions and responsibilities of all personnel needed for hazardous waste operations and emergency response.

(*) (vii) Identify site specific lines of authority, responsibility, and communication.

(c) Comprehensive work plan:

(-) A written comprehensive work plan of tasks, objectives, logistics, and resources for site operations, including the following:

(*) (i) Addresses anticipated clean-up activities and normal operating procedures unless that information is already available in another document.

(*) (ii) Defines work tasks and objectives.

(*) (iii) Describes how the work tasks and objectives will be accomplished.

(*) (iv) Establishes the personnel requirements to implement the work plan.

(*) (v) Provides for implementation of training, briefings, and information as required by WAC 296-843-200.

(d) Site control plan:

(-) An up-to-date site control plan before clean-up operations begin to minimize employee exposure to hazardous substances and including the following (unless it's available in another document):

(*) (i) A site map.

(*) (ii) Establish site work zones.

(*) (iii) How the "buddy system" is used.

(*) (iv) The site communications plan, including how employees are alerted during emergencies.

(*) (v) The site's standard operating procedures (SOPs) or safe work practices.

(*) (vi) Identification of the nearest medical assistance.

(e) Personal protective equipment:

(-) A PPE plan that addresses all of the following:

(*) (i) Site hazards and activities.

(*) (ii) Methods to evaluate the effectiveness of the PPE plan.

(*) (iii) Criteria for selecting and fitting PPE, including work duration, use limitations of particular PPE, and medical considerations such as temperature extremes and heat stress.

(*) (iv) Training on PPE use.

(*) (v) Procedures for putting on and taking off PPE.

(*) (vi) PPE inspection procedures prior to, during, and after use.

(*) (vii) Decontamination and disposal of PPE.

(*) (viii) Maintenance and storage of PPE.

(f) Additional elements:

(-) (i) A sampling and monitoring plan (see WAC 296-843-130) that includes sampling of drums and containers.

(-) (ii) Site control measures (see WAC 296-843-140).

(-) (iii) Decontamination procedures (see WAC 296-843-150).

(-) (iv) Spill containment plans (see WAC 296-843-180(3)) Drum and container handling).

(-) (v) Standard operating procedures for sampling, managing, and handling drums and containers (see WAC 296-843-180).

(-) (vi) Entry procedures for tanks or vaults (see chapter 296-809 WAC, Confined spaces).

(-) (vii) A training, briefings, and information plan (see WAC 296-843-200).

(-) (viii) A medical surveillance plan (see WAC 296-843-210), that includes site-specific medical surveillance requirements.

(-) (ix) Sanitation (see WAC 296-155-140).

(-) (x) Lighting (see WAC 296-800-210).

(-) (xi) Excavations (see chapter 296-155 WAC, Part N, Excavation, trenching and shoring).

(-) (xii) Any relationship or interaction between other programs and the site-specific program.

Note: The emergency response plan required by WAC 296-843-160(3) Emergency response for hazardous waste sites, is also included as a separate section in the HASP.

~~((You must:~~

***) (2) You must** keep a copy of your HASP on site.

Reference: For more information, see WAC 296-843-220(3) Recordkeeping and information access.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-130 Sampling and monitoring.

Your responsibility:

To conduct monitoring for health and safety hazards to protect employees.

~~((You must:~~

~~Conduct monitoring for health and safety hazards during initial site entry~~

~~WAC 296-843-13005.~~

~~Evaluate employee exposure to hazardous substances during clean-up operations~~

~~WAC 296-843-13010.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Conduct monitoring for health and safety hazards during initial site entry</u>	<u>WAC 296-843-13005</u>
<u>Evaluate employee exposure to hazardous substances during clean-up operations</u>	<u>WAC 296-843-13010</u>

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-13005 Conduct monitoring for health and safety hazards during initial site entry. ~~((You must:~~

~~*) (1) You must make visual observations of the site to detect signs of actual or potential immediately dangerous to life or health (IDLH) or other dangerous conditions.~~

~~((*) (2) You must conduct representative air monitoring with direct reading test equipment, when the preliminary site evaluation does not eliminate the potential for ionizing radiation or IDLH conditions.~~

~~((*) (3) You must assess the following:~~

~~((-) (a) Potential IDLH conditions.~~

~~((-) (b) Exposure over radioactive material dose limits.~~

~~((-) (c) Potential exposure over permissible exposure limits (PELs) or other published exposure levels.~~

~~((-) (d) Other dangerous conditions, such as the presence of flammable or oxygen-deficient atmospheres.~~

Reference: See WAC 296-62-09004(3) Ionizing radiation, for additional information about radioactive material dose limits.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-13010 Evaluate employee exposure to hazardous substances during clean-up operations.

IMPORTANT:

The clean-up operation begins when soil, surface water, or containers are moved or disturbed.

~~((You must:~~

~~*) (1) You must identify the type of personnel monitoring and environmental sampling you plan to use, including instrumentation.~~

~~((*) (2) You must include requirements for maintaining and calibrating the monitoring and sampling instruments used.~~

~~((*) (3) You must monitor whenever employees may be exposed to concentrations exceeding PELs or other published exposure levels.~~

~~((*) (4) You must evaluate employees who are likely to have the highest exposure:~~

~~((-) (a) Monitor all employees who are likely to have the highest exposure to hazardous substances or health hazards above the PEL or published exposure limit.~~

~~((-) (b) Use personal sampling frequently enough to characterize the exposures of these employees.~~

~~((*) (c) When results indicate exposure is over the PEL or other published exposure level, identify all employees likely to be above the PEL or published exposure limit.~~

Note: You may use a representative sampling approach by documenting that the employees and chemicals chosen for monitoring are representative of both:

~~((*) 1. Employee exposure to hazardous substances; and~~

~~((AND))~~

~~((*) 2. Employees not sampled.~~

~~((You must:~~

~~*) (5) You must conduct monitoring when the possibility of one of the following exists:~~

~~((-) (a) An atmosphere that is immediately dangerous to life or health (IDLH); ((OR~~

~~-) or~~

~~(b) A flammable atmosphere; ((OR~~

~~-) or~~

~~(c) Employee exposures exceeding PELs or other published exposure levels.~~

Examples of situations where these possibilities may exist:

~~((*) (i) Work begins on a different portion of the site.~~

~~((*) (ii) Contaminants other than those previously monitored are being handled.~~

~~((*) (iii) A different type of site operation starts, such as moving from drum opening to exploratory well drilling.~~

~~((*) (iv) Handling leaking drums or containers.~~

~~((*) (v) Working in areas with obvious liquid contamination such as a spill or lagoon.~~

~~((*) (vi) Time has passed and employee exposure levels may have significantly increased.~~

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-140 Site control.

Your responsibility:

To establish a plan to control access to the site.

~~((You must:~~

~~Establish a site control plan~~

~~WAC 296-843-14005.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Establish a site control plan</u>	<u>WAC 296-843-14005</u>

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-14005 Establish site control. (~~You must:~~

•) (1) You must maintain site work zones and site control as required by Table 1, Site Work Zone Requirements.

((•) (2) You must control access to the exclusion and contamination reduction zones.

((•) (3) You must make sure people wear personal protective equipment (PPE) appropriate to their work zone.

**Table 1
Site Work Zone Requirements**

For this type of work zone:	You must:
Exclusion zone	<ul style="list-style-type: none"> • Establish entry and exit check-points on the zone's boundary • Regulate the flow of people and equipment into and out of the zone • Make sure exits go through a contamination reduction corridor
Contamination reduction zone with a contamination reduction corridor	<ul style="list-style-type: none"> • Enter through a control point from the clean zone • Provide a transition or buffer between the exclusion zone and the clean zone • Perform all decontamination procedures • Establish separate decontamination routes for people and equipment, if practical • Remove all PPE worn in the contamination reduction or exclusion zones before entering the clean zone
Clean zone or support zone	Have no employee exposure to hazardous substances or health hazards

Note: See Illustration 2 for an example of site work zones.

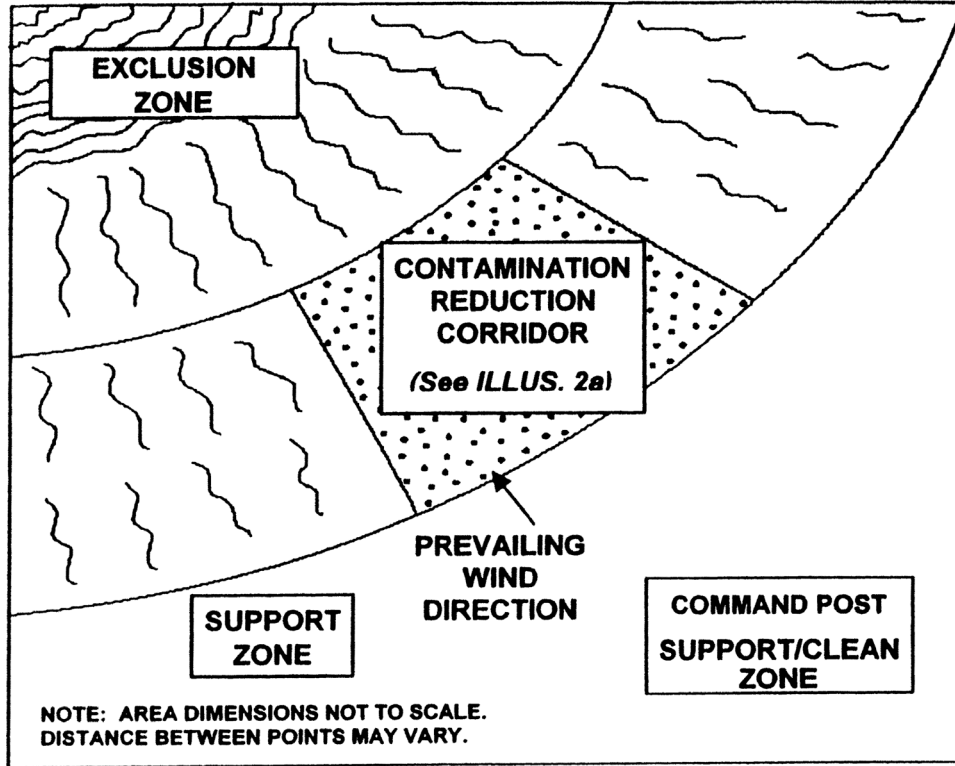


Illustration 2 - Site Work Zones

To make sure the necessary facilities and equipment for effective decontamination are available and used.

~~((You must:~~

~~Establish and implement decontamination procedures before any worker or equipment enters a contaminated area~~

~~WAC 296-843-15005.~~

~~Provide showers and changing rooms~~

~~WAC 296-843-15010.~~

~~Provide washing facilities~~

~~WAC 296-843-15015.))~~

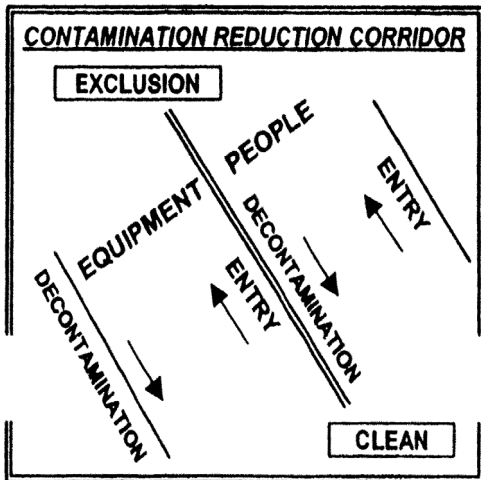


Illustration 2a - Contamination Reduction Corridor

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Establish and implement decontamination procedures before any worker or equipment enters a contaminated area</u>	<u>WAC 296-843-15005</u>
<u>Provide showers and changing rooms</u>	<u>WAC 296-843-15010</u>
<u>Provide washing facilities</u>	<u>WAC 296-843-15015</u>

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-150 Worker and equipment decontamination.

Your responsibility:

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-15005 Establish and implement decontamination procedures before any worker or equipment enters a contaminated area. ~~((You must:~~

•) You must establish, implement, and communicate decontamination procedures to all workers, to include the following:

- ((-)) (1) Standard operating procedures to minimize worker contact with:
 - ((■)) (a) Hazardous substances.
 - ((■)) (b) Contaminated equipment.
- ((-)) (2) Decontaminating all:
 - ((■)) (a) Workers leaving a contaminated area.
 - ((■)) (b) Equipment leaving a contaminated area.
- ((-)) (3) Decontaminating, cleaning, laundering, repairing, or replacing protective clothing or equipment (PPE) as needed to maintain effectiveness.
- ((-)) (4) Immediate removal of clothing, such as cotton coveralls, wet with hazardous substances and use of the nearest shower.
- ((■)) Decontaminate or dispose of clothing before removal from the work zone.
- ((-)) (5) Periodically monitoring procedures for effectiveness by the site safety and health supervisor.
- ((-)) (6) Correct your procedures when found ineffective.
- ((-)) (7) Establish decontamination areas to minimize contact of contaminated employees and equipment with uncontaminated employees or equipment.
- ((-)) (8) Make sure only authorized employees remove protective clothing or equipment from changing rooms.
- ((-)) (9) Inform commercial laundries or cleaning establishments about the potentially harmful effects from exposure to hazardous substances.
- ((-)) (10) Properly decontaminate or dispose of decontamination equipment and solvents.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-15010 Provide showers and changing rooms. (~~You must:~~

-) (1) You must provide changing areas and showers outside a contaminated area, when needed for worker decontamination, that include at least the following:
 - ((-)) (a) Separate changing areas:
 - ((■)) (i) One to provide a clean area where employees can remove, store, and put on street clothing with an exit leading off the work site.
 - ((■)) (ii) Another where employees can put on, remove, store, and dispose of work clothing and PPE with an exit leading to the work site.
 - ((-)) (b) A shower area separating the changing areas.
 - ((•)) (2) You must prevent clean areas from being contaminated by hazardous substances.
 - ((•)) (3) You must provide and use other effective means for worker cleansing, if temperature conditions prevent the effective use of water.
 - ((•)) (4) You must locate showers and change rooms where worker exposures are below permissible exposure limits (PELs) or other published exposure levels.
 - ((-)) If this cannot be accomplished, use a ventilation system to supply air that is below the PELs or published exposure levels.
 - ((•)) (5) You must make sure all workers shower at the end of their work shift or before they leave the site, when needed for worker decontamination.
- Illustration 3 is a sample diagram of a change room layout.

Change Room Layout

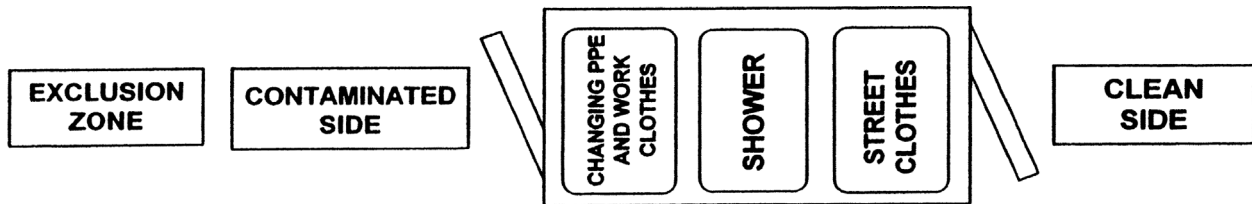


Illustration 3

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-15015 Provide washing facilities. (~~You must:~~

-) You must provide adequate washing facilities to employees working in hazardous waste operations that are:
 - ((-)) (1) Close and convenient to the work area.
 - ((-)) (2) Located in areas where employee exposure is below PELs or other published exposure levels.
 - ((-)) (3) Equipped so an employee can remove hazardous substances from themselves without assistance.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-160 Emergency response for hazardous waste sites.

- Your responsibility:**
 - To establish an emergency response plan for emergencies at the hazardous waste site.
- ((~~You must:~~
- ~~Establish an emergency response plan for anticipated emergencies before beginning hazardous waste operations~~
- ~~WAC 296-843-16005.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Establish an emergency response plan for anticipated emergencies before beginning hazardous waste operations</u>	<u>WAC 296-843-16005</u>

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-16005 Establish an emergency response plan for anticipated emergencies before beginning hazardous waste operations.

Exemption: Employers are exempt from preparing an emergency response plan if they do ALL of the following:

- (*) 1. Evacuate all employees from the danger area during an emergency.
- (*) 2. Prohibit employees from assisting in the emergency response.
- (*) 3. Prepare an emergency action plan that complies with WAC 296-24-567(1)(c) evacuation plan.

IMPORTANT:

Treatment, storage, and disposal (TSD) employers are not required to duplicate subjects fully addressed in the contingency plan required by permits when the contingency plan is part of their emergency response plan. Examples of permits would be those issued by the department of ecology.

~~(You must:)~~

(1) You must establish and maintain the plan to reflect current site conditions, information, and personnel:

(*) (a) Include policies or procedures for at least the following:

- (-) (i) Preemergency planning.
- (-) (ii) Coordination with outside organizations.
- (-) (iii) Current site topography, layout, and weather conditions.
- (-) (iv) Personnel roles.
- (-) (v) Lines of authority.
- (-) (vi) Communication.
- (-) (vii) Reporting incidents to local, state, and federal government agencies.
- (-) (viii) Emergency recognition and prevention.
- (-) (ix) Safe distances and places of refuge.
- (-) (x) Site security and control.
- (-) (xi) Evacuation routes.
- (-) (xii) Decontamination not covered by the site-specific HASP.
- (-) (xiii) Emergency medical treatment and first aid.
- (-) (xiv) Emergency alert and response.
- (-) (xv) Personal protective equipment and emergency equipment.
- (-) (xvi) Employee training.
- (-) (xvii) Critique of the response effort and appropriate followup.

(*) (b) Use available information at the time of the emergency to:

(-) (i) Evaluate the incident and site response capabilities.

(-) (ii) Proceed with appropriate steps to implement your emergency response plan.

(*) (c) Make sure the emergency response plan is:

(-) (i) Kept as a separate section of your site-specific health and safety plan (HASP); ~~(AND~~

~~-) and~~

(ii) Integrated and compatible with, local, state, and federal plans for disasters, fires, and emergency responses.

(2) You must establish an alarm system to alert employees to ~~(all of the following:~~

*) an on-site emergency incident:

(-) (a) To stop work activities, if necessary.

(-) (b) To lower background noise to assist communication.

(-) (c) To begin emergency procedures.

(3) You must rehearse the plan as part of site operations training.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-170 Employee exposure controls.

Your responsibility:

Implement feasible controls to protect employees from exposure to site hazards.

~~(You must:~~

~~Control employee exposure to site health and safety hazards~~

~~WAC 296-843-17005.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Control employee exposure to site health and safety hazards</u>	<u>WAC 296-843-17005</u>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-843-17005 Control employee exposure to site health and safety hazards. ~~(You must:~~

*) (1) You must use feasible controls, selected based on monitoring and other available information, to protect employee exposure above permissible exposure limits (PELs) or other published exposure levels.

(-) Examples of controls include:

(*) (a) Installing pressurized cabs or control booths on equipment.

(*) (b) Using remotely operated material handling equipment.

(*) (c) Removing all nonessential employees when opening drums.

(*) (d) Wetting down dusty operations.

(*) (e) Positioning employees upwind of possible hazards.

(*) (2) You must evaluate new technologies and other control measures before using them on a large scale.

(*) (3) You must use any reasonable combination of controls and personal protective equipment (PPE) to reduce

and maintain employee exposure at or below the PELs, published exposure levels, or dose levels when controls are not:

((-)) (a) Feasible; (~~((OR~~

~~-))~~ or

(b) Effective.

~~((*)~~ (4) You must make sure PPE is NOT used as a replacement control.

((-)) PPE should be used only as a supplement to controls.

Note: For those hazardous substances without PELs or published exposure levels, use other published literature and safety data sheets (SDSs) to help decide what level of protection is appropriate. For more information about SDSs, see WAC 296-901-14014((;)) Safety ((date)) data sheets.

~~((You must:~~

~~(*)~~ (5) You must use employee rotation to reduce exposure below ionizing radiation PELs or dose limits, when that is the **only** feasible means of protecting employees.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-180 Drum and container handling.

Your responsibility:

To handle drums and containers in ways that minimize the hazard to employees.

~~((You must:~~

~~Handle drums and containers safely~~

~~WAC 296-843-18005.~~

~~Handle drums and containers suspected of containing shock-sensitive (explosive) wastes safely~~

~~WAC 296-843-18010.~~

~~Maintain worker safety in drum and container opening areas~~

~~WAC 296-843-18015.~~

~~Ship and transport drums and containers safely~~

~~WAC 296-843-18020.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Handle drums and containers safely</u>	<u>WAC 296-843-18005</u>
<u>Handle drums and containers suspected of containing shock-sensitive (explosive) wastes safely</u>	<u>WAC 296-843-18010</u>
<u>Maintain worker safety in drum and container opening areas</u>	<u>WAC 296-843-18015</u>
<u>Ship and transport drums and containers safely</u>	<u>WAC 296-843-18020</u>

IMPORTANT:

~~((*)~~ 1. Containers or drums containing shock-sensitive (explosive) or potentially shock-sensitive wastes require special handling precautions.

~~((*)~~ 2. Handle, transport, label, and dispose of drums and containers according to this chapter and other United

States Department of Transportation (DOT), ((WISHA)) Washington department of labor and industries' DOSH, EPA, and Washington department of ecology regulations for:

((-)) a. Drums.

((-)) b. Containers.

((-)) c. Hazardous substances.

((-)) d. Contaminated soils.

((-)) e. Liquids, and other residues.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-18005 Handle drums and containers safely.

Preparation for moving drums and containers:

~~((You must:~~

~~(*)~~ (1) You must assess hazards to employees, such as radioactive waste, before handling drums and containers.

~~((*)~~ (2) You must consider unlabeled drums and containers to contain hazardous substances and handle them accordingly, until the contents are positively identified, labeled, and assessed for hazards.

~~((*)~~ (3) You must inspect and make sure drums and containers are sound before moving them.

((-)) If it is not practical to inspect drums without moving them, move drums and containers to an accessible location and inspect prior to further handling.

~~((*)~~ (4) You must remove soil or other materials covering drums or containers with caution to prevent rupture.

~~((*)~~ (5) You must use ground-penetrating systems or other types of detection systems or devices to estimate the location and depth of buried drums or containers.

~~((*)~~ (6) You must use the sampling plan and procedures included in the site-specific HASP to sample the contents of containers and drums.

Moving drums and containers:

~~((You must:~~

~~(*)~~ (7) You must warn all employees exposed to drum movement operations about the potential hazards associated with the contents of the drums or containers prior to moving them.

~~((*)~~ (8) You must minimize movement of drums or containers.

~~((*)~~ (9) You must select, position, and operate tools and material handling equipment to prevent the ignition of flammable vapors.

~~((*)~~ (10) You must handle tanks and vaults containing hazardous substances with the same precautions as for drums and containers, taking into account the size of tank or vault.

Handling spills and leaks:

~~((You must:~~

~~(*)~~ (11) You must contain and isolate the entire volume of a hazardous substance in a drum or container when a spill occurs.

~~((*)~~ (12) You must have available and use both of the following in areas where spills, leaks, or ruptures may occur:

((-)) (a) United States Department of Transportation (DOT) specified salvage drums or containers.

((-)) (b) Suitable quantities of proper absorbent materials.

((*) (13) You must empty drums and containers, that cannot be moved without rupturing, leaking, or spilling, into a sound container.

((-) Use a pump or other device classified for the material being transferred.

((*) (14) You must have fire-extinguishing equipment on-hand to control fires in their initial stage.

Reference: For further information, see the safety and health core rules, WAC 296-800-300((s)) Portable fire extinguishers.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-18010 Handle drums and containers suspected of containing shock-sensitive (explosive) wastes safely. ((You must:

*) (1) You must allow only essential employees in the transfer area.

((*) (2) You must communicate as follows:

((-) (a) Signal the beginning and end of shock-sensitive (explosive) waste handling activities with an alarm system that is capable of being perceived above background light and noise.

((-) (b) Maintain continuous communications throughout the (~~handling~~) handling operation:

((*) (i) Between the employee-in-charge of the immediate handling area AND the site safety and health supervisor AND the command post.

((*) (ii) Using portable radios, hand signals, or telephones, as appropriate.

((-) (c) Prevent the use of communication equipment or methods that could cause shock-sensitive (explosive) materials to explode.

((*) (3) You must provide material handling equipment with explosive containment devices or shields to protect equipment operators from exploding containers.

((~~Do~~) (4) You must not move bulging or swollen drums or containers until the cause for excess pressure is determined and you can move the drum or container safely.

((*) (5) You must consider packaged laboratory wastes or laboratory waste packs shock-sensitive or explosive until the contents have been characterized.

((-) Make sure laboratory waste packs are opened only((:

*) when necessary((:

*) and by a person knowledgeable in the inspection, classification, and segregation of the containers within the pack.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-18015 Maintain worker safety in drum and container opening areas. ((You must:

*) (1) You must keep employees who are not involved in opening drums or containers a safe distance from the opening area.

((*) (2) You must use appropriate shielding between the employee and the drums or containers, when excess interior pressure cannot be relieved from a remote location.

((*) (3) You must provide an explosion-resistant barrier that does not interfere with the work to protect employees working near or adjacent to drum or container opening operations from accidental explosions.

((*) (4) You must position controls for drum or container opening equipment, monitoring equipment, and fire suppression equipment behind the explosion-resistant barrier. Prohibit employees from standing on or working from drums or containers.

Reference: The shipment of shock-sensitive (explosive) waste may be prohibited under United States Department of Transportation (DOT) regulations. You and your shipper should refer to title 49 C.F.R.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-18020 Ship and transport drums and containers safely. ((You must:)) (1) You must identify and classify drum and container contents prior to packaging for shipment.

(2) You must provide staging areas:

((*) (a) Each staging area must have adequate entry and exit routes.

((*) (b) The number of drum or container staging areas must be kept to the minimum needed to identify and classify materials safely and prepare them for transport.

(3) You must permit bulking of hazardous wastes only after a thorough characterization of the wastes has been completed.

Note: Handle, transport, label, and dispose of drums and containers according to this chapter and other United States Department of Transportation (DOT), ((WISHA)) DOSH, EPA, and Washington department of ecology regulations for:

- ((*) 1. Drums.
- ((*) 2. Containers.
- ((*) 3. Hazardous substances.
- ((*) 4. Contaminated soils.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-190 Personal protective equipment (PPE).

Your responsibility:

To use PPE to protect employees when feasible controls do not remove the hazardous exposure.

((You must:

Provide and use appropriate PPE

WAC 296-843-19005.))

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Provide and use appropriate PPE</u>	<u>WAC 296-843-19005</u>

Reference: For additional information about developing a PPE plan, see the PPE user guide found at (<http://www.lni.wa.gov/wisha/publications/PPEGuide/PPEload.htm>) <http://www.lni.wa.gov/wisha/publications/PPEGuide/PPEload>.

Note: The manufacturer's information on PPE may be used to meet your PPE plan requirements. For example, the manufacturer's procedures for putting on and taking off PPE may be attached to the site-specific health and safety plan (HASP).

AMENDATORY SECTION (Amending WSR 09-05-071, filed 2/17/09, effective 4/1/09)

WAC 296-843-19005 Provide and use appropriate PPE.

Reference: See WAC 296-843-110(3) Evaluations and inspections, found in this chapter, for more information about how to identify hazards and complete your preliminary site evaluation.

~~((You must:))~~

(1) You must make sure the PPE you provide and use for initial entry protects employees from known or suspected safety and health hazards identified during the preliminary site evaluation as follows:

If	Then
The need for atmosphere supplying respirators and chemical protective clothing has NOT been eliminated	Provide atmosphere supplying respirators and protective clothing
Employees use respiratory protection other than a positive-pressure SCBA for initial entry	Include an escape self-contained breathing apparatus (SCBA) with enough air to reach a safe location and always at least five minutes of air

((*) Use Table 2, Selecting PPE in Various Exposure Situations, to determine the level of PPE to provide during initial entry(~~(:~~

~~You must:~~).

(2) You must make sure the PPE you select provides employee protection based on:

((*) (a) Actual and potential hazards identified during the site characterization and analysis (see WAC 296-843-110(3) Evaluations and inspections).

((*) (b) Hazards likely to be encountered.

((*) (c) Required tasks and their duration.

((*) (d) Site requirements and limitations.

((*) (e) Use Table 2 to identify the type of PPE that is required for various exposure situations.

Table 2
Selecting PPE in Various Exposure Situations

If	Then
Changing site conditions indicate a change in employee exposure	Review and adjust the level of protection as appropriate Note: You may decrease the level of protection when information indicates this will not increase employee exposure to safety or health hazards
There is a substantial possibility that skin absorption or contact with a hazardous substance may: <ul style="list-style-type: none"> • Impair an employee's ability to escape • Cause immediate serious illness or injury • Is an IDLH or immediate death hazard 	Use totally encapsulating chemical protective (TECP) suits and make sure they will protect employees from the hazards <ul style="list-style-type: none"> • Use, decontaminate, inspect, and remove TECP suits from service according to the manufacturer's recommendations • Perform any TECP integrity tests recommended by the manufacturer and make sure all TECP suits are capable of: <ul style="list-style-type: none"> - Maintaining positive air pressure - Preventing inward test gas leakage of more than 0.5% Note: Follow the manufacturer's recommended procedures for testing a TECP suit's ability to maintain positive air pressure and prevent inward gas leakage. Other established test protocols for these suits, for example, NFPA 1991 and ASTM F1052-97, may also be used
There is a substantial possibility that employee exposure to hazardous substances will either: <ul style="list-style-type: none"> • Immediately cause death, serious illness, or serious injury OR <ul style="list-style-type: none"> • Impair an employee's ability to escape 	Use a positive-pressure SCBA or an airline respirator with an escape SCBA <ul style="list-style-type: none"> • Protect air supply from contamination and the entire respirator system from physical damage

Note: If there is not a permissible exposure limit (PEL) or other published exposure level for a hazardous substance, you may use published studies and information as a guide for selecting appropriate PPE.

(3) PPE required by this standard (~~(is to)~~) must be provided at no cost to the employees.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-200 Training, briefings, and information.

Your responsibility:

To make sure employees and subcontractors have the training and information needed to work safely.

~~((You must:~~

~~Inform workers and employers about the hazardous waste site~~

~~WAC 296-843-20005.~~

~~Train workers, supervisors and managers before work begins on the site~~

~~WAC 296-843-20010.~~

~~Provide additional training to your managers and supervisors~~

~~WAC 296-843-20015.~~

~~Training for postemergency response~~

~~WAC 296-843-20020.~~

~~Make sure your employees receive written documentation of training~~

~~WAC 296-843-20025.~~

~~Provide refresher training to employees~~

~~WAC 296-843-20030.~~

~~Use qualified trainers~~

~~WAC 296-843-20035.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Inform workers, contractors and subcontractors about the hazardous waste site</u>	<u>WAC 296-843-20005</u>
<u>Train workers, supervisors and managers before work begins on the site</u>	<u>WAC 296-843-20010</u>
<u>Provide additional training to your managers and supervisors</u>	<u>WAC 296-843-20015</u>
<u>Training for postemergency response</u>	<u>WAC 296-843-20020</u>
<u>Make sure your employees receive written documentation of training</u>	<u>WAC 296-843-20025</u>
<u>Provide refresher training to employees</u>	<u>WAC 296-843-20030</u>
<u>Use qualified trainers</u>	<u>WAC 296-843-20035</u>

IMPORTANT:

If law enforcement personnel participate in clean-up activities, they must receive appropriate hazardous waste clean-up training as described in this chapter.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-20005 Inform workers, contractors and subcontractors about the hazardous waste site. (~~you must:~~

•) (1) You must inform employees, contractors, and subcontractors or their representatives, about:

((-) (a) The nature, level, and degree of exposure to hazardous substances they're likely to encounter.

((-) (b) All site-related emergency response procedures.

((-) (c) Any identified potential fire, explosion, health, safety, or other hazards.

(•) (2) You must conduct briefings for employees, contractors, and subcontractors, or their representatives as follows:

((-) (a) A preentry briefing before any site activity is started.

((-) (b) Additional briefings, as needed, to make sure that the site-specific HASP is followed.

((-) (c) Make sure all employees working on the site are:

(•) (i) Informed of any risks identified.

(•) (ii) Trained on how to protect themselves and other workers against the site hazards and risks.

(•) (3) You must update all information to reflect current site activities and hazards.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-20010 Train workers, supervisors and managers before work begins on the site.

IMPORTANT:

(•) 1. The eighty-hour training requirement does NOT apply to law enforcement personnel entering illicit drug labs, securing the premises, and obtaining evidence. Attendance at a forty-hour training course, such as presented by the criminal justice training commission, is acceptable.

(•) 2. These training requirements do not apply to workers engaged in limited postemergency response activities provided they meet the conditions described in WAC 296-843-20020.

~~((You must:~~

•) (1) You must make sure workers have received twenty-four-, forty- or eighty-hour training as required by Table 3 before participating in hazardous waste operations.

(•) (2) You must make sure workers also receive site-specific training that thoroughly covers at least the following:

((-) (a) The personnel responsible for employee safety and health.

((-) (b) Safety, health, and other hazards known or suspected at the site.

((-) (c) Use of personal protective equipment.

((-) (d) Work practices to minimize worker's risk from the hazards.

((-)) (e) Use of engineering and other controls and equipment on the site.

((-)) (f) Medical surveillance provided.

((-)) (g) Recognition of signs and symptoms that might indicate overexposure to site hazards.

((-)) (h) The contents of the site-specific health and safety plan (HASP) required by this chapter.

Note: The site-specific training can be provided as part of the twenty-four-, forty- or eighty-hour training or as part of the employee briefings provided all training and information requirements of WAC 296-843-200 are met.

**Table 3
Training Requirements**

If	Then	Notes
Work and exposures require use of atmosphere supplying respirators	Provide eighty hours of training and three days of supervised on-site field experience	<p>Eighty-hour training may be fulfilled as follows:</p> <ul style="list-style-type: none"> One eighty-hour training session with emphasis on hazards requiring the use of atmosphere-supplying respirators and of chemical protective clothing <p>OR</p> <ul style="list-style-type: none"> One forty-hour training class as described below and an additional forty hours of training that emphasizes hazards requiring the use of atmosphere-supplying respirators and of chemical protective clothing <p>Refresher training, previous courses, supervised field experience, and previous work experience may count towards the additional forty hours, if it improves the worker's competency to use respirators and chemical protective clothing ensembles and procedures</p>
Work and exposures may exceed the PEL or require protective clothing but do not require atmosphere supplying respirators	Provide forty hours of training and three days of supervised on-site field experience	Workers with twenty-four hours of training may become forty hour trained with sixteen hours of ((offsit)) off-site training and two additional days of supervised on-site field experience

If	Then	Notes
Workers are occasionally on-site to perform specific limited tasks and unlikely to be exposed above PELs or other published exposure limits	Provide twenty-four hours of training and one day of supervised on-site field experience	
Workers are regularly on-site but work in areas fully characterized and monitored, with exposure under the PELs or other published exposure limits:	Provide twenty-four hours of training and one day of supervised on-site field experience	<ul style="list-style-type: none"> No need for respirators No health hazards No possibility of an emergency
Workers are at TSD facilities under normal operations (this does not include corrective actions cleanup at these facilities)	Provide twenty-four hours of training and one day of supervised on-site field experience	
Employees perform emergency response activities	Train workers to a level of competence in site emergencies, consistent with their assigned duties, to protect themselves and other employees	
Workers qualify for limited postemergency response clean-up training	Provide at least eight hours of training	See WAC 296-843-20020, Training for postemergency response, for detailed training information
Workers have been previously trained (includes equivalent training)	Provide site-specific training, briefings and information required by this chapter and supervised field experience on the site of one day for twenty-four-hour and three days for forty- or eighty-hour trained workers	Document equivalent training and work experience as required by WAC 296-843-20025

Note: When calculating "training hours," ((WISHA)) DOSH assumes a "normal" workday of eight hours with sufficient time for lunch and other breaks.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-20015 Provide additional training to your managers and supervisors. (~~You must:~~

***) (1) You must** make sure the following receive appropriate training:

((-) (a) On-site managers.

((-) (b) Supervisors responsible for hazardous waste operations.

((-) (c) Supervisors who directly supervise employees in hazardous waste operations.

((*) (2) You must make sure such supervisors and on-site managers receive the same training as that required by the workers they supervise (see WAC 296-843-20010).

((*) (3) You must make sure such supervisors and managers receive a minimum of eight additional hours of specialized training including the following information:

((-) (a) Written site-specific health and safety plan (HASP):

((■) (i) Training plan.

((■) (ii) Personal protective equipment (PPE) plan.

((■) (iii) Spill containment plan.

((■) (iv) Emergency management procedures to use when a release of hazardous substances occurs.

((■) (v) Federal, state, and local agencies to be contacted if there is a release of hazardous substances.

((■) (vi) Sampling and monitoring plan (including procedures and techniques for monitoring health hazards).

((-) (b) Managing hazardous wastes and their disposal.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-843-20020 Training for postemergency response. (~~You must:~~

***) (1) You must** provide workers who participate only in limited postemergency response clean-up operations with a minimum of eight hours of training, when these conditions are met:

((-) (a) Cleanup is at a site that is a hazardous waste operation only because of an emergency response.

((-) (b) Clean-up work is directly supervised by someone who has completed at least forty hours of training in hazardous waste operations as required in this chapter.

((-) (c) Written documentation is maintained at the work site supporting less than twenty-four hours of training.

((-) (d) The work:

((■) (i) Is performed in an area that has been monitored and fully characterized by a qualified person as an area where employee exposure cannot exceed PELs or other published exposure levels.

((■) (ii) Does not require using respiratory protection.

((■) (iii) Does not require entry into permit-required confined spaces.

((■) (iv) Involves minimal health risks from skin exposure and absorption that are effectively controlled by PPE.

((-) (e) Workers have received training in your emergency response plan and hazard communication program.

Reference: For additional information, see WAC 296-843-160((3)) Emergency response, and WAC 296-901-140((3)) Hazard communication.

(~~You must:~~

***) (2) You must** make sure workers complete any other safety and health training needed to perform assigned clean-up tasks in a safe and healthful manner.

((-) Training may include topics such as the following:

((■) (a) Safety hazards and controls.

((■) (b) The content and availability of the site-specific health and safety plan.

((■) (c) Decontamination procedures.

((■) (d) Operating procedures related to assigned clean-up tasks.

((■) (e) PPE use and limitations.

((■) (f) Hands-on exercises for PPE and decontamination.

((■) (g) Information about heat stress and hypothermia.

((*) (3) You must make sure workers have been trained within the last twelve months.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-20025 Make sure your employees receive written documentation of training. (~~You must:~~

***) (1) You must** certify and document annually that each manager, supervisor, and worker has either:

((-) (a) Attended and successfully completed the training required by this section; (~~OR~~

-) or

(b) Demonstrated their competency.

((■) (2) You must record and maintain the method used to demonstrate competency.

((*) (3) You must make sure your employees and supervisors who complete required training and field experience receive written training documentation authenticated by the responsible trainer.

((*) (4) You must provide a copy of the certification or documentation to your employee upon request.

Note: Equivalent training may include academic or work-related training that covers subjects required by this chapter.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-20030 Provide refresher training to employees. (~~You must:~~

***) You must** make sure all certified employees, supervisors, and managers receive eight hours of refresher training at least every twelve months that covers:

((-) (1) The topics specified in WAC 296-843-200.

((-) (2) Assessments or evaluations of work-related incidents.

((-) (3) Any other relevant topics.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-20035 Use qualified trainers. ~~((You must:))~~ **(1) You must use trainers that**
~~((: ♣))~~ **have demonstrated competent instructional skills**~~((: ♣))~~; **and**
(2) Demonstrate knowledge of the subject matter and have either:
~~((:))~~ **(a) Satisfactorily completed a training program in the subject;** ~~((OR~~
~~-))~~ **or**
~~((:))~~ **(b) Have the academic credentials and instructional experience needed for teaching the subject.**

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-210 Medical surveillance.

Your responsibility:

To provide medical surveillance for employees that work in hazardous waste operations.

~~((You must:~~

~~Provide medical surveillance for your employees~~
~~WAC 296-843-21005-))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Provide medical surveillance for your employees</u>	<u>WAC 296-843-21005</u>

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-21005 Provide medical surveillance for your employees. ~~((You must:~~

~~♣))~~ **(1) You must establish a medical surveillance plan for all employees who meet any of the following:**

~~((:))~~ **(a) Are or may be exposed to hazardous substances or health hazards for at least thirty days a year, at or above the permissible exposure limits (PELs) or other published exposure levels.**

~~((:))~~ **(b) Wear a respirator for at least thirty days a year.**

~~((:))~~ **(c) Are injured, become ill, or develop signs or symptoms of possible overexposure to hazardous substances or health hazards.**

~~((:))~~ **(d) Are hazardous materials team (HAZMAT) members.**

Reference: Employees who use respirators less than thirty days a year are required to have a respirator medical evaluation as outlined by chapter 296-842 WAC, Respirators. Completion of a medical examination required by this section will meet the requirement for a respirator medical evaluation.

~~((You must:~~

~~♣))~~ **(2) You must make sure medical examinations, consultations, and procedures are:**

~~((:))~~ **(a) Scheduled according to Table 4, Medical Examination Schedule.**

~~((:))~~ **(b) Performed or supervised by a licensed physician.**

~~((:))~~ **(c) Available:**

~~((:))~~ **(i) At a reasonable time and place.**

~~((:))~~ **(ii) Without loss of pay.**

~~((:))~~ **(iii) Without cost to employees.**

Note: Examples of costs include: Mileage, gas, bus fare, and time spent outside normal work hours.

**Table 4
Medical Examination Schedule**

If a worker	Then provide an examination
Is assigned to work that is covered by this chapter	Before work assignment begins
Continues to work in hazardous waste operations	At least once every twelve months, unless the attending physician decides a different interval, up to twenty-four months or less than twelve months, is appropriate
Needs to be examined more frequently based on the examining physician's medical judgment	At an interval less than twelve months
Is reassigned to an area where their work is not covered OR Employment is terminated	As soon as possible, unless he or she was examined within the past six months
Has an incident that results in injury or illness OR Develops signs or symptoms of possible overexposure to hazardous substances and health hazards OR Has been exposed above the permissible exposure limits or published exposure levels	As soon as possible
Requires follow-up examinations or consultations because of medical necessity for an exposure incident or injury	When determined by the examining physician

~~((You must:~~

~~♣))~~ **(3) You must make sure the medical examination includes the following information for each affected employee:**

~~((:))~~ **(a) A medical and work history, with special emphasis on symptoms related to handling hazardous substances and health hazards.**

((-)) **(b)** Information about fitness for duty including the ability to wear any personal protective equipment (PPE) under conditions that may be expected at the workplace.

((-)) **(c)** Any additional information that is determined by the examining physician.

Note: The physician should consult the NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities <http://www.cdc.gov/niosh/85-115.html>.

~~((You must:~~

~~•)) (4) You must provide complete information to the examining physician, including:~~

~~((-)) (a) A copy of WAC 296-843-210.~~

~~((-)) (b) Medical evaluation information required by chapter 296-842 WAC, Respirators.~~

~~((-)) (c) A description of the employee's duties that relate to hazardous substance exposure.~~

~~((-)) (d) The actual or anticipated hazardous substance exposure levels for the employee.~~

~~((-)) (e) A description of the PPE the employee uses or could use.~~

~~((-)) (f) Information available from previous medical examinations.~~

~~((-)) (g) Instruction to the physician that the physician's written opinion NOT include specific findings or diagnoses that are not related to occupational exposures.~~

Note: You are NOT required to send duplicate information to the physician for each employee.

~~((You must:~~

~~•)) (5) You must obtain the physician's written medical opinion that includes the following information:~~

~~((-)) (a) Whether medical conditions were found that would increase the employee's risk for impairment during emergency response work or respirator use.~~

~~((-)) (b) Limitations of the employee's assigned work, if any.~~

~~((-)) (c) Examination and test results, if the employee requests this information.~~

~~((-)) (d) A statement that the employee has been confidentially informed of medical examination results (including medical conditions requiring followup required by WAC 296-843-210).~~

~~((•)) (6) You must provide the employee with a copy of the physician evaluation.~~

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-220 Recordkeeping and information access.

Your responsibility:

To keep records and make them accessible to employees.

~~((You must:~~

~~Make your records accessible~~

~~WAC 296-843-22005.~~

~~Keep medical surveillance records for your employees~~

~~WAC 296-843-22010.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Make your records accessible</u>	<u>WAC 296-843-22005</u>
<u>Keep medical surveillance records for your employees</u>	<u>WAC 296-843-22010</u>

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-22005 Make your records accessible.

~~((You must:~~

~~•)) You must allow your written health and safety plan (HASP) and all other written plans required by this chapter to be inspected and copied by:~~

~~((-)) (1) Employees or their designated representative.~~

~~((-)) (2) Site contractors or their designated representatives.~~

~~((-)) (3) Subcontractors or their designated representatives.~~

~~((-)) (4) Personnel of any federal, state, or local agency with regulatory authority over the site.~~

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

WAC 296-843-22010 Keep medical surveillance records for your employees. ~~((You must:~~

~~•)) (1) You must keep medical surveillance records for each affected employee that include:~~

~~((-)) (a) The employee's name and Social Security number.~~

~~((-)) (b) Physicians' written opinions including recommended limitations and results of examinations and tests.~~

~~((-)) (c) Any employee medical complaints regarding hazardous substance exposures.~~

~~((-)) (d) A copy of all information given to the examining physician (except a copy of this chapter).~~

~~((•)) (2) You must keep each employee's records for at least the duration of his or her employment plus thirty years.~~

Reference: For additional requirements on medical and exposure records, see chapter 296-62 WAC, Part B, Access to records.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-843-300 Definitions.

NEW SECTION

WAC 296-848-099 Definitions. Action level. An airborne concentration of inorganic arsenic of 5 micrograms per cubic meter (µg/m³) of air calculated as an eight-hour time-weighted average.

Authorized personnel. Individuals specifically permitted by the employer to enter the exposure control area to per-

form duties, or to observe employee exposure evaluations as a designated representative.

Breathing zone. The space around and in front of an employee's nose and mouth, forming a hemisphere with a 6- to 9-inch radius.

CAS (chemical abstract service) number. CAS numbers are internationally recognized and used on safety data sheets (SDSs) and other documents to identify substances. For more information see <http://www.cas.org/about>.

Day. Any part of a calendar day.

Designated representative. Any one of the following:

(a) Any individual or organization to which an employee gives written authorization.

(b) A recognized or certified collective bargaining agent without regard to written employee authorization.

(c) The legal representative of a deceased or legally incapacitated employee.

Emergency. Any event that could or does result in the unexpected significant release of inorganic arsenic. Examples of emergencies include equipment failure, container rupture, or control equipment failure.

Exposure. The contact an employee has with inorganic arsenic, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Inorganic arsenic. Elemental arsenic (As), copper aceto-arsenite, and inorganic compounds containing arsenic (measured as As), except arsine. Inorganic compounds do not contain the element carbon.

Licensed health care professional (LHCP). An individual whose legally permitted scope of practice allows him or her to provide some or all of the health care services required for medical evaluations.

Permissible exposure limits (PELs). PELs are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are also specified in WISHA rules found in other chapters. The PEL for inorganic arsenic is an eight-hour time-weighted average (TWA₈) of 10 micrograms per cubic meter (µg/m³).

Time-weighted average (TWA₈). An exposure limit averaged over an 8-hour period that must not be exceeded during an employee's workday.

AMENDATORY SECTION (Amending WSR 06-02-060, filed 1/3/06, effective 4/1/06)

WAC 296-848-100 Scope. This chapter applies to all occupational exposure to inorganic arsenic.

Definitions:

Inorganic arsenic ~~((means)),~~ Elemental arsenic (As), copper aceto-arsenite, and inorganic compounds containing arsenic (measured as As), except arsine. Inorganic compounds do not contain the element carbon.

Exposure ~~((is)),~~ The contact an employee has with inorganic arsenic, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

~~((Helpful tool:~~

~~**Arsenic contamination in soil, information and guidance for employers:**~~

~~Use this tool if you have employees who work with soil. It will help you find out if this rule is applicable to your employee's exposure to soil.))~~

- Exemptions:**
- ~~((*) This chapter does not apply to any of the following:~~
 - ~~((-) 1. Exposures during agricultural operations.~~
 - ~~((-) 2. Pesticide applications, including the treatment of wood with preservatives.~~
 - ~~((-) 3. Use of wood treated with inorganic arsenic.~~
 - ~~((-) 4. Arsine, a gas identified by Chemical Abstract Service (CAS) Registry No. 7784-42-1.~~
 - ~~((-) 5. Inorganic arsenic present in a form and handled in such a way that airborne exposures could not occur. For example, inorganic arsenic present in glass is fused in the material. Due to the fused form, airborne exposure can not occur when the glass is scored and subsequently broken.~~

All requirements in this chapter will not apply to every workplace with an occupational exposure. The following steps will show you which requirements apply to your workplace.

Step 1: Follow requirements in the basic rules sections, WAC 296-848-20010 through 296-848-20090.

• This includes completing an exposure evaluation, as specified in Exposure evaluations, WAC 296-848-20060, to:

- Obtain employee eight-hour exposure monitoring results of airborne inorganic arsenic; ~~((AND))~~ and
- Determine if employee exposure monitoring results are above, at, or below these values:

■ Eight-hour time-weighted average (TWA₈) 10 micrograms per cubic meter (µg/m³).

■ Eight-hour action level (AL) 5 µg/m³.

Step 2: Use employee exposure monitoring results from Step 1 and follow Table 1 to find out which additional sections of this chapter apply to your workplace.

Table 1
Sections That Apply To Your Workplace

If:	Then continue to follow the Basic Rules, and these additional requirements:
<ul style="list-style-type: none"> • Employee exposure monitoring results are above the TWA₈ 	<ul style="list-style-type: none"> • Training, exposure monitoring, and medical monitoring, WAC 296-848-30005 through 296-848-30080; AND • Exposure control areas, WAC 296-848-40005 through 296-848-40045.
<ul style="list-style-type: none"> • Employee exposure monitoring results are: <ul style="list-style-type: none"> - At or below the TWA₈; AND - At or above AL 	<ul style="list-style-type: none"> • Training, exposure monitoring, and medical monitoring, WAC 296-848-30005 through 296-848-30080.

If:	Then continue to follow the Basic Rules, and these additional requirements:
<ul style="list-style-type: none"> Employee exposure monitoring results are below the AL; <p>AND</p> <ul style="list-style-type: none"> Eye or skin irritation from exposure to inorganic arsenic cannot occur 	<ul style="list-style-type: none"> No additional requirements apply if exposures remain stable.
<ul style="list-style-type: none"> Employees could experience eye or skin irritation from exposure to inorganic arsenic 	<ul style="list-style-type: none"> Training in WAC 296-848-30005. Washing, showering, and changing in WAC 296-848-40030. Personal protective equipment (PPE) in WAC 296-848-40040.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-200 Basic rules.

Summary:

Your responsibility:

To measure and minimize employee exposure to inorganic arsenic.

IMPORTANT:

The sections listed in basic rules apply to all employers covered by the scope of this chapter, WAC 296-848-100. To find additional sections that may apply to you, go to the Scope, WAC 296-848-100, and follow Table 1.

- ((~~Contents~~
~~Preventive practices~~
~~WAC 296-848-20010.~~
~~Washing facilities~~
~~WAC 296-848-20025.~~
~~Exposure evaluations~~
~~WAC 296-848-20060.~~
~~Notification~~
~~WAC 296-848-20070.~~
~~Exposure records~~
~~WAC 296-848-20090.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Preventive practices</u>	<u>WAC 296-848-20010</u>
<u>Washing facilities</u>	<u>WAC 296-848-20025</u>
<u>Exposure evaluations</u>	<u>WAC 296-848-20060</u>
<u>Notification</u>	<u>WAC 296-848-20070</u>
<u>Exposure records</u>	<u>WAC 296-848-20090</u>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-848-20010 Preventive practices. ((~~You must:~~)) (1) You must effectively communicate the hazards of inorganic arsenic by doing both of the following:

((*) (a) Keep container labels free of statements that contradict or detract from the labels' hazard warning.

Note: You may use labels required by other laws, rules, or ordinances in addition to, or in combination with, labels required by this section.

((~~You must:~~

~~Prior to June 1, 2015, in lieu of the labeling requirements in WAC 296-848-3007, employers may apply precautionary labels to all shipping and storage containers of inorganic arsenic, and to all products containing inorganic arsenic, bearing the following legend:~~

Danger
Contains Inorganic Arsenic
Cancer Hazard
Harmful if Inhaled or Swallowed
Use Only with Adequate Ventilation
or
Respiratory Protection

(*) (b) Labels are not required when the inorganic arsenic in the product is bound in such a manner so as to make unlikely the possibility of airborne exposure to inorganic arsenic. (Possible examples of products not requiring labels are semiconductors, light emitting diodes and glass.)

Note: ((*) 1. You should keep containers tightly covered when not in use to help prevent unnecessary exposure and accidental spills.
 ((*) 2. Contaminated items should be handled and disposed of to prevent further exposure in the workplace. For example, vacuuming or wet wiping contaminated equipment helps prevent the release of dust into the air.

Reference: ((*) Additional requirements are found in other chapters:
 ((-) 1. For spills, leaks, or other releases, go to Emergency response, chapter 296-824 WAC.
 ((-) 2. For labeling go to WAC 296-901-140, Hazardous communication.

((~~You must:~~))

(2) You must establish safe and effective housekeeping and maintenance practices by doing all the following:

((*) (a) Develop and keep a written housekeeping and maintenance plan that lists appropriate frequencies for:

((-) (i) Housekeeping operations; ((~~AND~~
~~-)~~) and

(ii) Cleaning and maintaining dust collection equipment.

((*) (b) Keep surfaces free of accumulations of inorganic arsenic, to the degree feasible.

((*) (c) When cleaning floors and other accessible surfaces:

((-) (i) Use vacuuming or other cleaning methods that minimize the release of inorganic arsenic into the air.

((-) (ii) Do not use compressed air.

((-) (iii) Select vacuums that have high efficiency particulate air (HEPA) filters.

((-) (iv) Use and empty vacuums in a way that minimizes the release of inorganic arsenic back into the workplace.

Note: ((*) 1. Shoveling or brushing may be used only when vacuuming or other cleaning methods have not been effective.

((*) 2. Using non-HEPA vacuums will increase inorganic arsenic contamination in air and on area surfaces.

~~((You must:~~

*) (3) You must maintain ventilation systems, including dust collection equipment, to make sure they are effective. Do all of the following:

((-) (a) Perform periodic inspections for effectiveness.

((-) (b) Periodically clean the equipment.

((-) (c) Keep a note of the most recent inspection for effectiveness, and cleaning or maintenance.

~~((3))~~ (4) Prevent eye or skin contact with:

((*) (a) Arsenic trichloride; ~~((AND~~

*) and

(b) Liquid or particulate forms of inorganic arsenic when contact could cause eye or skin irritation.

Note: Arsenic trichloride is corrosive and can be quickly absorbed through skin.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-20025 Washing facilities. ~~((You must:~~

*) You must provide washing facilities for employees exposed to inorganic arsenic.

References: For additional washing facility requirements, go to another chapter, the Safety and health core rules, chapter 296-800 WAC, and find the section titled, Provide convenient and clean washing facilities, WAC 296-800-23025.

AMENDATORY SECTION (Amending WSR 07-06-005, filed 2/22/07, effective 4/1/07)

WAC 296-848-20060 Exposure evaluations.

IMPORTANT:

((*) 1. This section applies when workplace operations create potential airborne exposure to inorganic arsenic.

((*) 2. When you conduct an exposure evaluation in a workplace where an employee uses a respirator, the protection provided by the respirator is not considered.

((*) 3. Following this section will fulfill the requirements to identify and evaluate respiratory hazards found in chapter 296-841 WAC, Airborne contaminants.

~~((You must:~~

(1) You must conduct an employee exposure evaluation to accurately determine airborne concentrations of inorganic arsenic by completing Steps 1 through 5 of the Exposure Evaluation Process, each time any of the following apply:

((*) (a) No evaluation has been conducted.

((*) (b) Changes have occurred in any of the following areas that may result in new or increased exposures:

((-) (i) Production.

((-) (ii) Processes.

((-) (iii) Exposure controls such as ventilation systems or work practices.

((-) (iv) Personnel.

((*) (c) You have any reason to suspect new or increased exposure may occur.

(2) You must provide affected employees and their designated representatives an opportunity to observe exposure monitoring during Step 4 of the Exposure Evaluation Process.

((*) (a) Make sure observers do not interfere with exposure measurements.

((*) (b) Make sure observers are entitled to:

((-) (i) An explanation of your exposure measurement and monitoring procedures;

((-) (ii) Observe all tasks of exposure measurement performed at the workplace; ~~((AND~~

-)) and

(iii) Receive a copy of the exposure measurement results when you obtain them; or are allowed to record the exposure measurement results, if made during observations.

((*) (c) Make sure observers who enter areas with inorganic arsenic exposure:

((-) (i) Are provided with and use the same protective clothing, respirators, and other personal protective equipment (PPE) that employees working in the area are required to use; ~~((AND~~

-)) and

(ii) Follow safety and health requirements that apply.

Exposure Evaluation Process

IMPORTANT:

Following the Exposure Evaluation Process is not necessary when you have documentation conclusively demonstrating inorganic arsenic exposures for a particular operation and material, cannot exceed the action level (AL) during any conditions reasonably anticipated. Documentation can be based on quantitative information such as soil test results OR qualitative information such as observations of how inorganic arsenic-containing materials are handled.

- Retain this documentation for as long as you rely on it.

Step 1: Identify all employees who have potential airborne exposure to inorganic arsenic in your workplace.

Step 2: Select employees from those identified in Step 1 who will have their eight-hour exposures monitored.

• Make sure the exposures of the employees selected represent eight-hour exposures for all employees identified in Step 1, including each job classification, work area, and shift.

Note: ((*) A written description of the procedure used for obtaining representative employee exposure monitoring results needs to be kept as part of your exposure records required by this chapter in Exposure records, WAC 296-848-20090. This description can be created while completing Steps 2 through 4 of this exposure evaluation process.

Step 3: Determine how you'll obtain employee exposure monitoring results.

• Select and use a method that meets the following criteria for accuracy:

- ±25%, with a confidence level of 95%, when concentrations are potentially at or above an eight-hour time-weighted average of 10 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$); ~~((OR))~~ or

- ±35%, with a confidence level of 95%, when concentrations are potentially between the eight-hour time-weighted averages of 5 µg/m³ and 10 µg/m³.

Note: ((*) Here are examples of methods that meet this accuracy requirement:

((-) 1. OSHA Method ID105 found by going to (<http://www.osha.gov/dts/sltc/methods/toe.html>) <http://www.osha.gov/dts/sltc/methods/>.

((-) 2. NIOSH method 7901 found by going to <http://www.cdc.gov/niosh/homepage.html> and linking to the NIOSH Manual of Analytical Methods.

Step 4: Obtain employee exposure monitoring results by collecting air samples representing employees identified in Step 1.

- Sample at least one shift representative of the eight-hour exposure, for each employee selected in Step 2.
- Make sure samples are collected from each selected employee's breathing zone.

Note: ((*) 1. You may use any sampling method that meets the accuracies specified in Step 3. Examples of these methods include:

((-) a. Real-time monitors that provide immediate exposure monitoring results.

((-) b. Equipment that collects samples that are sent to a laboratory for analysis.

((*) 2. The following are examples of methods for collecting samples representative of eight-hour exposures.

((-) a. Collect one or more continuous samples, for example, a single eight-hour sample or four two-hour samples.

((-) b. Take a minimum of 4 to 7 brief samples, such as fifteen-minute samples, during the work shift and at times selected randomly.

((*) 3. For work shifts longer than eight hours, monitor the continuous eight-hour portion of the shift expected to have the highest average exposure concentration.

Step 5: Have the samples you collected analyzed to obtain monitoring results representing eight-hour exposures.

- Go to the Scope of this chapter, WAC 296-848-100, and compare employee exposure monitoring results to the values found in Step 1 and follow Step 2 to determine if additional sections of this chapter apply.

Note: ((*) 1. You may contact your local ((WISHA)) DOSH consultant for help:

((-) a. Interpreting data or other information.

((-) b. Determining eight-hour employee exposure monitoring results.

((*) 2. To contact a WISHA consultant:

((-) a. Go to the Safety and health core rules, chapter 296-800 WAC((:)).

~~((AND~~

~~-Find the Resources section, and under "Other Resources," find Service Locations for Labor and Industries.))~~

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-20070 Notification. ~~((You must:~~

~~*) (1) You must provide written notification of exposure monitoring results, including notification about whether exposures exceed the permissible exposure limit (PEL), to employees represented by your exposure evaluation, within~~

five business days after the monitoring results become known to you.

~~((-) (a) In addition, when employee exposure monitoring results are above the permissible exposure limit (PEL), provide written notification of all the following within fifteen business days after these exposure monitoring results become known to you.~~

~~((*) (i) Corrective actions being taken and a schedule for completion; ((AND~~

~~*) and~~

~~((ii) Any reason why exposures cannot be lowered to below the PEL.~~

Note: ((*) 1. You can notify affected employees either individually or post the notifications in areas readily accessible to affected employees.

((*) 2. When notifying employees about corrective actions, your notification may refer them to a separate document that is available and provides the required information.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-20090 Exposure records. ~~((You must:~~

~~*) (1) You must establish and keep complete and accurate records for all exposure monitoring conducted under this chapter. Make sure the record includes, at least:~~

~~((-) (a) The name, Social Security number or other unique identifier, and job classification of the employee sampled and all other employees represented by the sampled employee.~~

~~((-) (b) A description of the methods used to obtain exposure monitoring results and evidence of the method's accuracy.~~

~~((-) (c) A description of the procedure used to obtain representative employee exposure monitoring results.~~

~~((-) (d) The date, number, duration, location, and the result of each sample taken.~~

~~((-) (e) Any environmental conditions that could affect exposure concentration measurements.~~

Note: It's useful to record any personal protective equipment worn by the employee in addition to the type of respirator worn.

~~((You must:~~

~~*) (2) You must keep exposure monitoring records for at least thirty years.~~

Reference: ((*) 1. To see additional requirements for employee exposure records including access and transfer requirements, go to another chapter, Employee medical and exposure records, chapter 296-802 WAC.

((*) 2. Exposure monitoring records need to be kept longer than thirty years for employees participating in medical monitoring. Go to Medical records, WAC 296-848-30080, found within this chapter.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-848-300 Training, exposure monitoring, and medical monitoring.

Summary:

Your responsibility:

To detect any significant changes in employee health and exposure monitoring results.

IMPORTANT:

(*) 1. These sections apply when skin or eye irritation could occur or when employee exposure monitoring results are either:

- (-) a.** At or above the action level (AL) of 5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) for inorganic arsenic; ~~((OR~~
~~-)) or~~
- b.** Above the permissible exposure limit (PEL) of 10 $\mu\text{g}/\text{m}^3$ for inorganic arsenic.

- ~~((Contents~~
- ~~Training~~
- ~~WAC 296-848-30005.~~
- ~~Communication of hazards~~
- ~~WAC 296-848-30007.~~
- ~~Periodic exposure evaluations~~
- ~~WAC 296-848-30010.~~
- ~~Medical evaluations~~
- ~~WAC 296-848-30030.~~
- ~~Medical records~~
- ~~WAC 296-848-30080.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Training</u>	<u>WAC 296-848-30005</u>
<u>Communication of hazards</u>	<u>WAC 296-848-30007</u>
<u>Periodic exposure evaluations</u>	<u>WAC 296-848-30010</u>
<u>Medical evaluations</u>	<u>WAC 296-848-30030</u>
<u>Medical records</u>	<u>WAC 296-848-30080</u>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-848-30005 Training. ~~((You must: *~~) **(1)** You must train employees:

- (-) (a)** Who are exposed above the action level (AL) of 5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) of air; ~~((OR~~
~~-)) or~~
- (b)** Who could experience eye or skin irritation from exposure.

(*) (2) You must provide training:

- (-) (a)** At the time of initial assignment; ~~((AND~~
~~-)) and~~
- (b)** At least every twelve months after initial training.

(*) (3) You must make sure training and information includes all of the following:

- (-) (a)** A review of WAC 296-848-100 through 296-848-40045, and 296-848-500.
- (-) (b)** The following health information about inorganic arsenic:

(*) (i) Inorganic arsenic is a poison and can affect your body if it's swallowed or inhaled.

(*) (ii) Exposure to airborne concentrations of inorganic arsenic may cause lung cancer and can be a skin irritant.

(*) (iii) Arsenic trichloride can be absorbed readily through your skin and is especially dangerous.

(*) (iv) Wash hands thoroughly before eating or smoking to help minimize your risk for swallowing inorganic arsenic.

(-) (c) The purpose for medical evaluations and a description of how you are fulfilling the medical evaluation requirements of this chapter found in Medical evaluations, WAC 296-848-30030.

(*) (4) You must make a copy of this chapter readily available to all employees required to be trained under this section.

Reference:

- (*) 1.** To see additional training and information requirements in other chapters, go to the:
- (-) a.** Respirators rule, chapter 296-842 WAC.
- (-) b.** WAC 296-901-140, Hazardous communication.
- (*) 2.** When following these requirements, include specific information about potential exposures to inorganic arsenic, such as the types of operations, locations, quantities, exposure sources, exposure controls, inorganic arsenic use, and storage.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-848-30007 Communication of hazards. ~~((You must:))~~

Hazard communication - General.

(*) (1) Chemical manufacturers, importers, distributors and employers ~~((shall))~~ must comply with all requirements of the Hazard Communication Standard (HCS), WAC 296-901-140 for inorganic arsenic.

(*) (2) In classifying the hazards of inorganic arsenic at least the following hazards are to be addressed: Cancer; liver effects; skin effects; respiratory irritation; nervous system effects; and acute toxicity effects.

~~((Employers shall))~~ **(3)** You must include inorganic arsenic in the hazard communication program established to comply with the HCS, WAC 296-901-140. Employers ~~((shall))~~ must ensure that each employee has access to labels on containers of inorganic arsenic and to safety data sheets, and is trained in accordance with the requirements of HCS and WAC 296-848-30005.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-30010 Periodic exposure evaluations.

Exemption:

- Periodic exposure evaluations aren't required if exposure monitoring results conducted to fulfill requirements in Exposure evaluation, WAC 296-848-20060, are below the action level (AL).

~~((You must: *~~)

You must obtain employee exposure monitoring results as specified in Table 2 by repeating Steps 2, 4, and 5 of the Exposure Evaluation Process found within this chapter, in Exposure evaluations, WAC 296-848-20060.

Note:

If you document that one work shift consistently has higher exposure monitoring results than another for a particular operation, then you limit sample collection to the work shift with higher exposures and can use results to represent all employees performing the operation on other shifts.

Table 2
Periodic Exposure Evaluation Frequencies

If 8-hour employee exposure monitoring results:	Then:
Are between the: - Action level (AL) of 5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$); AND - Permissible exposure limit (PEL) of 10 $\mu\text{g}/\text{m}^3$	Conduct additional exposure evaluations at least every six months for the employees represented by the monitoring results.
Are above the PEL	Conduct additional exposure evaluations at least every three months for the employees represented by the monitoring results.
For employees previously above the PEL, have decreased: - To a concentration between the PEL and AL; AND - The decrease is demonstrated by two consecutive exposure evaluations made at least seven days apart	You may decrease your evaluation frequency to every six months for the employees represented by the monitoring results.
Have decreased to below the AL; AND The decrease is demonstrated by two consecutive exposure evaluations made at least seven days apart	You may stop periodic employee exposure evaluations for employees represented by the monitoring results.

AMENDATORY SECTION (Amending WSR 07-03-153, filed 1/23/07, effective 6/1/07)

WAC 296-848-30030 Medical evaluations.

IMPORTANT:

((*) Medical evaluations conducted under this section will satisfy the medical evaluation requirement found in another chapter, Respirators, chapter 296-842 WAC.

~~((You must:~~

*) (1) You must make medical evaluations available to current employees who have been, are, or will be exposed to inorganic arsenic concentrations above the AL:

((-) (a) At least thirty days in any twelve-month period;
~~((OR~~
-)) or

(b) A total of ten years or more of combined employment with you or previous employers with at least thirty days of exposure per year.

((*) (2) You must make medical evaluations available at no cost to employees.

((-) (3) You must pay all costs, including travel costs and wages associated with any time spent outside of the employee's normal work hours.

((*) (4) You must make medical evaluations available at reasonable times and places.

((*) (5) You must make medical evaluations available by completing Steps 1 through 6 of the Medical Evaluation Process for each employee covered.

Note: ((*) 1. Employees who wear respirators need to be medically evaluated to make sure the respirator will not harm them, before they are assigned work in areas requiring respirators. Employees who decline to receive medical examination and testing to monitor for health effects caused by inorganic arsenic are not excluded from receiving a separate medical evaluation for a respirator use.

((*) 2. If employers discourage participation in medical monitoring for health effects caused by inorganic arsenic, or in any way interfere with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17.160, Discrimination against employee filing, instituting proceeding, or testifying prohibited—Procedure—Remedy.

~~((Helpful tool:~~

~~**Declination form for nonemergency related medical evaluations.**~~

~~You may use this optional form to document employee decisions to decline participation in the medical evaluation process for exposure to inorganic arsenic. To see this form, go to the Resources section within this chapter.))~~

Medical Evaluation Process

Step 1: Identify employees who qualify, as stated above, for medical evaluations.

Step 2a: Make medical evaluations available for employees identified in Step 1 at the following times:

- Initially, when employees are assigned to work in an area where exposure monitoring results are, or will likely be, above the action level for at least thirty days in a twelve-month period.

- Periodically as specified in Table 3.

- When employment with exposure ends, if the employee has not had an evaluation within the six-month period before exposure ends. Include in these evaluations the same content as specified in Table 4 for initial evaluations, excluding a chest X-ray.

Table 3

Frequencies for Periodic Medical Evaluations

For:	Provide periodic medical evaluations every:
Employees less than forty-five years old with less than ten years of exposure above the AL	Twelve months;
Employees forty-five or older; AND	Six months; AND

For:	Provide periodic medical evaluations every:
Employees with more than ten years of exposure above the AL	Twelve months to obtain a fourteen by seventeen-inch posterior-anterior chest X-ray for monitoring purposes, unless the LHCP has determined a different frequency for periodic X-rays.

Step 2b: Provide appropriate medical examination and emergency treatment when an employee identified in Step 1 develops signs or symptoms commonly associated with inorganic arsenic exposure.

Step 3: Select a licensed health care professional (LHCP) who will conduct or supervise examinations and procedures.

Step 4: Make sure the LHCP receives all of the following before the medical evaluation is performed:

- A copy of this chapter.
- A description of the duties of the employee being evaluated and how these duties relate to inorganic arsenic exposure.
- The anticipated or representative exposure monitoring results for the employee being evaluated.
- A description of the personal protective equipment (PPE) each employee being evaluated uses or will use.
- Information from previous employment-related examinations when this information is not available to the examining LHCP.
- Instructions that the written opinions the LHCP provides you be limited to the following information:
 - Results from examinations and tests.
 - The LHCP's opinion about whether or not medical conditions were found that would increase the employee's risk for impairment from exposure to inorganic arsenic.
 - Any recommended limitations for:
 - Inorganic arsenic exposure; (~~AND~~) and
 - Use of respirators or other PPE.
 - A statement that the employee has been informed of medical results and medical conditions caused by inorganic arsenic exposure requiring further examination or treatment.

Step 5: Make the medical evaluation available to the employee. Make sure it includes the content listed in Table 4, Content of Medical Evaluations.

Step 6: Obtain the LHCP's written opinion for the employee's medical evaluation and give a copy to the employee.

- Make sure the written opinion is limited to the information specified for written opinions in Step 4.

Note: If the written opinion contains specific findings or diagnoses unrelated to occupational exposure, send it back and obtain a revised version without the additional information.

Table 4
Content of Medical Evaluations

When conducting:	Include:
An initial evaluation	<ul style="list-style-type: none"> • A work history and medical history including: <ul style="list-style-type: none"> - Smoking history. - The presence and degree of respiratory symptoms such as breathlessness, cough, sputum production, and wheezing. • A physical examination that includes: <ul style="list-style-type: none"> - A fourteen by seventeen-inch posterior-anterior chest X-ray and the International Labor Office UICC/Cincinnati (ILO U/C) rating. - A nasal and skin examination. • Additional examinations the licensed health care professional (LHCP) believes appropriate based on the employee's exposure to inorganic arsenic or respirator use.
Periodic evaluations for employees less than forty-five years old with less than ten years of exposure above the action level (AL)	<ul style="list-style-type: none"> • The same content as specified for initial evaluations repeated every twelve months.
Periodic evaluations for employees: <ul style="list-style-type: none"> • Forty-five or older; OR <ul style="list-style-type: none"> • With more than ten years of exposure above the AL 	<ul style="list-style-type: none"> • The following content repeated every six months: <ul style="list-style-type: none"> - A work history and medical history including: <ul style="list-style-type: none"> ■ Smoking history. ■ The presence and degree of respiratory symptoms such as breathlessness, cough, sputum production, and wheezing. - A physical examination that includes a nasal and skin examination. - Additional examinations the LHCP believes appropriate based on the employee's exposure to inorganic arsenic or respirator use.

When conducting:	Include:
	<ul style="list-style-type: none"> A physical examination, repeated every twelve months, that obtains a fourteen by seventeen-inch posterior-anterior chest X-ray and the International Labor Office UICC/Cincinnati (ILO U/C) rating.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-30080 Medical records.

IMPORTANT:

(*) This section applies when a medical evaluation is performed, or any time a medical record is created for an employee exposed to inorganic arsenic.

~~((You must:~~

*) (1) You must establish and maintain complete and accurate medical records for each employee receiving a medical evaluation and make sure the records include all the following:

(-) (a) The employee's name and Social Security number, or other unique identifier.

(-) (b) A description of the employee's duties.

(-) (c) A copy of the licensed health care professional's (LHCP's) written opinions.

(-) (d) The anticipated or representative employee exposure monitoring results provided to the LHCP for the employee.

(*) (2) You must maintain medical evaluation records for the duration of employment plus thirty years.

Note: (*) Your medical provider may keep these records for you. Other medical records, such as the employee's medical history or X-ray, need to be kept as a confidential record by the medical provider and accessed only with the employee's consent.

Reference: (*) To see additional requirements for employee medical record, including access and transfer requirements, go to Employee medical and exposure records, chapter 296-802 WAC.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-400 Exposure control areas.

Summary:

Your responsibility:

To protect employees from exposure to inorganic arsenic by using feasible exposure controls and appropriate respirators.

IMPORTANT:

These sections apply when employee exposure monitoring results are above the permissible exposure limit (PEL) of 10 micrograms per cubic meter (µg/m³) of air.

~~((Contents~~

~~Exposure control plan~~

~~WAC 296-848-40005.~~

~~Exposure controls~~

~~WAC 296-848-40020.~~

~~Exposure control areas~~

~~WAC 296-848-40025.~~

~~Clean up facilities and lunchrooms~~

~~WAC 296-848-40030.~~

~~Personal protective equipment~~

~~WAC 296-848-40040.~~

~~Respirators~~

~~WAC 296-848-40045.))~~

<u>You must meet the requirements ...</u>	<u>in this section:</u>
<u>Exposure control plan</u>	<u>WAC 296-848-40005</u>
<u>Exposure controls</u>	<u>WAC 296-848-40020</u>
<u>Exposure control areas</u>	<u>WAC 296-848-40025</u>
<u>Clean-up facilities and lunchrooms</u>	<u>WAC 296-848-40030</u>
<u>Personal protective equipment (PPE)</u>	<u>WAC 296-848-40040</u>
<u>Respirators</u>	<u>WAC 296-848-40045</u>

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-40005 Exposure control plan.

IMPORTANT:

Use of employee rotation to control exposures is not advisable since inorganic arsenic is a known carcinogen.

~~((You must:~~

*) (1) You must establish and implement a complete written exposure control plan that includes at least the following, for exposure control areas:

(-) (a) A description of each operation releasing inorganic arsenic, for example:

(*) (i) Crew size.

(*) (ii) Current exposure controls.

(*) (iii) Materials processed.

(*) (iv) Machinery used.

(*) (v) Operating procedures.

(*) (vi) Maintenance practices.

(-) (b) Exposure evaluation data.

(-) (c) A report of the technology considered for exposure controls.

(-) (d) Engineering plans and studies used as a basis for selecting exposure controls.

(-) (e) A detailed schedule for implementing:

(*) (i) Feasible exposure controls, if immediate implementation is not possible.

(*) (ii) Changes to enhance current exposure controls, when necessary.

(-) (f) An analysis of the effectiveness of the exposure controls considered, when controls will not reduce exposures to or below the permissible exposure limit (PEL).

(-) (g) Other relevant information.

(*) (2) You must review and update your exposure control plan at least every six months to keep it current.

(*) (3) You must implement exposure controls on the quickest schedule feasible if controls will not reduce exposure to or below the PEL.

((*) (4) You must provide a copy of your exposure control plan to affected employees and their designated representatives, when they ask to review or copy it.

AMENDATORY SECTION (Amending WSR 07-06-005, filed 2/22/07, effective 4/1/07)

WAC 296-848-40020 Exposure controls.

IMPORTANT:

((*) 1. Use of employee rotation to control exposures is not advisable since inorganic arsenic is a known carcinogen.

((*) 2. Respirators and other personal protective equipment (PPE) do not substitute for feasible exposure controls.

~~((You must:~~

*) You must use feasible exposure controls to reduce exposures to or below the permissible exposure limit (PEL), or as low as achievable.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-848-40025 Exposure control areas. (~~You must:~~

*) (1) You must establish temporary or permanent exposure control areas where airborne concentrations of inorganic arsenic are above the permissible exposure limit (PEL) by doing all the following:

((-) (a) Distinguish the boundaries of exposure control areas from the rest of the workplace in any way that minimizes employee access.

((-) (b) Allow only authorized personnel to enter exposure control areas.

((-) (c) Post signs at access points to exposure control areas that include this warning:

DANGER
INORGANIC ARSENIC
MAY CAUSE CANCER
DO NOT EAT, DRINK OR SMOKE
WEAR RESPIRATORY PROTECTION IN THIS AREA
AUTHORIZED PERSONNEL ONLY

~~((Prior to June 1, 2016, employers may use the following legend in lieu of that specified above in this section:~~

DANGER
Inorganic Arsenic
Cancer Hazard
Authorized Personnel Only
No Smoking or Eating
Respirator Required

-) (i) Make sure signs are kept clean and well lit so they are easy to read.

((-) (ii) Keep signs and areas near them free of statements that contradict or detract from their message.

Note: This requirement does not prevent you from posting signs required by other laws, rules, or ordinances.

~~((You must:~~

-) (2) You must make sure employees entering exposure control areas have an appropriate respirator.

((-) (3) You must prevent all of the following activities from occurring in exposure control areas unless they are conducted in required lunchrooms, change rooms, or showers:

((*) (a) Eating food or drinking beverages.

((*) (b) Smoking.

((*) (c) Chewing tobacco or gum.

((*) (d) Applying cosmetics.

Note: ((*) 1. You may use permanent or temporary enclosures, caution tape, ropes, painted lines on surfaces, or other materials to visibly distinguish exposure control areas or separate them from the rest of the workplace.

((*) 2. When distinguishing exposure control areas, you should consider factors such as:

((-) a. The level and duration of airborne exposure.

((-) b. Whether the area is permanent or temporary.

((-) c. The number of employees in adjacent areas.

Reference: To see other requirements for respirators within this chapter, go to Respirators, WAC 296-848-40045.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-40030 Clean-up facilities and lunchrooms. (~~You must:~~

*) (1) You must provide the following facilities for employees who could experience eye or skin irritation from exposure to inorganic arsenic or who work in exposure control areas:

((-) (a) Clean change rooms with separate storage for street clothes and personal protective equipment (PPE).

((-) (b) Shower facilities.

((*) (2) You must make sure employees who could experience eye or skin irritation from exposure to inorganic arsenic or who work in exposure control areas:

((-) (a) Shower at the end of the work shift; (~~AND~~ -) and

(b) Wash their hands and face before eating.

((*) (3) You must provide lunchrooms for employees working in exposure control areas that are:

((-) (a) Located so they are readily accessible to the employees.

((-) (b) Temperature controlled.

((-) (c) Under positive pressure compared to surrounding areas.

((-) (d) Provided with a filtered air supply.

Note: Lunchrooms may be located within exposure control areas, but are considered separate from the exposure control area.

((*) (4) You must do the following when exposures in exposure control areas exceed an eight-hour time-weighted average of 100 micrograms of arsenic per cubic meter of air ($\mu\text{g}/\text{m}^3$):

((-) (a) Provide facilities for employees working in exposure control areas where they can remove excess contamination from protective clothing and shoes.

((-) (b) Make sure employees vacuum protective clothing and clean or change shoes before entering showers, change rooms, or lunchrooms.

Reference: To see additional requirements for hygiene facilities:
 ((*) 1. Go to the Safety and health core rules, chapter 296-800 WAC.
 ((*) 2. Find Drinking water, bathrooms, washing facilities, and waste disposal, WAC 296-800-230.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-848-40040 Personal protective equipment (PPE). ~~((You must:~~

~~*) (1) You must provide PPE at no cost to employees, make sure employees use, and maintain their PPE as follows:~~

~~((-) (a) Provide clean and dry protective clothing to employees who could experience eye or skin irritation from exposure to inorganic arsenic or who work in exposure control areas.~~

~~((-) (b) Provide impervious protective clothing to employees exposed to arsenic trichloride.~~

Note: ((*) 1. Arsenic trichloride is corrosive and can be rapidly absorbed through skin.
 ((*) 2. Examples of protective clothing appropriate for inorganic arsenic exposures include:
 ((-) a. Coveralls or similar full-body work clothing.
 ((-) b. Gloves, and shoes or coverlets.
 ((-) c. Face shields or vented goggles when necessary to prevent eye irritation.

~~((You must:~~
~~-) (c) Make sure employees do not remove inorganic arsenic from PPE by blowing or shaking.~~

~~((-) (d) Make sure protective clothing is removed:~~

~~((■) (i) In change rooms; ~~((AND~~
~~■)) and~~~~

~~(ii) At the end of the work shift.~~

~~((-) (e) Make sure contaminated protective clothing that will be cleaned, laundered, or disposed of, is placed in a closed container located in the change room.~~

~~((■) Make sure the container prevents the release of inorganic arsenic.~~

~~((-) (f) Launder protective clothing:~~

~~((■) (i) At least weekly if employees work in areas where exposure monitoring results of inorganic arsenic are below an eight-hour time-weighted average concentration of 100 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$); ~~((OR~~
~~■)) or~~~~

~~(ii) Daily if employees work in areas where either exposure monitoring results of inorganic arsenic are above an eight-hour time-weighted average concentration of 100 $\mu\text{g}/\text{m}^3$ or when more frequent washing is needed to prevent skin irritation.~~

~~((-) (g) Maintain the effectiveness of PPE by repairing or replacing it, as needed:~~

~~((■) (i) Dispose of protective clothing if it will not be repaired.~~

~~((*) (2) You must inform individuals who clean or launder protective clothing about the possible health effects associated with inorganic arsenic, including carcinogenic effects, by doing the following:~~

~~((-) (a) Provide the information in writing; ~~((AND~~
~~-)) and~~~~

~~(b) Label containers of contaminated PPE with the following warning:~~

<p>DANGER:</p> <p>CONTAMINATED WITH INORGANIC ARSENIC.</p> <p>MAY CAUSE CANCER.</p> <p>DO NOT REMOVE DUST BY BLOWING OR SHAKING.</p> <p>DISPOSE OF INORGANIC ARSENIC CONTAMINATED WASH WATER IN ACCORDANCE WITH APPLICABLE LOCAL, STATE OR FEDERAL REGULATIONS</p>
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~~((- Prior to June 1, 2015, employers may include the following information on containers of protective clothing and equipment in lieu of the labeling requirements listed above in this section:~~

<p>CAUTION:</p> <p>Clothing contaminated with inorganic arsenic</p> <p>Do not remove dust by blowing or shaking</p> <p>Dispose of inorganic arsenic contaminated wash water as applicable local, state, or federal regulations require))</p>
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Reference: To see additional Personal protective equipment requirements go to the Safety and health core rules, chapter 296-800 WAC, and find the section titled, PPE, WAC 296-800-160.

AMENDATORY SECTION (Amending WSR 09-15-145, filed 7/21/09, effective 9/1/09)

WAC 296-848-40045 Respirators.

IMPORTANT:

((*) 1. The requirements in this section are in addition to the requirements found in other chapters:

((-) a. Airborne contaminants, chapter 296-841 WAC.

((-) b. Respirators, chapter 296-842 WAC.

~~((You must:~~

~~*) (1) You must provide each employee with an appropriate respirator that complies with the requirements of this section, and require that employees use them in circumstances where exposure is above the permissible exposure limit (PEL), including any of the following circumstances:~~

~~((-) (a) Employees are in an exposure control area.~~

~~((-) (b) Feasible exposure controls are being put in place.~~

~~((-) (c) Where you determine that exposure controls are not feasible.~~

~~((-) (d) Feasible exposure controls do not reduce exposures to, or below, the PEL.~~

~~((-) (e) Emergencies.~~

~~((*) (2) You must provide high-efficiency particulate air (HEPA) filters or N-, R-, or P-100 filters for powered air-purifying respirators (PAPRs) and negative-pressure air-purifying respirators.~~

~~((*) (3) You must provide a powered air-purifying respirator (PAPR) to employees required to use respirators when:~~

~~((-) (a) The employee chooses to use this type of respirator or a licensed health care professional (LHCP) recommends this type of respirator in their written opinion(~~((AND~~~~

-); and

(b) It will provide proper protection.

(*) (4) You must follow these additional specifications for inorganic arsenic compounds with significant vapor pressure such as arsenic trichloride and arsenic phosphide:

(-) (a) Select front- or back-mounted gas masks equipped with HEPA filters and acid gas canisters or any full facepiece supplied-air respirator, when concentrations are at or below 500 mg/m³.

(-) (b) Select for powered air-purifying respirators (PAPRs) and negative-pressure air-purifying respirators equipped with HEPA (or equivalent) filters and acid gas cartridges when concentrations are at or below 100.

(*) (5) You must prohibit the use of half-facepiece respirators for protection against arsenic trichloride. This is because arsenic trichloride is corrosive and rapidly absorbed through the skin.

Note: When selecting air-purifying respirators for protection against inorganic arsenic, you'll need to consider whether other contaminants could be present at levels above permissible exposure limits and determine if a combination filter/gas-sorbent cartridge or canister is appropriate.

AMENDATORY SECTION (Amending WSR 07-03-153, filed 1/23/07, effective 6/1/07)

WAC 296-848-60010 Health information about inorganic arsenic. (*) (1) You must make this section readily available to employees as required in Training, WAC 296-848-30005.

(*) (2) You must provide this section to the licensed health care professional (LHCP) as required in Step 4 of the medical evaluation process found in Medical evaluations, WAC 296-848-30030.

Table 5

General Health Information About Inorganic Arsenic

<p>What is inorganic arsenic?</p> <p>In this chapter, "inorganic arsenic" means:</p> <ul style="list-style-type: none"> - The element arsenic; - Arsenic-containing compounds that don't contain the element carbon; - Copper aceto-arsenite. <p>Arsine is a gaseous inorganic arsenic compound not addressed by requirements in this chapter. It's addressed in a separate chapter, Respiratory hazards, chapter 296-841 WAC.</p>
<p>How does inorganic arsenic get into my body?</p> <p>Inorganic arsenic enters your body when you:</p> <ul style="list-style-type: none"> - Breathe in (inhale) airborne particles such as dusts, fume, sprays, or other aerosols that contain inorganic arsenic. You will also inhale inorganic arsenic particles when you smoke tobacco products that have become contaminated from contact with inorganic arsenic at work. Some compounds, including arsenic trichloride, can be inhaled as a vapor;

<ul style="list-style-type: none"> - Swallow (ingest) food, drink, cosmetics such as lip balm, sweat and other substances that become contaminated from contact with inorganic arsenic at work. <p>Inorganic arsenic particles brought home on your clothes, shoes, or body can be inhaled or ingested by household members.</p> <p>Some inorganic arsenic compounds enter your body when eye or skin contact occurs. Arsenic trichloride is one example of a compound that is readily absorbed through the eyes and skin.</p>
<p>What happens after inorganic arsenic enters my body?</p> <p>Once inorganic arsenic enters your body, some of it is changed into a less harmful organic form by the liver. Both the organic and inorganic forms leave your body in urine.</p> <p>Most of the arsenic will be gone within several days, although some will remain in your body for several months and even longer.</p>
<p>Why is medical monitoring necessary?</p> <p>Although exposure to inorganic arsenic is associated with various health effects, the most serious health effects are lung and skin cancer. The medical monitoring requirements in this chapter are established to minimize your risk for these diseases.</p> <p>To learn more about the medical monitoring process, see Medical evaluation, WAC 296-848-30030.</p>
<p>What health effects and symptoms are linked with exposure to inorganic arsenic?</p> <p>Exposure to inorganic arsenic is associated with various health effects ranging from temporary local effects such as skin irritation to lasting systematic effects due to gradual (chronic) or sudden (acute) poisoning. Such effects should not occur if the requirements in this chapter are followed.</p> <p>Skin Health Effects:</p> <p>Arsenic trioxide, arsenic trichloride, and other trivalent compounds can cause skin irritation from direct contact.</p> <ul style="list-style-type: none"> - The following moist mucous membranes are most sensitive to irritation: <ul style="list-style-type: none"> ■ Eye and inner eyelid (conjunctiva); ■ Linings inside the nose, mouth, and respiratory system. - Other sites most vulnerable irritation also include: <ul style="list-style-type: none"> ■ Eyelids; ■ Angles (the space between 2 planes) of the ears, nose, and mouth; ■ Moist and macerated (softened by moisture) areas of skin; ■ Wrists; ■ Genitalia, if personal hygiene is poor.

Inorganic arsenic is also capable of causing keratoses (**small corns or warts**), especially on palms and soles.

Trivalent arsenic compounds are **corrosive** to skin:

- Brief contact won't cause irritation, but prolonged contact causes localized engorgement (hyperemia) which later forms vesicular (blister-like) or pustular (pimple-like) eruptions.
- Exposure can create perforations (holes) in the nasal septum (the tissue dividing the nasal cavity in half).

Arsenic trioxide and arsenic pentoxide exposure have been linked to **skin sensitization** (acquired sensitivity or allergy) **and contact dermatitis** (inflammation due to allergic or irritant reaction).

Acute Poisoning Effects:

Acute poisoning is usually linked to ingestion, not inhalation, of inorganic arsenic. Cases of acute poisoning **rarely** occur in occupational settings and inhalation-related cases are exceedingly rare.

When acute poisoning is due to **ingestion**, the following gastrointestinal symptoms develop within 1/2 to 4 hours:

- Tightening (constriction) of the throat followed by difficulty or inability to swallow (dysphagia), pain in the region above the belly button (epigastric pain), vomiting, and watery diarrhea. Blood may appear in vomit and stools;
- Shock may develop due to severe fluid loss when the amount of inorganic arsenic swallowed is sufficiently high. Death can occur in 24 hours.

When acute poisoning is due to inhalation:

- The following symptoms develop first:
 - Cough;
 - Chest pain;
 - Shortness of breath (dyspnea);
 - Giddiness;
 - Headache;
 - Extreme general weakness.
- Gastrointestinal symptoms will follow.

Chronic Poisoning Effects:

Cases of chronic poisoning caused by **ingestion** are also rare. Symptoms are:

- Weight loss;
- Nausea and diarrhea alternating with constipation;
- Skin pigmentation and eruptions;
- Hair loss;
- Numbness in hands and feet, "pins and needles" sensation, muscle weakness, and other symptoms resulting from peripheral neuritis;

- Horizontal white lines (striations) on fingernails and toenails.

Inhalation of inorganic arsenic is the most common cause of chronic poisoning in occupational settings. Symptoms associated with this condition are divided into 3 phases.

- 1st phase, earliest symptoms:
 - Weakness;
 - Loss of appetite;
 - Some nausea;
 - Occasional vomiting;
 - Sense of heaviness in the stomach;
 - Some diarrhea.
- 2nd phase symptoms:
 - Inflammation of the eyes and inner eyelid (conjunctivitis);
 - Inflammation, accompanied by an abundant discharge from mucous membranes (a catarrhal state) of the nose, larynx, and respiratory passage;
 - Symptoms associated with the common cold (Coryza), hoarseness, and mild tracheobronchitis may occur;
 - Skin lesions are common (eczematoid and allergic in type). Perforations (holes) in the nasal septum (the tissue dividing the nasal cavity in half) are the most typical lesions of the upper respiratory tract.
- 3rd phase symptoms (related to peripheral neuritis):
 - Numbness in hands and feet, "pins and needles" sensation, muscle weakness.
 - In severe cases, motor paralyzes occur: Initially affecting the toe extensors and the peronei (outer portion of the lower leg).
 - "Wrist drop" or "foot drop" (resulting from paralysis of flexor muscles of feet and hands) **only occurs in the most severe cases.**

AMENDATORY SECTION (Amending WSR 07-03-153, filed 1/23/07, effective 6/1/07)

WAC 296-848-60020 Medical guidelines. ((*) (1) You must make this section readily available to employees as required in Training, WAC 296-848-30005.

((*) (2) You must provide this section to the licensed health care professional (LHCP) as required in Step 4 of the medical evaluation process found in Medical evaluations, WAC 296-848-30030.

**Table 6
Medical Guidelines
For Evaluating Employees With Exposure**

<p>Part 1: DOSH's Requirements</p> <p>In addition to requiring employers to train employees and protect them from inorganic arsenic exposure, this chapter (the Arsenic rule) requires employers to monitor their employees' health with assistance from licensed health care professionals (LHCPs).</p> <ul style="list-style-type: none"> For employees who will use respirators, the LHCP will also need to provide the employer with a written medical opinion clearing the employee for workplace respirator use. <p>These guidelines were designed to support an informed partnership between the LHCP and the employer when monitoring the health of employees exposed to inorganic arsenic.</p> <p>The employer initiates this partnership by providing the LHCP with a copy of the chapter and other supporting information about the employee and job conditions. The LHCP can then become familiar with the medical monitoring requirements found in WAC 296-848-30030 and 296-848-30080, which address:</p> <ul style="list-style-type: none"> Frequency and content for routine (initial and periodic) medical examinations and consultations; Emergency and other unplanned medical follow-up; Medical opinions; Medical records retention and content.
<p>Part 2: Inorganic Arsenic Toxicology</p> <p>Health information about inorganic arsenic, WAC 296-848-50020 provides basic information about the health effects and symptoms associated with inorganic arsenic exposure.</p> <p>In addition, consider the following information:</p> <p>Acute Poisoning</p> <p>Exfoliative dermatitis and peripheral neuritis may develop in patients who survive health effects due to acute poisoning (by ingestion).</p> <p>Acute toxic symptoms of trivalent arsenical poisoning are caused by severe inflammation of the mucous membranes and greatly increased permeability of the blood capillaries.</p> <p>Acute and Chronic Poisoning</p> <p>In cases of acute and chronic poisoning, toxic effects to the myocardium (the middle layer of the heart) reported on EKG changes are now largely discounted and are attributed to electrolyte disturbances concomitant with arsenicalism.</p> <p>Arsenic has a depressant effect upon bone marrow, with disturbances of both red blood cell production (erythropoiesis) and myelopoiesis.</p>

<p>Chronic Poisoning</p> <p>Cases of chronic poisoning caused by ingestion are generally linked to patients taking prescribed medications. However, sputum from inhaled inorganic arsenic can be swallowed in addition to other ingested inorganic arsenic due to hand-to-mouth transfer.</p> <p>Skin lesions are usually melanotic and keratotic and may occasionally take the form of an intradermal cancer of the squamous cell type, but without infiltrative properties.</p> <p>Chronic hepatitis and cirrhosis have been described. Liver damage is still debated and as yet the question is unanswered.</p> <p>Polyneuritis may be the (prominent) prominent feature, but more frequently there are numbness and parasthenias of "glove and stocking" distribution. Horizontal white lines (striations) on the fingernails and toenails are commonly seen and are considered a diagnostic accompaniment of arsenical polyneuritis.</p> <p>References:</p> <ul style="list-style-type: none"> Other sources for toxicology information include: <ul style="list-style-type: none"> ToxFAQs™ and the Toxicological Profile for Arsenic. Both of these free documents are available from the Agency for Toxic Substances and Disease Registry (ATSDR) and can be obtained by: <ul style="list-style-type: none"> Visiting http://www.atsdr.cdc.gov/toxprofiles OR Calling 1-888-422-8737. A variety of technical resources on arsenic, available from the National Institutes for Occupational Safety and Health (NIOSH) by visiting http://www.cdc.niosh/topics/chemicals.html
<p>Part 3: Clinical Evaluation of Employees Exposed to Inorganic Arsenic</p> <p>IMPORTANT:</p> <ul style="list-style-type: none"> When an employee will use a respirator during work, the LHCP will need to determine whether the employee can safely wear a respirator and what limitations, if any, apply. <p>Guidance for Physical Examinations</p> <p>In addition to its immediate diagnostic usefulness, a patient's initial examination will provide a baseline for comparing future test results.</p> <p>This chapter establishes the minimum content for medical examinations. Additional tests such as lateral and oblique X-rays or pulmonary function test may be useful.</p> <p>You should also include palpation of superficial lymph nodes and a complete blood count when employees are exposed to any of the following compounds:</p>

- Copper aceto-arsenite;
- Potassium arsenite;
- Sodium arsenite;
- Other arsenicals associated with lymphatic cancer.

Arsenic trioxide and other inorganic arsenical dusts don't give rise to radiological evidence or pneumoconiosis.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-848-500 Definitions.

NEW SECTION

WAC 296-849-030 Definitions. Action level. An airborne concentration of benzene of 0.5 parts per million (ppm) calculated as an eight-hour time-weighted average.

Authorized personnel. Individuals specifically permitted by the employer to enter the exposure control area to perform necessary duties, or to observe employee exposure evaluations as a designated representative.

Benzene. Liquid benzene, benzene vapor, and benzene in liquid mixtures and the vapors released by these liquids.

The chemical abstract service (CAS) registry number for benzene is 71-43-2. CAS numbers are internationally recognized and used on safety data sheets (SDSs) and other documents to identify substances. For more information, see <http://www.cas.org/about>.

Breathing zone. The space around and in front of an employee's nose and mouth, forming a hemisphere with a 6- to 9-inch radius.

Bulk wholesale storage facility. Any bulk terminal or bulk plant where fuel is stored before its delivery to wholesale customers.

Container. Any container, except for pipes or piping systems, that contains benzene. It can be any of the following:

- Barrel;
- Bottle;
- Can;
- Cylinder;
- Drum;
- Reaction vessel;
- Storage tank.

Day. Any part of a calendar day.

Designated representative. Any of the following:

- Any individual or organization to which an employee gives written authorization;
- A recognized or certified collective bargaining agent without regard to written employee authorization; **OR**
- The legal representative of a deceased or legally incapacitated employee.

Emergency. Any event that could or does result in the unexpected significant release of benzene. Examples of emergencies include equipment failure, container rupture, or control equipment failure.

Exposure. The contact an employee has with benzene, whether or not protection is provided by respirators or other personal protective equipment (PPE). Contact can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Licensed health care professional (LHCP). An individual whose legally permitted scope of practice allows him or her to provide some or all of the health care services required for medical evaluations.

Permissible exposure limits (PELs). PELs are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are also specified in various WISHA rules found in other chapters. The PELs for benzene are the:

- Eight-hour time-weighted average (TWA₈) of 1 part per million (ppm); **AND**
- Fifteen-minute short-term exposure limit (STEL) of 5 ppm.

Short-term exposure limit (STEL). An exposure limit averaged over a fifteen-minute period that must not be exceeded during any part of an employee's workday.

Time-weighted average (TWA₈). An exposure limit averaged over an eight-hour period that must not be exceeded during an employee's workday.

Vapor control systems. Equipment that controls the vapor displaced when chemicals are loaded and unloaded from truck or storage tanks. It also processes or balances the vapor back into the truck or storage tanks.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-849-100 Scope. This chapter applies to all occupational exposure to benzene.

Definition:

Exposure ((is)). The contact an employee has with benzene, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Exemptions: This chapter does not apply to any of the following:

- Liquids, vapors, mixtures in containers or pipelines, and gas in natural gas processing plants when benzene content is 0.1% or less.
- Gasoline and other fuels containing benzene once they leave the final bulk wholesale facility and are being:
 - Transported;
 - Sold;
 - Distributed;
 - Stored;
 - Dispensed either:
 - Outdoors; or
- ((OR))
 - Indoors four hours or less a day.
- Used as a fuel.
- Oil and gas drilling, production, and servicing operations.
- Solid materials that contain only trace amounts of benzene.
- Coke ovens.

All requirements in this chapter will not apply to every workplace with an occupational exposure. The following will show you which requirements apply to your workplace.

Step 1: If any of your work tasks are listed in Table 1, follow Table 1.

- Go to Step 2a if you have additional work tasks or other exposures that are not covered in Table 1.

**Table 1
Requirements That Apply to Specific Tasks**

If employees do any of the following:	Then the only requirements in this chapter that apply to those tasks are:
Load and unload benzene at bulk storage facilities that use vapor control systems for all loading and unloading operations.	<ul style="list-style-type: none"> • The labeling requirement found in Preventive practices, WAC 296-849-11010.
Perform tasks around sealed transport pipelines carrying gasoline, crude oil, or other liquids containing more than 0.1% benzene.	<ul style="list-style-type: none"> • This requirement found in Training, WAC 296-849-11050: - Make sure training and information includes specific information on benzene for each hazard communication training topic. For the list of hazard communication training topics, go to WAC 296-901-14016, Employee information and training.
Work with, or around, sealed containers of liquids containing more than 0.1% benzene.	<ul style="list-style-type: none"> • Emergency requirements found in Medical evaluations, WAC 296-849-12030. • Requirements found in Medical records, WAC 296-849-12080. • Respirator requirements found in Respirators, WAC 296-849-13045.

Step 2a: Follow requirements in the basic rules sections, WAC 296-849-11010 through 296-849-11090, for tasks **not** listed in Table 1.

- This includes completing an exposure evaluation, as specified in Exposure evaluations, WAC 296-849-11030, to:
 - Obtain employee fifteen-minute and eight-hour exposure monitoring results of airborne benzene;

AND

- Determine if employee exposure monitoring results are above, at, or below these values:

- Eight-hour time-weighted average (TWA₈) 1 parts per million (ppm).

- Fifteen-minute short-term exposure limit (STEL) 5 ppm.

- Eight-hour action level (AL) 0.5 ppm.

Step 2b: Use employee exposure monitoring results from Step 2a and follow Table 2 to find out which additional sections of this chapter apply to your workplace.

**Table 2
Section Application**

If employee exposure monitoring results are:	Then continue to follow the basic rules, and these additional requirements:
<ul style="list-style-type: none"> • Above the TWA₈ or STEL 	<ul style="list-style-type: none"> • Exposure and medical monitoring, WAC 296-849-12010 through 296-849-12080; (AND) and • Exposure control areas, WAC 296-849-13005 through 296-849-13045.
<ul style="list-style-type: none"> • At or below the TWA₈ or STEL; • AND • At or above AL 	<ul style="list-style-type: none"> • Exposure and medical monitoring, WAC 296-849-12005 through 296-849-12080.
<ul style="list-style-type: none"> • Below the AL and STEL 	<ul style="list-style-type: none"> • No additional requirements apply.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-849-110 Basic rules.

Summary:

Your responsibility:

To measure and minimize employee exposure to benzene.

IMPORTANT:

To determine which requirements to follow for your work tasks, go to Table 1 in the scope of this chapter, WAC 296-849-100.

((Contents:

~~Communication of hazards~~

~~WAC 296-849-11010.~~

~~Exposure control areas~~

~~WAC 296-849-11020.~~

~~Exposure evaluations~~

~~WAC 296-849-11030.~~

~~Personal protective equipment (PPE)~~

~~WAC 296-849-11040.~~

~~Training~~

~~WAC 296-849-11050.~~

~~Exposure monitoring observation~~

~~WAC 296-849-11065.~~

~~Notification~~

~~WAC 296-849-11070.~~

~~Exposure records~~

~~WAC 296-849-11090.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Communication of hazards</u>	<u>WAC 296-849-11010</u>
<u>Exposure control areas</u>	<u>WAC 296-849-11020</u>
<u>Exposure evaluations</u>	<u>WAC 296-849-11030</u>
<u>Personal protective equipment (PPE)</u>	<u>WAC 296-849-11040</u>
<u>Training</u>	<u>WAC 296-849-11050</u>
<u>Exposure monitoring observation</u>	<u>WAC 296-849-11065</u>
<u>Notification</u>	<u>WAC 296-849-11070</u>
<u>Exposure records</u>	<u>WAC 296-849-11090</u>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-849-11010 Communication of hazards.

~~((You must:~~

•) Hazard communication—General.

((-) (1) Chemical manufacturers, importers, distributors and employers must comply with all requirements of the Hazard Communication Standard (HCS, WAC 296-901-140 for benzene).

((-) (2) In classifying the hazards of benzene at least the following hazards are to be addressed: Cancer; central nervous system effects; blood effects; aspiration; skin, eye, and respiratory tract irritation; and flammability.

((-) (3) Employers (~~shall~~) must include benzene in the hazard communication program established to comply with the HCS, WAC 296-901-140. Employers (~~shall~~) must ensure that each employee has access to labels on containers of benzene and to safety data sheets, and is trained in accordance with the requirements of HCS and WAC 296-849-11050.

~~((Prior to June 1, 2015, employers shall include the following legend or similar language on the labels or other appropriate forms of warning:~~

DANGER
CONTAINS BENZENE
CANCER HAZARD))

Note: You should keep containers tightly covered when not in use to prevent unnecessary exposure and accidental spills.

References: Additional requirements are found in other chapters as follows:

- For spills, leaks, or other releases of benzene, go to Emergency response, chapter 296-824 WAC.
- For labeling go to:
 - WAC 296-901-14012, Labels and other forms of warning(-); **AND**
 - WAC 296-901-14014, Safety data sheets.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-849-11020 Exposure control areas.

~~((You must:~~

•) You must establish temporary or permanent exposure control areas where airborne concentrations of benzene are above, or can be reasonably expected to be above, the permissible exposure limits (PELs) for benzene by doing all the following:

((-) (1) Post signs in accordance with WAC 296-849-11010.

((-) (2) Distinguish the boundaries of exposure control areas from the rest of the workplace in any way that minimizes employee access.

((-) (3) Allow only authorized personnel to enter exposure control areas.

Note:

- You may use permanent or temporary enclosures, caution tape, ropes, painted lines on surfaces, or other materials to visibly distinguish exposure control areas or separate them from the rest of the workplace.
- When distinguishing exposure control areas you should consider factors such as:
 - The level and duration of airborne exposure.
 - Whether the area is permanent or temporary.
 - The number of employees in adjacent areas.

Reference: If exposure control areas are established, go to Respirators, WAC 296-849-13045.

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

WAC 296-849-11030 Exposure evaluations.

IMPORTANT:

- When you conduct an exposure evaluation in a workplace where an employee uses a respirator, the protection provided by the respirator is not considered.

- Following this section will fulfill the requirements to identify and evaluate respiratory hazards found in chapter 296-841 WAC, Airborne contaminants.

~~((You must:~~

•) You must conduct an employee exposure evaluation to accurately determine airborne concentrations of benzene by completing Steps 1 through 7 of the exposure evaluation process, each time any of the following apply:

((-) (1) No evaluation has been conducted.

((■) You have up to thirty days to complete an evaluation once benzene is introduced into your workplace.

((-) (2) Changes have occurred in any of the following areas that may result in new or increased exposures:

((■) (a) Production.

((■) (b) Processes.

((■) (c) Exposure controls such as ventilation systems or work practices.

((■) (d) Personnel.

((-) (3) You have any reason to suspect new or increased exposure may occur.

((-) (4) Spills, leaks, or other releases have been cleaned up.

Note: As part of your exposure evaluation after cleanup, you will make sure exposure monitoring results have returned to pre-release levels.

Exposure evaluation process.**IMPORTANT:**

- If you are evaluating employee exposures during cleaning and repair of barges and tankers that contained benzene:
 - Collect samples that effectively measure benzene concentrations that employees may be exposed to;

AND

- Skip to Step 7.

((★)) Following the exposure evaluation process is not necessary when you have documentation conclusively demonstrating benzene exposures for a particular operation and material cannot exceed the action level (AL) during any conditions reasonably anticipated.

((-)) (a) Documentation can be based on data or qualitative information, such as information about:

- ((■)) (i) The material.
- ((■)) (ii) How the material is handled.
- ((■)) (iii) The work conditions.

((-)) (b) Retain this documentation for as long as you rely on it.

Step 1: Identify all employees who have potential airborne exposure to benzene in your workplace.

Step 2: Identify operations where fifteen-minute exposures could exceed benzene's short-term exposure limit (STEL) of 5 parts per million (ppm).

- Include operations where it is reasonable to expect high, fifteen-minute exposures, such as operations where:
 - Tanks are opened, filled, unloaded, or gauged.
 - Containers or process equipment are opened.
 - Benzene is used as a solvent for cleaning.

Note: You may use monitoring devices such as colorimetric indicator tubes or real-time monitors to screen for activities where employee exposure monitoring results could be high.

Step 3: Select employees from those working in the operations you identified in Step 2 who will have their fifteen-minute exposures measured.

Step 4: Select employees from those identified in Step 1 who will have their eight-hour exposures monitored.

- Make sure the exposures of the employees selected represent eight-hour exposures for **all** employees identified at Step 1, including each job classification, work area, and shift.

Note: A written description of the procedure used for obtaining representative employee exposure monitoring results needs to be kept as part of your exposure records required by this chapter in Exposure records, WAC 296-849-11090. This description can be created while completing Steps 3 through 6 of this exposure evaluation process.

Step 5: Determine how you will obtain employee monitoring results.

- Select and use a method that is accurate to $\pm 25\%$, with a confidence level of 95%.

Note:

- Here are examples of methods that meet this accuracy requirement:
 - OSHA Method 12 for air samples, found by going to <http://www.osha.gov/dts/sltc/methods/toc.html>.
 - NIOSH Method 1500, found by going to <http://www.cdc.gov/niosh/homepage.html> and link to the *NIOSH Manual of Analytical Methods*.

Step 6: Obtain employee exposure monitoring results by collecting air samples representing employees identified at Step 1.

- Collect fifteen-minute samples from employees selected at Step 3.
- Sample at least one shift representative of the eight-hour exposure for each employee selected at Step 4.
- Make sure samples are collected from each selected employee's breathing zone.
- Collecting area samples is permitted after emergency releases.

Note:

- You may use any sampling method that meets the accuracy specified in Step 5. Examples of these methods include:
 - Real-time monitors that provide immediate exposure monitoring results.
 - Equipment that collects samples that are sent to a laboratory for analysis.
- The following are examples of methods of monitoring representative of eight-hour exposures:
 - Collect one or more continuous samples, for example, a single eight-hour sample or four two-hour samples.
 - Take a minimum of five brief samples, such as fifteen-minute samples, during the work shift and at times selected randomly.
 - For work shifts longer than eight hours, monitor the continuous eight-hour portion of the shift expected to have the highest average exposure concentration.

Step 7: Have the samples you collected analyzed to obtain monitoring results representing eight-hour and fifteen-minute exposures.

- Go to the scope of this chapter, WAC 296-849-100, and compare employee exposure monitoring results to the **values** found in Step 2a and follow Step 2b to determine if additional sections of this chapter apply.

Note:

- You may contact your local WISHA consultant for help:
 - Interpreting data or other information.
 - Obtaining eight-hour or fifteen-minute employee exposure monitoring results.
 - To contact a WISHA consultant:
 - Go to another chapter, the Safety and health core rules, chapter 296-800 WAC, and find the resources section, and under "other resources," find service location for labor and industries.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-11040 Personal protective equipment (PPE).

~~((You must:~~

★)) You must make sure employees use appropriate PPE as protection from skin or eye contact with liquid benzene.

Note: Harmful amounts of benzene can enter the body through skin and eye contact.

Reference: To see additional personal protective equipment requirements, go to the Safety and health core rules, chapter 296-800 WAC.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-849-11050 Training.

~~((You must:))~~

•)) (1) You must provide training and information to employees:

((-) (a) At the time of initial assignment to a work area where benzene is present;

AND

((-) (b) At least every twelve months after initial training for employees exposed to airborne concentrations at or above the action level (AL) of 0.5 parts per million (ppm).

((*) (2) You must make sure training and information includes all of the following:

((-) (a) Specific information on benzene for each hazard communication training topic. For the list of hazard communication training topics, go to WAC 296-901-14016, Employee information and training;

AND

((-) (b) An explanation of the contents of this chapter and guidance about where to find a copy of it;

AND

((-) (c) A description of the medical evaluation requirements of this chapter found in:

■ Medical evaluations, WAC 296-849-12030;

AND

■ Medical removal, WAC 296-849-12050.

Reference: To see additional training and information requirements in other chapters, go to the:

- Respirators rule, chapter 296-842 WAC, and find the Training section, WAC 296-842-16005.
- WAC 296-901-14016, Employee information and training.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-11065 Exposure monitoring observation.

~~((You must:))~~

(1) You must provide affected employees and their designated representatives an opportunity to observe exposure monitoring during Step 6 of the exposure evaluation process found in Exposure evaluations, WAC 296-849-11030.

(2) You must make sure observers who enter areas with benzene exposure:

((*) (a) Are provided with and use the same protective clothing, respirators, and other personal protective equipment (PPE) that employees working in the area are required to use;

AND

((*) (b) Follow safety and health requirements that apply.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-11070 Notification.

~~((You must:))~~

•)) (1) You must provide written notification of exposure monitoring results to the employees represented by your

exposure evaluation within five business days after the monitoring results become known to you.

((-) (2) In addition, when employee exposure monitoring results are above a permissible exposure limit (PEL), provide written notification of all of the following within fifteen business days after these exposure monitoring results become known to you:

((*) (a) Corrective actions being taken and a schedule for completion;

AND

((*) (b) Any reason why exposures cannot be lowered to below the PELs for benzene.

Note:

- You can notify employees either individually or post the notifications in areas readily accessible to affected employees.
- Posted notification may need specific information that allows affected employees to determine which monitoring results apply to them.
- Notification may be in any written form, such as handwritten or email.
- Notification may be limited to the required information, such as exposure monitoring results.
- When notifying employees about corrective actions, your notification may refer them to a separate document that's available and provides the required information.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-11090 Exposure records.

~~((You must:))~~

•)) (1) You must establish and keep complete and accurate records for all exposure monitoring conducted under this chapter. Make sure the record includes at least:

((-) (a) The name, Social Security number, or other unique identifier, and job classification of the employee sampled and all other employees represented by the sampled employee.

((-) (b) The type of respirator worn, if any.

((-) (c) A description of the methods used to obtain exposure monitoring results.

((-) (d) A description of the procedure used to obtain representative employee exposure monitoring results.

((-) (e) The date, number, duration, and the result of each sample taken.

Note: It is useful to record any personal protective equipment worn by the employee, in addition to the type of respirator worn.

~~((You must:))~~

•)) (2) You must keep exposure monitoring records for at least thirty years.

Reference:

- To see additional requirements for employee exposure records including access, and transfer requirements, go to another chapter, Employee medical and exposure records, chapter 296-802 WAC.
- Exposure monitoring records need to be kept longer than thirty years for employees participating in medical monitoring, go to Medical records, WAC 296-849-30080, found within this chapter.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-120 Exposure and medical monitoring.

Summary:

Your responsibility:

To detect any significant changes in employee health and exposure monitoring results.

IMPORTANT:

These sections apply when employee exposure monitoring results are either:

- At or above the action level (AL) of 0.5 parts per million (ppm) for benzene;

OR

- Above either of the permissible exposure limits for benzene.

~~((**Contents**~~

~~Periodic exposure evaluations~~

~~WAC 296-849-12010.~~

~~Medical evaluations~~

~~WAC 296-849-12030.~~

~~Medical removal~~

~~WAC 296-849-12050.~~

~~Medical records~~

~~WAC 296-849-12080.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Periodic exposure evaluations</u>	<u>WAC 296-849-12010</u>
<u>Medical evaluations</u>	<u>WAC 296-849-12030</u>
<u>Medical removal</u>	<u>WAC 296-849-12050</u>
<u>Medical records</u>	<u>WAC 296-849-12080</u>

AMENDATORY SECTION (Amending WSR 05-13-152, filed 6/21/05, effective 8/1/05)

WAC 296-849-12010 Periodic exposure evaluations.

Exemption: Periodic exposure evaluations aren't required if exposure monitoring results conducted to fulfill requirements in Exposure evaluation, WAC 296-849-11030, are below the action level (AL) and short-term exposure limit (STEL).

~~((**You must:**~~

~~•) You must obtain employee exposure monitoring results as specified in Table 3, by repeating Steps 3, 4, 6, and 7 of the exposure evaluation process found within this chapter, in Exposure evaluations, WAC 296-849-11030.~~

Note: If you document that one work shift consistently has higher exposure monitoring results than another for a particular operation, then you can limit sample collection to the work shift with higher exposures and use results to represent all employees performing the operation on other shifts.

Table 3

Periodic Exposure Evaluation Frequencies

If exposure monitoring results	Then
Are between the: - AL of 0.5 ppm AND - Eight-hour time-weighted average (TWA ₈) of 1 ppm	Conduct additional exposure evaluations at least every twelve months for the employees represented by the monitoring results.
Are above the TWA ₈	Conduct additional exposure evaluations at least every six months for the employees represented by the monitoring results.
Have decreased to a concentration between the AL and TWA ₈ ; AND The decrease is demonstrated by two consecutive exposure evaluations, made at least seven days apart.	You may decrease your evaluation frequency to every twelve months for employees represented by the monitoring results.
Are above the short-term exposure limit (STEL) of 5 ppm	Repeat as often as necessary to evaluate employee exposure.
Have decreased to below the AL and the STEL AND The decrease is demonstrated by two consecutive evaluations, made at least seven days apart.	You may stop periodic exposure evaluations for employees represented by the monitoring results.

AMENDATORY SECTION (Amending WSR 07-03-153, filed 1/23/07, effective 6/1/07)

WAC 296-849-12030 Medical evaluations.

IMPORTANT:

Medical evaluations conducted under this section will satisfy the medical evaluation requirement found in Respirators, chapter 296-842 WAC.

~~((**You must:**~~

~~•) (1) You must provide the relevant medical follow-up specified in Tables 4 and 5 to any employee exposed to benzene during an emergency.~~

~~((•) (2) You must make medical evaluations available to current employees who meet the following criteria:~~

~~((-) (a) Potential or actual exposure to benzene at or above the action level (AL) for at least thirty days in any twelve-month period.~~

((-)) (b) Potential or actual exposure to benzene at or above either permissible exposure limit (PEL) for at least ten days in a twelve-month period.

((-)) (c) Past exposure to concentrations above 10 ppm benzene for at least thirty days in a twelve-month period before November 11, 1988.

((-)) (d) Current or past work as a tire building machine operator using solvents containing more than 0.1% benzene during tire building operations.

~~((You must:~~

•) (3) You must make medical evaluations available at no cost to employees((-

-Pay)); paying all costs, including travel costs and wages associated with any time spent outside of the employee's normal work hours;

((*) (4) You must make medical evaluations available at reasonable times and places;

((*) (5) You must make medical evaluations available by completing Steps 1 through 6 of the medical evaluation process for each employee covered.

Note: • Employees who wear respirators need to be medically evaluated to make sure the respirator will not harm them, before they are assigned work in areas requiring respirators. Employees who decline to receive medical examination and testing to monitor for health effects caused by benzene are not excluded from receiving a separate medical evaluation for a respirator use.
• If employers discourage participation in medical monitoring for health effects caused by benzene, or in any way interfere with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17.160, Discrimination against employee filing, instituting proceeding, or testifying prohibited—Procedure—Remedy.

Helpful tool:

Declination form for nonemergency related medical evaluations.

• You may use this optional form to document employee decisions to decline participation in the medical evaluation process for exposure to benzene.

Medical evaluation process:

Step 1: Identify employees who qualify, as stated above, for medical evaluations.

Step 2: Make medical evaluations available for employees identified in Step 1 at the following times:

• Initially, before the employee starts a job or task assignment where benzene exposure will occur.

• Every twelve months from the initial medical evaluation.

• Whenever the employee develops signs or symptoms commonly associated with toxic benzene exposure.

• After benzene exposure from an emergency.

Step 3: Select a licensed health care professional (LHCP) who will conduct or supervise medical evaluations and make sure:

• Individuals who conduct pulmonary function tests have completed a training course in spirometry sponsored by an appropriate governmental, academic, or professional institution, if they are not licensed physicians;

AND

• Your LHCP uses an accredited laboratory, such as one accredited by a nationally or state-recognized organization, to conduct laboratory tests.

Step 4: Make sure the LHCP receives all of the following before the medical evaluation is performed:

• A copy of this chapter.

• A description of the duties of the employee being evaluated and how these duties relate to benzene exposure.

• The anticipated or representative exposure monitoring results for the employee being evaluated.

• A description of the personal protective equipment (PPE) each employee being evaluated uses or will use.

• Information from previous employment-related examinations when this information is not available to the examining LHCP.

• Instructions that the written opinions the LHCP provides, be **limited to** the following information:

- Specific records, findings, or diagnosis relevant to the employee's ability to work around benzene.

- The occupationally relevant results from examinations and tests.

- A statement about whether or not medical conditions were found that would increase the employee's risk for impairment from exposure to benzene.

- Any recommended limitations for benzene exposure.

- Whether or not the employee can use respirators and any recommended limitations for respirator or other PPE use.

- A statement that the employee has been informed of medical results and medical conditions caused by benzene exposure requiring further explanation or treatment.

Step 5: Provide the medical evaluation to the employee. Make sure it includes the content listed in Table 4, Content of medical evaluations, and Table 5, Medical follow-up requirements.

Step 6: Obtain the LHCP's written opinion for each employee's medical evaluation and give a copy to the employee within fifteen days of the evaluation date.

• Make sure the written opinion is limited to the information specified for written opinions in Step 4.

Note: If the written opinion contains specific findings or diagnoses unrelated to occupational exposure, send it back and obtain a revised version without the additional information.

IMPORTANT:

These tables apply when conducting medical evaluations, including medical follow-up for employees exposed to benzene during emergencies.

Table 4
Content of Medical Evaluations

When conducting	Include
An initial evaluation	<ul style="list-style-type: none"> • A detailed history including: <ul style="list-style-type: none"> - Past work exposure to benzene or other hematological toxins; - Exposure to marrow toxins outside of current employment;

When conducting	Include
	<ul style="list-style-type: none"> - Exposure to ionizing radiation; - Family history of blood dyscrasias including hematological neoplasms; - History of blood dyscrasias including genetic hemoglobin abnormalities, bleeding abnormalities, and abnormal function of formed blood elements; - History of renal or liver dysfunction; - History of medications routinely taken. • A complete physical examination: - Include a pulmonary function test and specific evaluation of the cardiopulmonary system if the employee is required to use a respirator for at least thirty days a year. • A complete blood count including a: <ul style="list-style-type: none"> - Leukocyte count with differential; - Quantitative thrombocyte count; - Hematocrit; - Hemoglobin; - Erythrocyte count and indices (MCV, MCH, MCHC). • Additional tests the examining LHCP determines are necessary based on alterations in the components of the blood or other signs that may be related to benzene exposure. • Medical follow-up as required in Table 5.
Annual evaluations	<ul style="list-style-type: none"> • An updated medical history covering: <ul style="list-style-type: none"> - Any new exposure to potential marrow toxins; - Changes in medication use; - Any physical signs associated with blood disorders.

When conducting	Include
	<ul style="list-style-type: none"> • A complete blood count including a: <ul style="list-style-type: none"> - Leukocyte count with differential; - Quantitative thrombocyte count; - Hematocrit; - Hemoglobin; - Erythrocyte count and indices (MCV, MCH, MCHC). • Additional tests that the examining LHCP determines necessary, based on alterations in the components of the blood or other signs that may be related to benzene exposure. • A pulmonary function test and specific evaluation of the cardiopulmonary system every three years if the employee is required to use a respirator for at least thirty days a year. • Medical follow-up as required in Table 5.
Evaluations triggered by employee signs and symptoms commonly associated with the toxic effects of benzene exposure	<ul style="list-style-type: none"> • An additional medical examination that addresses elements the examining LHCP considers appropriate.
Evaluations triggered by employee exposure during an emergency	<ul style="list-style-type: none"> • A urinary phenol test performed on the exposed employee's urine sample within seventy-two hours of sample collection. - The urine sample must be collected at the end of the work shift associated with the emergency; - The urine specific gravity must be corrected to 1.024. • Medical follow-up as required in Table 5.

When conducting	Include
	<p>Reference: Employees who are not covered by medical evaluation requirements in this chapter may be covered by medical evaluation requirements in other chapters such as Emergency response, chapter 296-824 WAC.</p>

**Table 5
Medical Follow-up Requirements**

If	Then
<ul style="list-style-type: none"> • The complete blood count test result is normal. 	<ul style="list-style-type: none"> • No further evaluation is required.
<ul style="list-style-type: none"> • The complete blood count test shows any of the following abnormal conditions: <ul style="list-style-type: none"> - A leukocyte count less than 4,000 per mm³ or an abnormal differential count; <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> - A thrombocyte (platelet) count that is either: <ul style="list-style-type: none"> ■ More than 20% below the employee's most recent values; ■ Outside the normal limit (95% C.I.) according to the laboratory; - The hematocrit or hemoglobin level is either of the following, and can not be explained by other medical reasons: 	<ul style="list-style-type: none"> • Repeat the complete blood count within two weeks: <ul style="list-style-type: none"> - If the abnormal condition persists, refer the employee to a hematologist or an internist for follow-up medical examination and evaluation, unless the LHCP has good reason to believe it is unnecessary; - The hematologist or internist will determine what follow-up tests are necessary; <u>and</u> <p style="text-align: center;">((AND))</p> <ul style="list-style-type: none"> • Follow the requirements found in Medical removal, WAC 296-849-12050.

If	Then
<ul style="list-style-type: none"> ■ Below the normal limit (outside the 95% C.I.), as determined by the laboratory for the particular geographical area; OR ■ Persistently decreasing compared to the employee's preexposure levels. 	
Results from the urinary phenol test conducted during an emergency evaluation show phenol levels less than 75 mg/L.	<ul style="list-style-type: none"> • No further evaluation is required.
Results from the urinary phenol test conducted during an emergency evaluation show phenol levels equal or more than 75 mg/L.	<ul style="list-style-type: none"> • Provide a complete blood count monthly for three months. Include a: <ul style="list-style-type: none"> - Leukocyte count with differential; - Thrombocyte count; - Erythrocyte count; <u>and</u> ((AND)) • If any of the abnormal conditions previously listed in this table for complete blood count results are found: <ul style="list-style-type: none"> - Provide the employee with periodic examinations, if directed by the LHCP; <u>and</u> ((AND)) - Refer the employee to a hematologist or an internist for follow-up medical examination and evaluation unless the LHCP has good reason to believe a referral is unnecessary; <u>and</u> ((AND)) - Follow the requirements found in Medical removal, WAC 296-849-12050; <u>and</u> ((AND))

If	Then
	- The hematologist or internist will determine what follow-up tests are necessary.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-12050 Medical removal.

IMPORTANT:

This section applies when an employee is referred to a hematologist or an internist for follow-up medical examination and evaluation required in Table 5, Medical follow-up requirements found in Medical evaluations, WAC 296-849-12030.

((You must:))

(1) You must remove the employee from areas where benzene exposure is above the action level (AL) by doing either of the following:

(*) (a) Transfer the employee to a job currently available that:

((-) (i) The employee qualifies for, or could be trained for in a short period of time;

AND

((-) (ii) Will keep the employee's exposure to benzene as low as possible and never above the AL;

OR

(*) (b) Remove the employee from the workplace until either:

((-) (i) A job becomes available that:

■ The employee qualifies for, or could be trained for in a short period of time;

AND

■ Will keep the employee's exposure to benzene as low as possible and never above the AL;

OR

((-) (ii) The employee is returned to work or permanently removed from benzene exposure as determined by completing the medical evaluation process for removed employees.

(2) You must maintain the employee's current pay rate, seniority, and other benefits.

Note: If you must provide medical removal benefits and the employee will receive compensation for lost pay from other sources, you may reduce your medical removal benefit obligation to offset the amount provided by these sources. Examples of other sources are:

- Public or employer-funded compensation programs;
- Employment by another employer, made possible by the employee's removal.

((You must:))

(3) You must complete Steps 1 through 4 of the medical evaluation process for removed employees, **within six months** of the date the licensed health care professional (LHCP) refers an employee to a hematologist or internist for follow-up.

(*) (a) Make sure all examinations and evaluations are provided at no cost to the employee.

((-) (b) Make examinations and evaluations available at reasonable times and places;

AND

((-) (c) Pay for travel costs and wages, including any time spent outside of the employee's normal work hours.

Medical evaluation process for removed employees:

Step 1: Make sure the following is provided to the hematologist or internist:

- The information you provided to the LHCP in Step 4 of Medical evaluations, WAC 296-849-12030;
- The employee's medical record as described in Medical records, WAC 296-849-12080.

Note: The examining LHCP may provide this information for you.

Step 2: Provide the employee an examination and evaluation by a hematologist or internist.

• When the examination and evaluation is completed, you and the employee must be informed, in writing, of the referring LHCP's decision to continue **or** end the employee's removal from benzene exposure.

• Include the following in the LHCP's decision if removal of the employee continues:

- The expected time period for removal to continue;

AND

- Requirements for future medical examinations to review the decision.

• If the LHCP recommends the employee **end removal** and return to the usual job with benzene exposure, **skip Steps 3 and 4.**

Step 3: Provide further medical examination and evaluation to the employee when the LHCP's decision from Step 2 informs you that medical removal must continue.

Note: • During this step the LHCP, in consultation with the hematologist or internist, decides whether the employee:
- May return to their usual job;

OR

- Should be permanently removed from exposures that exceed the AL.

• If the LHCP recommends the employee return to their usual job, skip Step 4.

Step 4: When the LHCP recommends permanent removal for the employee, make sure all the following conditions are met:

- The employee has an opportunity to transfer to another job that is currently available (or will become available);
- The job is one the employee qualifies for, or could be trained for in a short period of time;
- There is no reduction in the employee's current pay rate, seniority, and other benefits;
- The employee's benzene exposures will be as low as possible, but never more than the AL.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-12080 Medical records.

IMPORTANT:

This section applies when a medical evaluation is performed, or any time a medical record is created for an employee exposed to benzene.

~~((You must:~~

•)) (1) You must establish and maintain complete and accurate medical records for each employee receiving a medical evaluation and make sure the records include **all** the following:

((-) (a) The employee's name and Social Security number, or other unique identifier;

((-) (b) A copy of the licensed health care professional's (LHCP's) written opinions including written decisions and recommendations for the employee removed from exposure;

((-) (c) A copy of the information required in Step 4 of the medical evaluation process, found in WAC 296-849-12030, **except** for the copy of this chapter and the appendices listed.

((*) (2) You must maintain medical evaluation records for the duration of employment plus thirty years.

Note: Your medical provider may keep these records for you. Other medical records such as an employee's medical history, need to be kept as a confidential record by the medical provider and accessed only with the employee's consent.

Reference: To see additional employee medical record requirements, including access and transfer requirements, go to another chapter, Employee medical and exposure records, chapter 296-802 WAC.

AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

WAC 296-849-130 Rules for exposure control areas.

Summary:

Your responsibility:

To protect employees from exposure to benzene by using feasible exposure controls and appropriate respirators.

IMPORTANT:

These sections apply when existing or potential employee exposure monitoring results are above either of the following permissible exposure limits (PELs):

- The eight-hour time-weighted average (TWA₈) of 1 part per million (ppm);

OR

- The fifteen-minute short-term exposure limit (STEL) of 5 ppm.

~~((Contents:~~

~~Exposure control plan~~

~~WAC 296-849-13005.~~

~~Exposure controls~~

~~WAC 296-849-13020.~~

~~Respirators~~

~~WAC 296-849-13045.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Exposure control plan</u>	<u>WAC 296-849-13005</u>
<u>Exposure controls</u>	<u>WAC 296-849-13020</u>
<u>Respirators</u>	<u>WAC 296-849-13045</u>

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

WAC 296-849-13005 Exposure control plan.

Exemption: This section does not apply to the cleaning and repair of barges and tankers that contained benzene.

~~((You must:~~

•)) (1) You must establish and implement a written exposure control plan for exposure control areas that include a schedule for developing and implementing feasible exposure controls to reduce benzene exposure to, or below, the PELs.

Note: Respirators and other personal protective equipment (PPE) help protect employees from exposures, but are **not** substitutes for feasible exposure controls.

~~((You must:~~

•)) (2) You must review and update your exposure control plan as needed, based on the most recent exposure evaluation results.

((*) (3) You must provide a copy of your exposure control plan to affected employees and their designated representatives when they ask to review or copy it.

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

WAC 296-849-13020 Exposure controls.

IMPORTANT:

Respirators and other personal protective equipment (PPE) do **not** substitute for feasible exposure controls.

~~((You must:~~

•)) You must use feasible exposure controls to reduce exposures, as specified in Table 6.

**Table 6
Exposure Control Requirements**

If:	Then you must use feasible controls to:
You have operations where employees clean and repair barges or tankers which have contained benzene	Keep all employee exposure concentrations below 10 parts per million (ppm).
You can document that benzene is used for less than thirty days a year in the workplace	Reduce eight-hour employee exposure monitoring results to a time-weighted average of 10 ppm or less. Note: If employee exposure monitoring results are between 1 and 10 ppm, you are permitted to use respirators or a combination of respirators and feasible controls to protect employees.

If:	Then you must use feasible controls to:
Employees are exposed to benzene above a PEL for at least thirty days a year	Reduce eight-hour employee exposure concentrations to the TWA ₈ of 1 ppm or less; AND Reduce fifteen-minute employee exposure concentrations to the STEL of 5 ppm or less.

AMENDATORY SECTION (Amending WSR 09-15-145, filed 7/21/09, effective 9/1/09)

WAC 296-849-13045 Respirators.

IMPORTANT:

These requirements are in addition to the requirements found in other chapters:

- Airborne contaminants, chapter 296-841 WAC;
- Respirators, chapter 296-842 WAC.

~~((You must~~

•)) (1) You must provide each employee with an appropriate respirator that complies with the requirements of this section, and require that employees use them in circumstances where exposure is above either permissible exposure limit (PEL) for benzene, including any of the following circumstances:

- ((-) (a) Employees are in an exposure control area;
 - ((-) (b) Feasible exposure controls are being put in place;
 - ((-) (c) Where you determine that exposure controls are not feasible;
 - ((-) (d) Feasible exposure controls do not reduce exposures to, or below, a PEL;
 - ((-) (e) Emergencies.
- (*) (2) You must provide employees, for escape, either:
- ((-) (a) Any full-facepiece organic vapor gas mask;
- OR**
- ((-) (b) Any full-facepiece self-contained breathing apparatus (SCBA);
- OR**
- ((-) (c) A hood-style SCBA that operates in positive-pressure mode.

(*) (3) You must use organic vapor cartridges or canisters on powered air-purifying respirators (PAPRs) and negative-pressure air-purifying respirators.

(*) (4) You must use only chin-style canisters on full-facepiece gas masks.

Note: When other contaminants present a hazard, then you will need to use a filter or other combination sorbent cartridge that removes the additional contaminants.

~~((You must~~

•)) (5) You must make sure respirator cartridges or canisters are replaced at the beginning of each work shift, or sooner if their service life has expired.

((*) (6) You must make sure canisters on air-purifying respirators have a minimum service life of four hours when tested under these conditions:

- ((-) (a) A benzene concentration of 150 ppm;
- ((-) (b) A temperature of 25°C;
- ((-) (c) A relative humidity of 85%;
- ((-) (d) A flow rate of one of the following:
 - ((*) (i) 64 liters per minute (lpm) for nonpowered air-purifying respirators;
 - ((*) (ii) 115 lpm for **tight-fitting** PAPRs;
 - ((*) (iii) 170 lpm for **loose-fitting** PAPRs.

((*) (7) You must provide an employee a respirator with low breathing resistance, such as a PAPR or an air-line respirator when the:

((-) (a) Employee cannot use a negative-pressure respirator;

OR

((-) (b) A licensed health care professional's (LHCP's) written opinion allows this type of respirator.

AMENDATORY SECTION (Amending WSR 07-03-153, filed 1/23/07, effective 6/1/07)

WAC 296-849-60010 Health information about benzene.

((*) (1) You must include an explanation of the contents of this section to employees as required in Training, WAC 296-849-11050.

((*) (2) You must provide a copy of this section to the licensed health care professional (LHCP) as required in Step 4 of the medical evaluation process found in Medical evaluations, WAC 296-849-12030.

Table 7

General Health Information About Benzene

<p>What is benzene?</p> <p>Benzene is a clear, colorless liquid with a pleasant, sweet odor. It evaporates into air very quickly. The odor of benzene does not provide adequate warning of its hazard.</p> <p>In this chapter, "benzene " means:</p> <ul style="list-style-type: none"> - Liquid benzene, benzene vapor, and benzene in liquid mixtures and the vapor released by these liquids. The CAS Registry Number that identifies benzene is 71-43-2. <p>Synonyms for benzene include: Benzol, benzole, coal naphtha, cyclohexatriene, phenyl hydride, pyrobenzol.</p> <p>Benzin, petroleum benzin, and benzine are chemicals that do not contain benzene.</p>
<p>How am I exposed to benzene?</p> <p>Benzene exposure occurs when you:</p> <ul style="list-style-type: none"> - Breath in (inhale) vapor or liquid particles (from actions such as spraying or splashing) containing benzene;

- Have skin or eye contact with liquid or vapor containing benzene. Benzene is absorbed through the skin. Absorption occurs more rapidly with abraded skin or when benzene is present in solvents (as an ingredient or contaminant) which are readily absorbed;
- Swallow (**ingest**) benzene.

What happens after I'm exposed to benzene?

Some benzene that enters your body will be absorbed into the bloodstream. Once in the bloodstream, benzene travels throughout your body and can be temporarily stored in the bone marrow and fat.

Benzene is converted to products, called metabolites, in the liver and bone marrow. Some of the harmful effects of benzene exposure are caused by these metabolites.

Most of the metabolites of benzene leave the body in the urine within 48 hours after exposure.

Why is medical monitoring necessary?

Medical monitoring is necessary to detect changes in your body's blood-forming system, including the bone marrow. These changes can occur due to repeated or prolonged, unprotected exposure to benzene, even at relatively low concentrations. Such changes can lead to various blood disorders, ranging from anemia to **leukemia**, an irreversible, fatal disease. Many of these disorders may occur without symptoms.

Benzene is classified as a confirmed **human carcinogen** (Group 1) by the International Agency for Research on Cancer (IARC).

To learn more about the medical monitoring process, see Medical evaluation, WAC 296-849-12030.

What health effects are linked to benzene exposure?

Unprotected exposure to benzene is associated with various health effects including symptoms and diseases associated with either short-term (**acute**) exposure or long-term exposure (**chronic**).

Acute effects from inhaling high vapor concentrations:

An **initial** stimulatory effect on the central nervous system (brain and spinal cord) can occur, characterized by exhilaration, nervous excitation (irritability), and/or giddiness. This may be followed by a period of depression, drowsiness, or fatigue.

Headache, dizziness, nausea, or a feeling of intoxication may develop.

A sensation of tightness in the chest may occur, accompanied by breathlessness. Ultimately the victim may lose consciousness.

In severe inhalation cases, tremors, convulsions, and death may follow due to respiratory paralysis or circulatory collapse in a few minutes to several hours.

Acute effects from inhaling liquid benzene:

Aspiration of small amounts of liquid benzene immediately causes pulmonary edema (excessive accumulation of fluid in lung tissues) and hemorrhage of pulmonary tissue.

Skin contact:

Direct contact may cause redness (erythema).

Benzene has a defatting action on skin. Repeated or prolonged contact may result in any of the following:

- Primary irritation;
- Dry skin;
- Scaling dermatitis (inflammation);
- Development of secondary skin infections.

Effects on the eyes and mucous membranes:

Localized effects from vapor or liquid contact on the eye are slight. High concentrations of benzene are irritating to eyes (causing a stinging sensation) and mucous membranes of the nose and respiratory tract.

Effects due to prolonged exposure:

The blood forming (hematopoietic) system is the main target for benzene's toxic effects. These effects can vary from anemia to **leukemia**, an irreversible, fatal disease. Many of the toxic effects may occur without symptoms.

Most importantly, prolonged exposure to **small** quantities of benzene vapor is damaging to the blood forming system. This damage has occurred at concentrations of benzene that may not cause irritation of mucous membranes or unpleasant sensory effects.

Early signs and symptoms are varied and often not readily noticed and nonspecific. These include:

- Subjective complaints of headache, dizziness, and loss of appetite may precede or follow clinical signs;
- Rapid pulse and low blood pressure, in addition to a physical appearance of anemia, may accompany a subjective complaint of shortness of breath and excessive tiredness.

Other symptoms may occur as the condition progresses:

- Bleeding from the nose, gums, or mucous membranes;
- AND
- Development of purpuric spots (small bruises).

AMENDATORY SECTION (Amending WSR 07-03-153, filed 1/23/07, effective 6/1/07)

WAC 296-849-60020 Medical guidelines for benzene.

((*) (1) You must include an explanation of the contents of this section to employees as required in Training, WAC 296-849-11050.

((*) (2) You must provide a copy of this section to the licensed health care professional (LHCP) as required in Step

4 of the medical evaluation process found in Medical evaluations, WAC 296-849-12030.

Table 8

Medical Guidelines For Evaluating Employees Exposed to Benzene

<p>Part 1: Becoming familiar with medical requirements in this chapter</p> <p>In addition to requiring employers to train employees and protect them from exposure to benzene, this chapter (the Benzene rule) requires employers to monitor their employees' health with assistance from licensed health care professionals (LHCPs).</p> <ul style="list-style-type: none"> • For employees who will use respirators, the LHCP will also need to provide the employer with a written medical opinion clearing the employee for workplace respirator use. <p>These guidelines were designed to support an informed partnership between the LHCP and the employer when monitoring the health of employees exposed to benzene. The employer initiates this partnership by providing the LHCP with a copy of the chapter and other supporting information about the employee and job conditions. The LHCP can then become familiar with the medical monitoring requirements found in WAC 296-849-12030 through 296-849-12080, which address:</p> <ul style="list-style-type: none"> • Frequency and content for routine (initial and periodic) medical examinations and consultations; • Emergency and other unplanned medical follow-up; • Medical opinions; • Employee medical removal; • Medical records retention and content.
<p>Part 2: Benzene toxicology</p> <p>Benzene is primarily an inhalation hazard. Systematic absorption may cause depression of the hematopoietic system, pancytopenia, aplastic anemia, and leukemia. Clinical evidence of leukopenia, anemia, and thrombocytopenia, singly or in combination, has been frequently reported among the first signs.</p> <p>Health information about benzene, WAC 296-848-50010, provides basic information about the health effects and symptoms associated with benzene exposure.</p> <p>Reference:</p> <ul style="list-style-type: none"> • Other sources for toxicology information include: <ul style="list-style-type: none"> - ToxFAQs™ and the Toxicological Profile for Benzene. This free document is available from the Agency for Toxic Substances and Disease Registry (ATSDR) and can be obtained by: <ul style="list-style-type: none"> ■ Visiting http://www.atsdr.cdc.gov/toxprofiles <p>OR</p>

<ul style="list-style-type: none"> ■ Calling 1-888-422-8737 - A variety of technical resources on benzene from the National Institutes for Occupational Safety and Health (NIOSH) by visiting http://www.cdc.niosh/topics/chemicals.html
<p>Part 3: Treatment of acute toxic effects</p> <p>When providing assistance to someone contaminated with benzene, make sure you are adequately protected and do not risk being overcome by benzene vapor.</p> <p>Remove the patient from exposure immediately.</p> <p>Give oxygen or artificial resuscitation, if indicated.</p> <p>Flush eyes, wash skin if contaminated and remove all contaminated clothing.</p> <p>Recovery from mild exposures is usually rapid and complete. Symptoms of intoxication may persist following severe exposures.</p>
<p>Part 4: Preventive considerations</p> <p>The principal effects of benzene exposure which form the basis for the requirements in this chapter are pathological changes in the hematopoietic system, reflected by changes in the peripheral blood and manifesting clinically as pancytopenia, aplastic anemia, and leukemia.</p> <p>Consequently, the medical monitoring program is designed to observe, on a regular basis, blood indices for early signs of these effects, and although early signs of leukemia are not usually available, emerging diagnostic technology and innovative regimes make consistent surveillance for leukemia, as well as other hematopoietic effects, essential.</p> <p>Symptoms and signs of benzene toxicity can be nonspecific. Only a detailed history and appropriate investigative procedure will enable a physician to rule out or confirm conditions that place the employee at increased risk.</p> <p>Bone marrow may appear normal, aplastic, or hyperplastic, and may not, in all situations, correlate with peripheral blood forming tissues. Because of variations in the susceptibility to benzene morbidity, there is no "typical" blood picture.</p> <p>The onset of effects of prolonged benzene exposure may be delayed for many months or years after the actual exposure has ceased and identification or correlation with benzene exposure must be sought out in the occupational history.</p> <p>There are special provisions for medical tests in the event of hematologic abnormalities or for emergency situations.</p> <ul style="list-style-type: none"> - This chapter specifies that blood abnormalities that persist must be referred "unless the physician has good reason to believe such referral is unnecessary." Examples of conditions that could make a referral unnecessary despite abnormal blood limits are iron or folate deficiency, menorrhagia, or blood loss due to some unrelated medical abnormality.

- Blood values that require referral to a hematologist or internist are noted under Part 5: Hematology guidelines.

Part 5: Hematology guidelines

The following guidelines are established to assist the examining LHCP with regard to which laboratory tests are necessary and when to refer an employee to the specialist. A minimum battery of tests is to be performed using strictly standardized methods.

Basic tests

- The following must be determined by an accredited laboratory:
 - Red and white cell counts;
 - Platelet counts;
 - White blood cell differential;
 - Hematocrit;
 - Red cell indices.
- The normal ranges for the red cell and white cell counts are influenced by altitude, race, and sex, and therefore should be determined by the accredited laboratory in the specific area where the tests are performed.
- Either a decline from an absolute normal or an individual's baseline to a subnormal value or a rise to a supra-normal value, are indicative of potential toxicity, particularly if all blood parameters decline.
 - The normal total white blood count is approximately 7,200/mm³ plus or minus 3,000;
 - For cigarette smokers the white count may be higher and the upper range may be 2,000 cells higher than normal for the laboratory;
 - In addition, infection, allergies and some drugs may raise the white cell count;
 - The normal platelet count is approximately 250,000 with a range of 140,000 to 400,000. Counts outside this range should be regarded as possible evidence of benzene toxicity.
- Certain abnormalities found through routine screening are of greater significance in the benzene-exposed worker and **require prompt consultation with a specialist**, namely:
 - Thrombocytopenia;
 - A trend of decreasing white cell, red cell, or platelet indices in an individual over time is more worrisome than an isolated abnormal finding at one test time. The importance of trend highlights the need to compare an individual's test results to baseline and/or previous periodic tests;

- A constellation or pattern of abnormalities in the different blood indices is of more significance than a single abnormality. A low white count not associated with any abnormalities in other cell indices may be a normal statistical variation, whereas if the low white count is accompanied by decreases in the platelet and/or red cell indices, such a pattern is more likely to be associated with benzene toxicity and merits thorough investigation;

- Anemia, leukopenia, macrocytosis or an abnormal differential white blood cell count should alert the physician to further investigate and/or refer the patient if repeat tests confirm the abnormalities. If routine screening detects an abnormality, follow-up tests which may be helpful in establishing the etiology of the abnormality are the peripheral blood smear and the reticulocyte count;
- The extreme range of normal for reticulocytes is 0.4 to 2.5 percent of the red cells, the usual range being 0.5 to 1.2 percent of the red cells, but the typical value is in the range of 0.8 to 1.0 percent;
- A decline in reticulocytes to levels of less than 0.4 percent is to be regarded as possible evidence (unless another specific cause is found) of benzene toxicity requiring accelerated surveillance. An increase in reticulocyte levels to about 2.5 percent may also be consistent with (but is not as characteristic of) benzene toxicity.

Additional tests

1. Peripheral blood smears:

- Collecting the sample: As with reticulocyte count, the smear should be with fresh uncoagulated blood obtained from a needle tip following venipuncture or from a drop of earlobe blood (capillary blood). If necessary, the smear may, under certain limited conditions, be made from a blood sample anticoagulated with EDTA (but never with oxalate or heparin).
- Prepping the smear: When the smear is to be prepared from a specimen of venous blood which has been collected by a commercial Vacutainer type tube containing neutral EDTA, the smear should be made as soon as possible after the venesection. A delay of up to twelve hours is permissible between the drawing of the blood specimen into EDTA and the preparation of the smear if the blood is stored at refrigerator (not freezing) temperature.
- Minimum mandatory observations:
 - The differential white blood cell count;

- Description of abnormalities in the appearance of red cells;
- Description of any abnormalities in the platelets;
- A careful search must be made throughout of every blood smear for immature white cells such as band forms (in more than normal proportion, i.e., over 10 percent of the total differential count), any number of metamyelocytes, myelocytes, or myeloblasts. Any nucleate or multinucleated red blood cells should be reported. Large "giant" platelets or fragments of megakaryocytes must be recognized;

- An increase in the proportion of band forms among the neutrophilic granulocytes is an abnormality deserving special mention, for it may represent a change which should be considered as an early warning of benzene toxicity in the absence of other causative factors (most commonly infection). Likewise, the appearance of metamyelocytes, in the absence of another probable cause, is to be considered a possible indication of benzene-induced toxicity;
- An upward trend in the number of basophils, which normally do not exceed about 2.0 percent of the total white cells, is to be regarded as possible evidence of benzene toxicity. A rise in the eosinophil count is less specific but also may be suspicious of toxicity if it rises above 6.0 percent of the total white count;
- The normal range of monocytes is from 2.0 to 8.0 percent of the total white count with an average of about 5.0 percent. About 20 percent of individuals reported to have mild but persisting abnormalities caused by exposure to benzene show a persistent monocytosis. The findings of a monocyte count which persists at more than 10 to 12 percent of the normal white cell count (when the total count is normal) or persistence of an absolute monocyte count in excess of 800/mm³ should be regarded as a possible sign of benzene-induced toxicity;
- A less frequent but more serious indication of benzene toxicity is the finding in the peripheral blood of the so-called "pseudo" (or acquired) Pelger-Huet anomaly. In this anomaly many, or sometimes the majority, of the neutrophilic granulocytes possess two round nuclear segments - less often one or three round segments - rather than three normally elongated segments. When

this anomaly is not hereditary, it is often but not invariably predictive of subsequent leukemia. However, only about two percent of patients who ultimately develop acute myelogenous leukemia show the acquired Pelger-Huet anomaly. Other tests that can be administered to investigate blood abnormalities are discussed below; however, such procedures should be undertaken by the hematologist.

2. Sucrose water test and Ham test:

- An uncommon sign, which cannot be detected from the smear, but can be elicited by a "sucrose water test" of peripheral blood, is transient paroxysmal nocturnal hemoglobinuria (PNH), which may first occur insidiously during a period of established aplastic anemia, and may be followed within one to a few years by the appearance of rapidly fatal acute myelogenous leukemia. Clinical detection of PNH, which occurs in only one or two percent of those destined to have acute myelogenous leukemia, may be difficult; if the "sucrose water test" is positive, the somewhat more definitive Ham test, also known as the acid-serum hemolysis test, may provide confirmation.

Important clinical findings

1. Individuals documented to have developed acute myelogenous leukemia years after initial exposure to benzene may have progressed through a preliminary phase of hematologic abnormality. In some instances pancytopenia (i.e., a lowering in the counts of all circulating blood cells of bone marrow origin, but not to the extent implied by the term "aplastic anemia") preceded leukemia for many years.
 - Depression of a single blood cell type or platelets may represent a harbinger of aplasia or leukemia. The finding of two or more cytopenias, or pancytopenia in a benzene-exposed individual, must be regarded as highly suspicious of more advanced although still reversible, toxicity.
 - "Pancytopenia" coupled with the appearance of immature cells (myelocytes, myeloblasts, erythroblasts, etc.), with abnormal cells (pseudo Pelger-Huet anomaly, atypical nuclear heterochromatin, etc.), or unexplained elevations of white blood cells must be regarded as evidence of benzene overexposure unless proved otherwise.
 - Many severely aplastic patients manifested the ominous findings of:
 - 5 to 10 % myeloblasts in the marrow;
 - Occasional myeloblasts and myelocytes in the blood;
 - 20 to 30 monocytes.

- It is evident that isolated cytopenias, pancytopenias, and even aplastic anemias induced by benzene may be reversible and complete recovery has been reported on cessation of exposure. However, since any of these abnormalities is serious, the employee must immediately be removed from any possible exposure to benzene vapor.

- Certain tests may substantiate the employee's prospects for progression or regression. One such test would be an examination of the bone marrow, but the decision to perform a bone marrow aspiration or needle biopsy is made by the hematologist.

2. The findings of basophilic stippling in circulating red blood cells (usually found in one to five percent of red cells following marrow injury), and detection in the bone marrow of what are termed "ringed sideroblasts" must be taken seriously, as they have been noted in recent years to be premonitory signs of subsequent leukemia.

3. Recently peroxidase-staining of circulating or marrow neutrophil granulocytes, employing benzidine dihydrochloride, have revealed the disappearance of, or diminution in, peroxidase in a sizable proportion of the granulocytes, and this has been reported as an early sign of leukemia. However, relatively few patients have been studied to date. Granulocyte granules are normally strongly peroxidase positive. A steady decline in leukocyte alkaline phosphatase has also been reported as suggestive of early acute leukemia.

- Peroxidase and alkaline phosphatase staining are usually undertaken when the index of suspicion for leukemia is high.

4. Exposure to benzene may cause an early rise in serum iron, often but not always associated with a fall in the reticulocyte count. Thus, serial measurements of serum iron levels may provide a means of determining whether or not there is a trend representing sustained suppression of erythropoiesis.

5. Measurement of serum iron, determination of peroxidase and of alkaline phosphatase activity in peripheral granulocytes can be performed in most pathology laboratories.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-849-190 Definitions.

NEW SECTION

WAC 296-855-099 Definitions. Action level. An airborne concentration of ethylene oxide (EtO) of 0.5 parts per million, calculated as an eight-hour time-weighted average.

Authorized personnel. Individuals specifically permitted by the employer to enter the exposure control area to perform necessary duties, or to observe employee exposure evaluations.

Breathing zone. The space around and in front of an employee's nose and mouth, forming a hemisphere with a six-to nine-inch radius.

CAS (Chemical Abstract Service) number. CAS numbers are internationally recognized and used on safety data sheets (SDSs) and other documents to identify substances. For more information see <http://www.cas.org/about>.

Container. Any container, except for pipes or piping systems that contains ethylene oxide. It can be any of the following:

- Barrel.
- Bottle.
- Can.
- Cylinder.
- Drum.
- Reaction vessel.
- Storage tank.

Day. Any part of a calendar day.

Director. The director means the director of the department of labor and industries or their designee.

Emergency. Any event that could or does result in the unexpected significant release of ethylene oxide. Examples of emergencies include equipment failure, container rupture, or control equipment failure.

Ethylene oxide (EtO). Is an organic chemical represented by the CAS registry number 75-21-8. EtO is a flammable colorless gas and is commonly used to sterilize medical equipment and as a fumigant for certain agricultural products. It is also used as an intermediary in the production of various chemicals such as ethylene glycol, automotive anti-freeze, and polyurethane.

Exposure. The contact an employee has with ethylene oxide, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Licensed health care professional (LHCP). An individual whose legally permitted scope of practice allows him or her to provide some or all of the health care services required for medical evaluations.

Permissible exposure limits (PELs). PELs are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are specified in applicable WISHA rules. The PELs for ethylene oxide (EtO) are:

- Eight-hour time-weighted average (TWA₈) of one part per million (ppm); and
- Fifteen-minute short-term exposure limit (STEL) of five ppm.

Short-term exposure limit (STEL). An exposure limit averaged over a short time period (usually fifteen minutes) that must not be exceeded during any part of an employee's workday.

Time-weighted average (TWA₈). An exposure limit averaged over an eight-hour period that must not be exceeded during an employee's workday.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-100 Scope. This chapter applies to all occupational exposure to ethylene oxide.

Definition:

(*) Ethylene oxide (EtO) ((is)). An organic chemical represented by the Chemical Abstract Service (CAS) registry number 75-21-8. It is a flammable colorless gas that is commonly used to sterilize medical equipment and as a fumigant for certain agricultural products. It is also used as an intermediary in the production of various chemicals such as ethylene glycol, automotive antifreeze, and polyethylene.

(*) Exposure ((is)). The contact an employee has with EtO, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, or skin and eye contact.

Some of the requirements in this chapter may not apply to every workplace with an occupational exposure to EtO. The following steps will show which requirements apply to your workplace based on employee exposure monitoring results.

Step one: Follow requirements in the basic rules section, WAC 296-855-20010 through 296-855-20090.

Step two: Use employee exposure monitoring results from the exposure evaluations required by, Exposure evaluations, WAC 296-855-20050, and follow Table 1 to find out which additional sections of this chapter apply to your workplace.

Step three: You need only follow Exposure records, WAC 296-855-20070 and Medical records, WAC 296-855-30080 if you have documentation conclusively demonstrating that employee exposure for ethylene oxide and the operation where it's used, cannot exceed the AL or STEL during any conditions reasonably anticipated.

- Such documentation can be based on observations, data, calculations, and previous air monitoring results.

Table 1
Sections That Apply to Your Workplace

If:	Then continue to follow the basic rules, and the additional requirements in:
Employee exposure monitoring results are below the AL and STEL	No additional requirements if exposures remain stable

If:	Then continue to follow the basic rules, and the additional requirements in:
Employee exposure monitoring results are above the PELs Note: PEL refers to both the STEL and TWA	<ul style="list-style-type: none"> • Exposure and medical monitoring, WAC 296-855-30010 through 296-855-30080; AND <ul style="list-style-type: none"> • Exposure control, WAC ((296-855-40005 through 296-855-40045)) <u>296-855-40010 through 296-855-40040</u>
Employee exposure monitoring results are above the AL; AND Below the STEL	Exposure and medical monitoring, WAC 296-855-30010 through 296-855-30080
When there is a possibility of an emergency release of EtO	Establish a written emergency response plan and a means of alerting potentially exposed employees as found in Exposure control plan, WAC ((296-855-40005)) <u>296-855-40010</u>

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-200 Basic rules.

Summary:

Your responsibility:

To evaluate employee exposure and protect employee from ethylene oxide.

IMPORTANT:

• The requirements in basic rules apply to all employers covered by the scope of this chapter, WAC 296-855-100. Additional sections may apply to you, based on employee exposure monitoring results. Turn to the Scope, WAC 296-855-100, and follow Table 1.

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Preventive practices</u>	<u>WAC 296-855-20010</u>
<u>Exposure control areas</u>	<u>WAC 296-855-20020</u>
<u>Personal protective equipment (PPE)</u>	<u>WAC 296-855-20040</u>
<u>Exposure evaluations</u>	<u>WAC 296-855-20050</u>
<u>Notification</u>	<u>WAC 296-855-20060</u>
<u>Exposure records</u>	<u>WAC 296-855-20070</u>
<u>Documentation records</u>	<u>WAC 296-855-20080</u>
<u>Training</u>	<u>WAC 296-855-20090</u>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-855-20010 Preventive practices. (~~You must:~~

•) (1) You must make sure that all containers of EtO whose contents are capable of causing employee exposure above the action level or above the STEL are labeled, tagged, or marked with this warning(:

~~AND~~

~~Prior to June 1, 2015, employers may include the following information on containers of EtO in lieu of the labeling requirements in WAC 296-855-420:~~

<p>Danger Contains Ethylene Oxide Cancer Hazard and Reproductive Hazard</p>
--

~~AND~~

~~A warning)), stating that breathing airborne concentrations of EtO is hazardous.~~

((•) (2) You must keep container labels free of statements that contradict or detract from the labels' hazard warning.

Note: • EtO is highly flammable and should be kept in a tightly covered container, and in a cool, well-ventilated area away from any type of ignition source.

~~((You must:~~

•) (3) You must make sure warning labels remain on containers of EtO when these containers are transported.

Exemption: ((•) 1. Reaction vessels, storage tanks, and pipes or piping systems are not considered to be containers and do not require labeling.
 ((•) 2. Labeling requirements do not apply when EtO:
 ((-) a. Is used as a pesticide as defined by the Federal Insecticide, Fungicide, and Rodenticides Act (7 U.S.C. 136 et seq.); and
 ((AND
 -) b. Meets the Environmental Protection Agency labeling requirements for pesticides.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-855-20020 Exposure control areas. (~~You must:~~

•) (1) You must establish temporary or permanent exposure control areas where airborne concentrations of ethylene oxide (EtO) exceed or could exceed the permissible exposure limits (PELs) by doing all the following:

((-) (a) Clearly identify the boundaries of exposure control areas in any way that minimizes employee access.

((-) (b) Post signs at access points to exposure control areas that:

((■) (i) Are easy to read (for example, they are kept clean and well lit)((-): and

~~(AND~~

■) (ii) Include this warning:

<p>DANGER ETHYLENE OXIDE MAY CAUSE CANCER MAY DAMAGE FERTILITY OR THE UNBORN CHILD RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING MAY BE REQUIRED IN THIS AREA AUTHORIZED PERSONNEL ONLY</p>

~~((•) Prior to June 1, 2016, employers may use the following legend in lieu of that specified in this section:~~

<p>DANGER ETHYLENE OXIDE CANCER HAZARD AND REPRODUCTIVE HAZARD AUTHORIZED PERSONNEL ONLY RESPIRATORS AND PROTECTIVE CLOTHING MAY BE REQUIRED TO BE WORN IN THIS AREA</p>

•) (2) You must keep signs and areas near them free of statements that contradict or detract from their message.

Note: • This requirement does not prevent you from posting other signs.

~~((You must:~~

•) (3) You must allow only authorized personnel to enter exposure control areas.

Note: ((•) 1. When identifying the boundaries of exposure control areas you should consider factors such as:
 ((-) a. The level and duration of airborne exposure.
 ((-) b. Whether the area is permanent or temporary.
 ((-) c. The number of employees in adjacent areas.
 ((•) 2. You may use permanent or temporary enclosures, caution tape, ropes, painted lines on surfaces, or other materials to visibly distinguish exposure control areas or separate them from the rest of the workplace.

~~((You must:~~

•) (4) You must make sure employees entering exposure control areas have appropriate respirators available for use.

((•) (5) You must prevent all of the following activities from occurring in exposure control areas:

- ((-) (a) Eating food.
- ((-) (b) Drinking beverages.
- ((-) (c) Smoking.
- ((-) (d) Chewing tobacco or gum.
- ((-) (e) Applying cosmetics.
- ((-) (f) Storing food, beverages, or cosmetics.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-20040 Personal protective equipment (PPE). (~~You must:~~

•) (1) You must make sure employees wear appropriate PPE as protection from skin or eye contact with ethylene oxide (EtO), liquid EtO, or EtO solutions.

((•) (2) You must provide appropriate PPE at no cost to employees.

AMENDATORY SECTION (Amending WSR 07-06-005, filed 2/22/07, effective 4/1/07)

WAC 296-855-20050 Exposure evaluations.
IMPORTANT:

This section applies when there is a potential for airborne exposure to ethylene oxide (EtO) in your workplace.

When you conduct an exposure evaluation in a workplace where an employee uses a respirator, the protection provided by the respirator is not considered.

Following this section will also meet the requirements to identify and evaluate respiratory hazards found in chapter 296-841 WAC, Airborne contaminants.

~~((You must:~~

*) (1) You must conduct an employee exposure evaluation to accurately determine airborne concentrations of EtO by completing Steps one through seven of the exposure evaluation process, each time any of the following apply:

((-) (a) No evaluation has been conducted.

((-) (b) Changes have occurred in any of the following areas that may result in new or increased employee exposures:

((■) (i) Production.

((■) (ii) Processes.

((■) (iii) Personnel.

((■) (iv) Exposure controls such as ventilation systems or work practices.

((-) (c) You have any reason to suspect new or increased employee exposure may occur.

((*) (2) You must provide affected employees and their designated representatives an opportunity to observe any exposure monitoring during Step six of the exposure evaluation process.

((*) (3) You must make sure observers entering areas with EtO exposure:

((-) (a) Are provided with and use the same protective clothing, respirators, and other personal protective equipment (PPE) that employees working in the area are required to use; and

~~((AND~~

-)) (b) Follow all safety and health requirements that apply.

Exposure evaluation process

Step one: Identify all employees who have potential exposure to airborne ethylene oxide (EtO) in your workplace.

Step two: Identify operations where employee exposures could exceed EtO's fifteen-minute short-term exposure limit (STEL) of five parts per million (ppm).

Step three: Select employees from those working in the operations you identified in Step two who will have their STEL exposures measured.

Step four: Select employees from those identified in Step one who will have their eight-hour exposures monitored.

- Make sure the exposures of the employees selected represent eight-hour exposures for all employees identified in Step one including each job classification, work area, and shift.

- If you expect all employee exposures to be below the action level (AL), you can choose to limit your selection to those employees reasonably believed to have the highest exposures. If you find these employees' exposure to be above the AL, then you'll need to repeat Step four to represent all employees identified in Step one.

Note: You can use Steps three through six of this process to create a written description of the procedure used for obtaining representative employee exposure monitoring results, which is a requirement in Exposure records, WAC 296-855-20070.

Exemption: ((*) 1. You can skip Steps four through seven if you have documentation conclusively demonstrating that employee exposure for a particular material and the operation where it's used, cannot exceed the AL or STEL during any conditions reasonably anticipated.

((*) 2. Such documentation can be based on observations, data, calculations, and previous air monitoring results. Previous air monitoring results:

((-) a. Must meet the accuracy required by Step five.

((-) b. May be from outside sources, such as industry or labor studies.

((-) c. Must be based on data that represents conditions being evaluated in your workplace.

Step five: Determine how you will obtain accurate employee exposure monitoring results. Select and use an air monitoring method with a confidence level of ninety-five percent, that's accurate to:

- ±twenty-five percent when concentrations are potentially above the AL or eight-hour time-weighted average of one part per million (ppm).
- ±thirty-five percent when concentrations are potentially above the AL of 0.5 ppm or the STEL of five ppm.

Note: Here are examples of air monitoring methods that meet this accuracy requirement:

((*) 1. OSHA Method thirty found by going to: <http://www.osha.gov/dts/sltc/methods/toc.html>.

((*) 2. NIOSH Method thirty eight hundred found by going to: <http://www.cdc.gov/niosh/homepage.html> and linking to the NIOSH Manual of analytical methods.

Step six: Obtain employee monitoring results by collecting air samples representing employees identified in Steps three and four.

- Collect STEL samples for employees and operations selected in Step three.
- Collect samples representing the eight-hour exposure, for at least one shift, for each employee selected in Step four.
- Make sure samples are collected from each selected employee's breathing zone.

Note: ((*) 1. You may use any sampling method that meets the accuracy specified in Step five. Examples of these methods include:

((-) a. Real-time monitors that provide immediate exposure monitoring results.

((-) b. Equipment that collects samples that are sent to a laboratory for analysis.

((*) 2. The following are examples of methods for collecting samples representative of eight-hour exposures.

((-) a. Collect one or more continuous samples, such as a single eight-hour sample or four two-hour samples.

((-) b. Take a minimum of five brief samples, such as five fifteen-minute samples, during a work shift at randomly selected times.

((*) 3. For work shifts longer than eight hours, monitor the continuous eight-hour portion of the shift expected to have the highest average exposure concentration.

Step seven: Have the samples you collected analyzed to obtain monitoring results for eight-hour and STEL exposures.

- Determine if employee exposure monitoring results are above or below the following values:
 - Eight-hour time-weighted average (TWA₈) of one ppm.
 - Fifteen-minute short-term exposure limit (STEL) of five ppm.
 - Eight-hour action level (AL) of 0.5 ppm.

Note: ((*) You may contact your local WISHA consultant for help:

((-) 1. Interpreting data or other information.

((-) 2. Determining eight-hour or fifteen-minute employee exposure monitoring results.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-20060 Notification. ((~~You must:~~ *) (1) You must provide written notification of exposure monitoring results to employees represented by your exposure evaluation, within five business days after monitoring results become known to you.

((*) (2) In addition, when employee exposure monitoring results are above either the TWA₈ or STEL permissible exposure limit (PEL), you must provide written notification of all the following within fifteen business days after the results become known to you:

((-) (a) Corrective actions being taken and a schedule for completion; and

((~~AND~~ *) (b) Any reason why exposures can not be lowered to below the PELs.

Note: ((*) 1. You can either notify employees individually or post the notifications in areas readily accessible to affected employees.

((*) 2. Posted notification may need specific information that allows affected employees to determine which monitoring results apply to them.

((*) 3. Notification may be:

((-) a. In any written form, such as hand-written or email.

((-) b. Limited to the required information, such as exposure monitoring results.

((*) 4. When notifying employees about corrective actions, your notification may refer them to a separate document that is available and provides the required information.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-20070 Exposure records. ((~~You must:~~ *) (1) You must establish and keep complete and accurate records for all exposure monitoring evaluations conducted under this chapter. Make sure the record includes, at least:

((-) (a) The name, unique identifier, and job classification of:

((*) (i) The employee sampled; and

((~~AND~~ *) (ii) All other employees represented by the sampled employee.

((-) (b) A description of the methods used to obtain exposure monitoring results and evidence of the methods' accuracy.

((-) (c) The operation being monitored for employee exposure to EtO.

((-) (d) A description of the procedure used to obtain representative employee exposure monitoring results.

((-) (e) The date, number, duration, location, and the result of each sample taken.

((-) (f) Any environmental conditions that could affect exposure concentration measurements.

((-) (g) Any personal protective equipment (PPE) worn by the employee including the type of respirator.

Note: • You can use Steps three through six of the exposure evaluation process in Exposure evaluations, WAC 296-855-20050, to create a description of the procedure you used for obtaining representative employee exposure monitoring results.

((~~You must:~~ *) (2) You must keep exposure monitoring records for at least thirty years.

Reference: ((*) 1. To see additional requirements for employee exposure records including access, and transfer requirements, go to another chapter, Employee medical and exposure records, chapter 296-802 WAC.

((*) 2. Exposure monitoring records need to be kept longer than thirty years for employees participating in medical monitoring, go to Medical records, WAC 296-849-12080.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-20080 Documentation records. (~~You must:~~

•) (1) You must keep documentation you develop, of the processing, use, or handling of products made from or containing EtO, that conclusively demonstrates that the action level or STEL for EtO cannot be exceeded under any foreseeable conditions of use.

(*) (2) You must include the following in the documentation record:

(-) (a) The product that is the subject of the documentation;

(-) (b) The source of the data;

(-) (c) Any testing protocol, results of testing, and/or analysis of the product for the release of EtO;

(-) (d) A description of the operation where the product is used and how the data support your conclusion; and

(-) (e) Other data relevant to the operations, materials, processing, or employee exposures covered by your conclusion.

(*) (3) You must maintain the documentation record for as long as you rely on your conclusion that the action level and STEL cannot be exceeded.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-855-20090 Training. (~~You must:~~

•) (1) You must train employees who are potentially exposed above the:

(-) (a) Action level (AL) 0.5 parts per million (ppm); or
(~~OR~~

-) (b) Fifteen-minute short-term exposure limit (STEL) of five ppm.

(*) (2) You must provide training:

(-) (a) At the time of initial assignment; and

(~~AND~~

-) (b) Then at least every twelve months.

(*) (3) You must make sure training and information includes all of the following:

(-) (a) The requirements of this chapter.

(-) (b) The location and availability of this chapter.

(-) (c) The purpose of medical evaluations and a description of your medical evaluation program required in Medical evaluations, WAC 296-855-30030 in this chapter.

(-) (d) Monitoring procedures and observations to detect the presence or release of EtO.

(-) (e) The physical and health hazards of EtO.

(-) (f) Actions employees can take to protect themselves from EtO exposure such as work practices, emergency procedures, and PPE.

(-) (g) The details of your hazard communication program required by another chapter, Hazard communication, (~~WAC 296-901-140~~) chapter 296-901 WAC.

(-) (h) Operations in employee work areas where EtO is present.

(-) (i) The following information found in the General occupational health standards, chapter 296-62 WAC:

(*) (i) The Substance safety data sheet, WAC 296-62-07383 Appendix A.

(*) (ii) The Substance technical guidelines, WAC 296-62-07385 Appendix B.

(*) (iii) Medical surveillance guidelines, WAC 296-62-07387 Appendix C.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-300 Exposure and medical monitoring.

Summary:

Your responsibility:

To monitor employee health and workplace exposures to ethylene oxide (EtO).

IMPORTANT:

(*) These sections apply when employee exposure monitoring results are either above the:

(-) 1. Action level (AL) of 0.5 parts per million (ppm);
or

(~~OR~~

-) 2. Short-term exposure limit (STEL) of five ppm.

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Periodic exposure monitoring</u>	<u>WAC 296-855-30010</u>
<u>Medical evaluations</u>	<u>WAC 296-855-30030</u>
<u>Medical records</u>	<u>WAC 296-855-30080</u>

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-30010 Periodic exposure monitoring.

Exemption: Periodic employee exposure monitoring is not required if exposure monitoring results conducted to fulfill requirements in Exposure evaluation, WAC 296-855-20050, are below the action level (AL).

(~~You must:~~

•) You must obtain employee exposure monitoring results according to the frequency specified in Table 2, Periodic Exposure Evaluation Frequencies.

Note: • If you documented that one work shift consistently has higher exposure monitoring results than another for a particular operation, then you may limit sample collection to the work shift with higher exposures and use those results to represent all employees performing the operation on other shifts.

Table 2
Periodic Exposure Evaluation Frequencies

If employee exposure monitoring results:	Then:
Are between the: • Action level (AL) of 0.5 parts per million (ppm); AND	Conduct additional exposure monitoring at least every 6 months.

If employee exposure monitoring results:	Then:
•TWA ₈ of 1 ppm	
Are above the TWA ₈ ; OR Above the STEL	Conduct additional exposure monitoring at least every 3 months.
Have been obtained at least every 3 months; AND Have 2 consecutive monitoring results, taken at least 7 days apart, showing 8-hour employee exposure monitoring results that have dropped below the TWA ₈ , but remain at or above the AL	You may decrease your evaluation frequency for the TWA ₈ to every 6 months.
Have 2 consecutive evaluations, taken at least 7 days apart, showing 8-hour employee exposure monitoring results that have dropped below the AL and STEL	You may stop periodic exposure evaluations.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-30030 Medical evaluations.

IMPORTANT:

Medical evaluations meeting all requirements of this section will fulfill the medical evaluation requirement found in another chapter, Respirators, chapter 296-842 WAC.

Employees who wear respirators need to be medically evaluated to make sure the respirator will not harm them, before they are assigned work in areas requiring respirators.

~~((You must:~~

•)) (1) You must make medical evaluations available to current employees:

((-) (a) Who have been, are, or may be exposed above the action level (AL) for at least thirty days in any twelve-month period.

((-) (b) Exposed to EtO during an emergency situation.

((-) (c) Wanting medical advice on EtO exposure and reproductive health.

((-) (d) Whenever the employee develops signs and symptoms commonly associated with ethylene oxide.

((-) (e) At no cost including travel costs and wages associated with any time spent obtaining the medical evaluation.

((-) (f) At reasonable times and places.

((*) (2) You must complete Steps one through four of the medical evaluation process at the following times:

((-) (a) Initially, when employees are assigned to work in an area where exposure monitoring results are, or will

likely be, above the action level (AL) for at least thirty days in a twelve-month period.

((-) (b) Every twelve months for employees exposed above the AL for at least thirty days in the preceding year unless the examining physician determines that they should be provided more frequently.

((-) (c) When employment with exposure ends, if the employee has not had an evaluation within the six-month period before exposure ends.

Note: ((*) 1. Employees who decline to receive medical examination and testing to monitor for health effects caused by EtO are not excluded from receiving a separate medical evaluation for respirator use.

((*) 2. If employers discourage participation in medical monitoring for health effects caused by EtO, or in any way interfere with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17.160, Discrimination against employee filing complaint, instituting proceedings, or testifying prohibited—Procedure—Remedy.

~~((Helpful tool: **Declination form for nonemergency related medical evaluations**~~

~~You may use this optional form to document employee decisions to decline participation in the medical evaluation process for exposure to ethylene oxide (EtO). To see this form, go to the resources section within this chapter.))~~

Medical evaluation process

Step one:

Select an appropriate licensed health care professional (LHCP) who will conduct or supervise examinations and procedures.

- If the LHCP is not a licensed physician, make sure individuals who conduct pulmonary function tests have completed a training course in spirometry sponsored by an appropriate governmental, academic, or professional institution.

Step two:

Make sure the LHCP receives all of the following information before the medical evaluation is performed:

- A copy of:
 - This chapter.
 - The following information found in the General occupational health standards, chapter 296-62 WAC:
 - The Substance safety data sheet, WAC 296-62-07383(1) Appendix A.
 - The Substance technical guidelines, WAC 296-62-07385(2) Appendix B.
 - Medical surveillance guidelines, WAC 296-62-07387(3) Appendix C.
- A description of the duties of the employee being evaluated and how these duties relate to EtO exposure.

- The anticipated or representative exposure monitoring results for the employee being evaluated.
- A description of the personal protective equipment (PPE) and respirators each employee being evaluated uses or will use.
- Information from previous employment-related examinations when this information is not available to the examining LHCP.
- Instructions that the written opinions the LHCP provides you be limited to the following information:
 - Whether or not medical conditions were found that would increase the employee's risk for impairment from exposure to EtO.
 - Any recommended limitations for EtO exposure and use of respirators or other PPE.
 - A statement that the employee has been informed of medical results and medical conditions caused by EtO exposure requiring further examination or treatment.

Step three: Make medical evaluations available to the employee. Make sure they include the content listed in Table 3, Content of Medical Evaluations.

Step four: Obtain the LHCP's written opinion for the employee's medical evaluation and make sure the employee receives a copy within five business days after you receive the written opinion.

- Make sure the written opinion is limited to the information specified for written opinions in Step two.

Note: • If the written opinion contains specific findings or diagnoses unrelated to occupational exposure, send it back and obtain a revised version without the additional information.

**Table 3
Content of Medical Evaluations**

When conducting:	Include:
An initial and annual evaluation	<ul style="list-style-type: none"> • A work history and medical history that includes emphasis on: <ul style="list-style-type: none"> - Pulmonary, hematological, neurological, reproductive systems; <p align="center">AND</p>

When conducting:	Include:
	<ul style="list-style-type: none"> - The eyes and skin. • A physical examination that includes emphasis on: <ul style="list-style-type: none"> - Pulmonary, hematological, neurological, and reproductive systems; <p align="center">AND</p> <ul style="list-style-type: none"> - The skin and eyes. • A complete blood count including a: <ul style="list-style-type: none"> - White cell count with differential - Red cell count - Hematocrit - Hemoglobin. • Additional examinations the licensed health care professional (LHCP) believes appropriate based on the employee's exposure to ethylene oxide (EtO) or respirator use. • Additional testing: <ul style="list-style-type: none"> - Pregnancy test, and laboratory evaluation for fertility if requested by employee and approved by evaluating LHCP.
Evaluations due to termination of employment	<ul style="list-style-type: none"> • The same content as specified for initial and annual evaluations.
Evaluations due to reassignment to an area where EtO exposure is below the AL	<ul style="list-style-type: none"> • The same content as specified for initial and annual evaluations. • As determined by the LHCP.
Evaluations due to exposure during an emergency	<ul style="list-style-type: none"> • The same content as specified for initial and annual evaluations.
Evaluations triggered by employee signs and symptoms commonly associated with overexposure to EtO or a request for reproductive advice	<ul style="list-style-type: none"> • The content of medical examinations and consultations will be determined by the examining LHCP. - Pregnancy test, and laboratory evaluation for fertility if requested by employee and approved by evaluating LHCP.

When conducting:	Include:
Evaluations determined necessary by LHCP for exposed employees	• The content of medical examinations and consultations will be determined by the examining LHCP.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-30080 Medical records.

IMPORTANT:

This section applies when a medical evaluation is performed, or any time a medical record is created for an employee exposed to ethylene oxide (EtO).

~~((You must:~~

•)) (1) You must establish and maintain complete and accurate medical records for each employee receiving a medical evaluation for EtO and make sure the records include all the following:

((-) (a) The employee's name and unique identifier.

((-) (b) Any employee medical complaints related to EtO.

((-) (c) A description of the employee's duties.

((-) (d) A copy of the licensed health care professional's (LHCP's) written opinions.

((-) (e) The anticipated or representative employee exposure monitoring results provided to the LHCP for the employee.

((-) (f) A copy of the information required in Step two of the medical evaluation process, found in WAC 296-855-30030, except the copy of this chapter and the appendices.

((*) (2) You must maintain medical records for the duration of employment plus thirty years.

Note: • Your medical provider may keep these records for you. Other medical records, such as the employee's medical history or X rays, need to be kept as confidential records by the medical provider.

Reference: For additional requirements that apply to employee exposure records including access and transfer requirements, go to, Employee medical and exposure records, chapter 296-802 WAC.

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-400 Exposure control.

Summary:

Your responsibility:

To protect employees from exposure to ethylene oxide (EtO) by using feasible exposure controls and appropriate respirators.

IMPORTANT:

((*) These sections apply when employee exposure monitoring results are above either of the following permissible exposure limits (PELs):

((-) 1. The eight-hour time-weighted average (TWA₈) of one part per million (ppm); or

~~((OR~~

-)) 2. The fifteen-minute short-term exposure limit (STEL) of five ppm.

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Exposure control plan</u>	<u>WAC 296-855-40010</u>
<u>Exposure controls</u>	<u>WAC 296-855-40030</u>
<u>Respirators</u>	<u>WAC 296-855-40040</u>

AMENDATORY SECTION (Amending WSR 05-17-168, filed 8/23/05, effective 1/1/06)

WAC 296-855-40010 Exposure control plan. (~~You must:~~

•)) (1) You must establish and implement a written exposure control plan to reduce employee exposure to EtO below both TWA₈ and the STEL by the use of feasible exposure controls. Include at least the following in your plan:

((-) (a) A schedule for periodic leak detection surveys.

((-) (b) Make sure employee rotation is not included as a method to control employee exposure.

((*) (2) You must establish a written plan for emergency situations for each work area where there is a possibility of an emergency from a release of EtO. The plan must include, at a minimum:

((-) (a) Emergency escape:

((*) (i) Procedures.

((*) (ii) Route assignments.

((-) (b) Emergency evacuation plans and procedures to account for all employees after emergency evacuation has been completed.

((-) (c) Procedures to be followed by employees who remain to operate critical plant operations before they evacuate.

((-) (d) Requirements for the use of respiratory protection as required in WAC ~~((296-855-40045))~~ 296-855-40040.

((-) (e) Rescue and medical duties for those employees who will perform them.

((-) (f) The preferred means of reporting fires and other emergencies.

((-) (g) Names or regular job titles of persons or departments who can be contacted for further information or explanation of duties under the plan.

((*) (3) You must establish an employee alarm system that meets the requirements of Employee alarm systems, WAC 296-800-31070 in the safety and health core rules.

((-) The employee alarm system must be distinctive and recognizable as a signal to perform actions designated under the emergency response plan.

((*) (4) You must review your exposure control plan at least every twelve months and update as needed to reflect your current workplace conditions.

((*) (5) You must provide a copy of your exposure control plan to affected employees and their designated representatives, when they ask to review or copy it.

AMENDATORY SECTION (Amending WSR 07-06-005, filed 2/22/07, effective 4/1/07)

WAC 296-855-40030 Exposure controls.

IMPORTANT:

The use of an employee rotation schedule to control employee exposure to ethylene oxide (EtO) is prohibited.

Respirators and other personal protective equipment (PPE) are not exposure controls.

~~((You must:~~

~~*) (1) You must use feasible exposure controls to(~~
~~-)) reduce exposure to, or below, the permissible exposure limit (PELs); or~~

~~((OR~~

~~-To)) (2) You must reduce exposure to the lowest achievable level above the PELs.~~

AMENDATORY SECTION (Amending WSR 09-15-145, filed 7/21/09, effective 9/1/09)

WAC 296-855-40040 Respirators.

IMPORTANT:

The requirements in this section are in addition to the requirements found in another chapter, Respirators, chapter 296-842 WAC.

Medical evaluations meeting all requirements of WAC 296-855-30030, will fulfill the medical evaluation requirement found in another chapter, Respirators, chapter 296-842 WAC.

~~((You must:~~

~~*) (1) You must provide each employee with an appropriate respirator that complies with the requirements of this section, and require that employees use them in circumstances where exposure is above either PEL, such as when:~~

~~((■)) (a) Feasible exposure controls are being put in place.~~

~~((■)) (b) Employees conduct work operations such as maintenance and repair activities or vessel cleaning for which exposure controls are not feasible.~~

~~((■)) (c) Feasible exposure controls do not reduce exposures to or below the PELs.~~

~~((■)) (d) Employees are responding to emergencies.~~

~~((*) (2) You must ensure all respirator use is accompanied by eye protection either through the use of full-facepiece respirators, hoods, or chemical goggles.~~

~~((*) (3) You must develop, implement, and maintain a respirator program that meets the requirements of another chapter, Respirators, chapter 296-842 WAC, which covers each employee required by this chapter to use a respirator.~~

~~((-) (a) You must select and provide to employees appropriate respirators according to this section and WAC 296-842-13005 in the respirator rule.~~

~~((-) (b) You must limit selection and use of respirators, including escape respirators, to those with a full-facepiece or another type of respirator providing eye protection. This is necessary to prevent eye irritation or injury from EtO exposure.~~

~~((-) (c) You must equip full-facepiece air-purifying respirators, including escape respirators, with a front- or back-mounted canister certified for protection against ethylene oxide.~~

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-855-420 Communication of hazards. Hazard communication—General.

~~((*) (1) Chemical manufacturers, importers, distributors and employers ((shall)) must comply with all requirements of the Hazard Communication Standard (HCS), ((WAC 296-901-140)) chapter 296-901 WAC for EtO.~~

~~((*) (2) In classifying the hazards of EtO at least the following hazards are to be addressed: Cancer; reproductive effects; mutagenicity; central nervous system; skin sensitization; skin, eye and respiratory tract irritation; acute toxicity effects; and flammability.~~

~~((Employers shall)) (3) You must include EtO in the hazard communication program established to comply with the HCS, ((WAC 296-901-140)) chapter 296-901 WAC. Employers ((shall)) must ensure that each employee has access to labels on containers of EtO and to safety data sheets, and is trained in accordance with the requirements of HCS and WAC 296-855-20090.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-855-500 Definitions.

NEW SECTION

WAC 296-856-099 Definitions. Action level. An airborne concentration of formaldehyde of 0.5 parts per million of air calculated as an 8-hour time-weighted average.

Authorized personnel. Individuals specifically permitted by the employer to enter the exposure control area to perform duties, or to observe employee exposure evaluations as a designated representative.

Breathing zone. The space around and in front of an employee's nose and mouth, forming a hemisphere with a six- to nine-inch radius.

Canister or cartridge (air-purifying). Part of an air-purifying respirator that consists of a container holding materials such as fiber, treated charcoal, or a combination of the two, that removes contaminants from the air passing through the cartridge or canister.

CAS (chemical abstract service) number. CAS numbers are internationally recognized and used on safety data sheets (SDSs) and other documents to identify substances. For more information, see <http://www.cas.org>.

Container. Any container, except for pipes or piping systems that contains formaldehyde. It can be any of the following:

- Barrel.
- Bottle.
- Can.
- Cylinder.
- Drum.
- Reaction vessel.
- Shipping containers.
- Storage tank.

Designated representative. Any one of the following:

- Any individual or organization to which an employee gives written authorization.
- A recognized or certified collective bargaining agent without regard to written employee authorization.
- The legal representative of a deceased or legally incapacitated employee.

Emergency. Any event that could or does result in the unexpected significant release of formaldehyde. Examples of emergencies include equipment failure, container rupture, or control equipment failure.

Exposure. The contact an employee has with formaldehyde, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Formaldehyde. An organic chemical with the formula of HCHO, represented by the chemical abstract service (CAS) registry number 50-00-0. Examples of primary uses of formaldehyde and its solutions are as follows:

- An intermediate in the production of:
 - Resins.
 - Industrial chemicals.
- A bactericide or fungicide.
- A preservative.
- A component in the manufacture of end-use consumer items such as cosmetics, shampoos, and glues.

Licensed health care professional (LHCP). An individual whose legally permitted scope of practice allows him or her to provide some or all of the health care services required for medical evaluations.

Permissible exposure limits (PELs). PELs are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are also specified in WISHA rules found in other chapters. The PEL for formaldehyde is an 8-hour time-weighted average (TWA₈) of 0.75 parts per million (ppm) and a 15-minute short-term exposure limit of 2 ppm.

Short-term exposure limit (STEL). An exposure limit averaged over a 15-minute period that must not be exceeded during an employee's workday.

Time-weighted average (TWA₈). An exposure limit averaged over an 8-hour period that must not be exceeded during an employee's workday.

Uncontrolled release. A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion, or chemical exposure) are not considered to be uncontrolled releases.

Examples of conditions that could create a significant safety and health risk are:

- Large-quantity releases.
- Small releases that could be highly toxic.
- Potentially contaminated individuals arriving at hospitals.
- Airborne exposures that could exceed a WISHA permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-100 Scope. This chapter applies to all occupational exposure to formaldehyde. Formaldehyde includes formaldehyde gas, its solutions, and materials that release formaldehyde.

Definitions:

Formaldehyde ((is)). An organic chemical with the formula of HCHO, represented by the chemical abstract service (CAS) registry number 50-00-0. Examples of primary uses of formaldehyde and its solutions are as follows:

- An intermediate in the production of:
 - Resins.
 - Industrial chemicals.
- A bactericide or fungicide.
- A preservative.
- A component in the production of end-use consumer items such as cosmetics, shampoos, and glues.

Exposure ((is)). The contact an employee has with formaldehyde, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Some of the requirements in this chapter may not apply to every workplace with an occupational exposure to formaldehyde. At a minimum, you (~~need to~~) **must**:

- Follow requirements in the basic rules sections, WAC 296-856-20010 through 296-856-20070.
- Use employee exposure monitoring results required by Exposure evaluation, WAC 296-856-20060.
- Follow Table 1 to find out which additional sections of this chapter apply to your workplace.

Table 1
Sections That Apply To Your Workplace

If	Then continue to follow the basic rules, and the additional requirements in
<ul style="list-style-type: none"> • Employee exposure monitoring results are above the 8-hour time-weighted average (TWA₈) or short-term exposure limit (STEL) 	<ul style="list-style-type: none"> • Exposure and medical monitoring, WAC 296-856-30010 through 296-856-30050; (AND) and • Exposure control areas, WAC 296-856-40010 through 296-856-40030.
<ul style="list-style-type: none"> • Employee exposure monitoring results are: <ul style="list-style-type: none"> - Below the TWA₈ and STEL; (AND) and - Above the action level (AL) 	<ul style="list-style-type: none"> • Exposure and medical monitoring, WAC 296-856-30010 through 296-856-30050
<ul style="list-style-type: none"> • Employee exposure monitoring results are below the AL and STEL 	<ul style="list-style-type: none"> • Exposure and medical monitoring, WAC 296-856-30020 through 296-856-30050

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-200 Basic rules.

Your responsibility:

To measure and minimize employee exposure to formaldehyde.

IMPORTANT:

• The requirements in basic rules apply to all employers covered by the scope of this chapter. Additional sections may apply to you. Turn to the scope and follow Table 1 in that section to determine the additional sections of this chapter that apply to you.

~~((Section contents:~~

~~Preventive practices~~

~~WAC 296-856-20010.~~

~~Training~~

~~WAC 296-856-20020.~~

~~Personal protective equipment (PPE)~~

~~WAC 296-856-20030.~~

~~Employee protective measures~~

~~WAC 296-856-20040.~~

~~Exposure evaluations~~

~~WAC 296-856-20050.~~

~~Notification~~

~~WAC 296-856-20060.~~

~~Exposure records~~

~~WAC 296-856-20070.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Preventive practices</u>	<u>WAC 296-856-20010</u>
<u>Training</u>	<u>WAC 296-856-20020</u>
<u>Personal protective equipment (PPE)</u>	<u>WAC 296-856-20030</u>
<u>Employee protective measures</u>	<u>WAC 296-856-20040</u>
<u>Exposure evaluations</u>	<u>WAC 296-856-20050</u>
<u>Notification</u>	<u>WAC 296-856-20060</u>
<u>Exposure records</u>	<u>WAC 296-856-20070</u>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-856-20010 Preventive practices. ~~((You must:~~

•)) (1) You must make sure containers of gasses, solutions, or materials composed of greater than 0.1 percent formaldehyde, and capable of releasing formaldehyde at concentrations greater than 0.1 ppm to 0.5 ppm, are properly labeled, tagged, or marked with all of the following:

((-) (a) That the product contains formaldehyde.

((-) (b) The name and address of the responsible party (for example manufacturer, importer, or employer).

((-) (c) A statement that the physical and health hazard information can be obtained from you, and from the safety data sheet (SDS).

((*) (2) You must label, tag, or mark containers and materials capable of releasing formaldehyde at levels above 0.5 ppm as follows:

((-) (a) Include the requirements in WAC 296-856-42010.

((-) (b) Appropriately address all hazards as defined in WAC 296-901-14008, 296-901-14022, and 296-901-14024, including cancer and respiratory sensitization.

~~((Prior to June 1, 2015, employers may include the phrase "Potential Cancer Hazard" in lieu of "May Cause Cancer."))~~

-) (c) Follow the requirements for labels found in:

■ WAC 296-901-140, 296-901-14022, and 296-901-14024.

~~((You must:~~

•)) (3) You must make sure you have a housekeeping and maintenance program to detect leaks and spills by doing at least the following:

((-) (a) Regular visual inspections.

((-) (b) Preventive maintenance of equipment, that includes surveys for leaks, at regular intervals.

((-) (c) In areas where spills could occur, make resources available to contain the spills, decontaminate the area affected, and dispose of waste.

((-) (d) Promptly repair leaks and clean up spills.

((-) (e) Train employees who will clean spills and repair leaks, about the methods for cleanup and decontamination.

((-) (f) Make sure employees who will clean up spills and repair leaks, have the appropriate personal protective equipment and respirators.

((-) (g) Dispose of waste from spills or leaks in sealed containers marked with information that states the contents contain formaldehyde and the hazards associated with formaldehyde exposure. The employer ~~((shall))~~ must ensure that the labels are in accordance with WAC 296-856-420.

((-) (h) Develop and implement appropriate procedures to minimize injury and loss of life if there is a possibility of an emergency, such as an uncontrolled release of formaldehyde.

Note: Following the requirements of a separate chapter, Emergency response, chapter 296-824 WAC, will meet the requirements for emergency procedures.

((*) (4) You must provide emergency washing facilities, for formaldehyde exposures, as required by a separate chapter, the safety and health core rules, First aid, WAC 296-800-150, as follows:

((-) (a) Emergency showers in the immediate work areas where skin contact to solutions of 1 percent or greater of formaldehyde could occur.

((-) (b) Emergency eye wash in the immediate work area where an eye contact to solutions of 0.1 percent or greater of formaldehyde could occur.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-856-20020 Training.

Exemption: Training is not required for employees when you have conclusive documentation that they cannot be exposed to formaldehyde at airborne concentrations above 0.1 parts per million (ppm).

~~((You must:~~

*) (1) You must provide training and information to employees exposed to formaldehyde at all of the following times:

(-) (a) At the time of initial assignment to a work area where there is formaldehyde exposure.

(-) (b) Whenever there is a new exposure to formaldehyde in their work area.

(-) (c) At least every twelve months after initial training.

((*) (2) You must make sure training includes at least the following:

(-) (a) The contents of this chapter and SDS for formaldehyde.

(-) (b) The purpose of medical evaluations and a description of how you are fulfilling the medical evaluation requirements of this chapter.

(-) (c) The health hazards and signs and symptoms associated with formaldehyde exposure, including:

(*) (i) Cancer hazard.

(*) (ii) Skin and respiratory system irritant and sensitizer.

(*) (iii) Eye and throat irritation.

(*) (iv) Acute toxicity.

(-) (d) How employees will immediately report any signs or symptoms suspected to be from formaldehyde exposure.

(-) (e) Descriptions of operations where formaldehyde is present.

(-) (f) Explanations of safe work practices to limit employee exposure to formaldehyde for each job.

(-) (g) The purpose, proper use, and limitations of personal protective clothing.

(-) (h) Instructions for the handling of spills, emergencies, and clean-up procedures.

(-) (i) An explanation of the importance of exposure controls, and instructions in the use of them.

(-) (j) A review of emergency procedures, including the specific duties or assignments of each employee in the event of an emergency.

(-) (k) The purpose, proper use, limitations, and other training requirements for respiratory protection, as required by a separate chapter, Respirators, chapter 296-842 WAC.

((*) (3) You must make sure any written training materials are readily available to your employees at no cost.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-856-20030 Personal protective equipment (PPE). ~~((You must:~~

*) (1) You must provide PPE at no cost to employees and make sure employees wear the equipment.

((*) (2) You must make sure that employees do not take contaminated clothing or other PPE from the workplace.

Select PPE that is appropriate for your workplace based on at least the following:

(-) (a) The form of formaldehyde, such as gas, solution, or material.

(-) (b) The conditions of use.

(-) (c) The hazard to be prevented.

((*) (3) You must provide full body protection for entry into areas where formaldehyde exposure could exceed 100 parts per million (ppm) or when airborne concentrations are unknown.

((*) (4) You must protect employees from all contact with liquids containing one percent or more of formaldehyde by providing chemical protective clothing that is impervious to formaldehyde and other personal protective equipment, such as goggles and face shields, as appropriate for the operation.

((*) (5) You must make sure when face shields are worn, employees also wear chemical safety goggles if there could be eye contact with formaldehyde.

((*) (6) You must make sure contaminated clothing and other PPE is cleaned or laundered before it is used again.

((*) (7) You must repair or replace clothing and other PPE as needed to maintain effectiveness.

((*) (8) You must make sure storage areas for ventilating contaminated clothing and PPE are established to minimize employee exposure to formaldehyde.

(-) (a) Make sure storage areas and containers for contaminated clothing and PPE have labels or signs with the following warning:

DANGER
FORMALDEHYDE-CONTAMINATED (CLOTHING) EQUIPMENT
MAY CAUSE CANCER
CAUSES SKIN, EYE, AND RESPIRATORY IRRITATION
DO NOT BREATHE VAPOR
DO NOT GET ON SKIN

~~((Labels.))~~ (b) The employer ~~((shall))~~ must ensure containers for contaminated clothing and equipment are labeled consistent with the Hazard Communication Standard, WAC 296-901-140, and ~~((shall))~~ must, as a minimum, include the following:

DANGER
FORMALDEHYDE-CONTAMINATED (CLOTHING) EQUIPMENT
MAY CAUSE CANCER
CAUSES SKIN, EYE AND RESPIRATORY IRRITATION
DO NOT BREATHE VAPOR
DO NOT GET ON SKIN

~~((Prior to June 1, 2016, employers may use the following legend in lieu of that specified above in this section:~~

DANGER
FORMALDEHYDE-CONTAMINATED (CLOTHING) OR EQUIPMENT
AVOID INHALATION AND SKIN CONTACT

-Prior to June 1, 2015, employers may use the following information on containers of protective clothing and equipment in lieu of the labeling requirements specified above in this section:

DANGER
FORMALDEHYDE-CONTAMINATED (CLOTHING) OR EQUIPMENT
AVOID INHALATION AND SKIN CONTACT

You must:

•) (9) You must make sure that only employees trained to recognize the hazards of formaldehyde remove personal protective equipment (PPE) and clothing from storage areas for the purposes of disposal, cleaning, or laundering.

(*) (10) You must inform any person who launders, cleans, or repairs contaminated clothing or other PPE, of the hazards of formaldehyde and procedures to safely handle the clothing and equipment.

(*) (11) You must provide change rooms for employees who are required to change from work clothes into protective clothing to protect them from skin contact with formaldehyde.

(-) Make sure change rooms have separate storage facilities for street clothes and protective clothing.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-20040 Employee protective measures.

~~(You must:~~

•) You must implement appropriate protective measures while you conduct your exposure evaluation.

(-) Employees performing activities with exposure to airborne formaldehyde that could exceed the 0.75 ppm, 8-hour time-weighted average (TWA₈), or the 2 ppm 15-minute short-term exposure limit (STEL), need to follow the requirements in WAC 296-856-30010 through 296-856-40030 of this chapter.

Reference: For respirator requirements, turn to Respirators, WAC 296-856-40060.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-20050 Exposure evaluations.

IMPORTANT:

• This section applies when there is a potential for an employee to be exposed to airborne formaldehyde in your workplace.

• When you conduct an exposure evaluation in a workplace where an employee uses a respirator, the protection provided by the respirator is not considered.

• Following this section will fulfill the requirements to identify and evaluate respiratory hazards found in a separate chapter, Respiratory hazards, chapter 296-841 WAC.

~~(You must:~~

•) (1) You must conduct an employee exposure evaluation to accurately determine airborne concentrations of formaldehyde by completing Steps 1 through 7 of the exposure evaluation process, each time any of the following apply:

(-) (a) No evaluation has been conducted.

(-) (b) Changes have occurred in any of the following areas that may result in new or increased employee exposures:

(*) (i) Production.

(*) (ii) Processes.

(*) (iii) Exposure controls, such as ventilation systems or work practices.

(*) (iv) Personnel.

(*) (v) Equipment.

(-) (c) You have any reason to suspect new or increased employee exposure may occur.

(-) (d) You receive a report of employee developing signs and symptoms associated with formaldehyde exposure.

~~(You must:~~

•) (2) You must provide affected employees or their designated representatives an opportunity to observe exposure monitoring required by this chapter.

(*) (3) You must make sure observers entering areas with formaldehyde exposure:

(-) (a) Are provided with and use the same protective clothing, respirators, and other personal protective equipment (PPE) that employees working in the area are required to use;

AND

(-) (b) Follow any safety and health requirements that apply.

Exposure evaluation process:

Exemption:

• Exposure monitoring is not necessary if you have documentation conclusively demonstrating that employee exposure for a particular material and the operation where it is used, cannot exceed the action level (AL) or short-term exposure limit (STEL) during any conditions reasonably anticipated.

• Such documentation can be based on observations, data, calculations, and previous air monitoring results. Previous air monitoring results:

- Must meet the accuracy required by Step 5.

- Must be based on data that represents conditions being evaluated in your workplace.

- May be from outside sources, such as industry or labor studies.

Step 1:

Identify all employees who have potential exposure to airborne formaldehyde in your workplace.

Step 2:

Identify operations where employee exposures could exceed the 15-minute short-term exposure limit (STEL) for formaldehyde of 2 parts per million (ppm).

Note:

You may use monitoring devices such as colorimetric indicator tubes or real-time monitors to screen for activities where employee exposures could exceed the STEL.

Step 3:

Select employees from those working in the operations you identified in Step 2 who will have their 15-minute exposures monitored.

- Step 4:** Select employees from those identified in Step 1 who will have their 8-hour exposures monitored.
- Make sure the exposures of the employees selected represent 8-hour exposures for all employees identified in Step 1, including each job activity, work area, and shift.
 - If you expect exposures to be **below** the action level (AL), you may limit your selection to those employees reasonably believed to have the highest exposures.
 - If you find any of those employees' exposure to be **above** the AL, then you need to repeat monitoring to include each job activity, work area, and shift.
- Reference:** A written description of the procedure used for obtaining representative employee exposure monitoring results needs to be kept as part of your exposure records, as required by Exposure records, WAC 296-856-20070.
- This description can be created while completing Steps 3 through 6 of this exposure evaluation process.
- Step 5:** Determine how you will obtain accurate employee exposure monitoring results. Select and use an air monitoring method with a confidence level of 95 percent, that is accurate to:
- ±25 percent when concentrations are potentially above the TWA of 0.75 parts per million (ppm).
 - ±25 percent when concentrations are potentially above the STEL of 2 ppm.
 - ±35 percent when concentrations are potentially above the AL.
- Note:**
- Here are examples of air monitoring methods that meet this accuracy requirement:
 - OSHA Method 52 found at <http://www.osha.gov/dts/sltc/methods/toc.html>.
 - NIOSH methods: 2016, 2514, 3500, 2539, and 5700, found at <http://www.cdc.gov/niosh/homepage.html> and linking to the NIOSH Manual of Analytical Methods.
 - Direct reading methods found at <http://www.osha.gov/SLTC/formaldehyde/index.html>
- Step 6:** Obtain employee exposure monitoring results by collecting air samples to accurately determine the formaldehyde exposure of employees identified in Steps 3 and 4.
- Make sure samples are collected from each selected employee's breathing zone.
- Note:**
- You may use any sampling method that meets the accuracy specified in Step 5. Examples of these methods include:
 - Real-time monitors that provide immediate exposure monitoring results.
 - Equipment that collects samples that are sent to a laboratory for analysis.
 - The following are examples of methods for collecting samples representative of 8-hour exposures.
 - Collect one or more continuous samples, such as a single 8-hour sample or four 2-hour samples.
 - Take a minimum of 5 brief samples, such as five 15-minute samples, during the work shift at randomly selected times.
 - For work shifts longer than 8 hours, monitor the continuous 8-hour portion of the shift expected to have the highest average exposure concentration.
- Step 7:** Have the samples you collected analyzed to obtain employee exposure monitoring results for 8-hour and short-term exposure limits (STEL) exposures.
- Determine if employee exposure monitoring results are above or below the following values:
 - 8-hour action level (AL) of 0.5 ppm.
 - 8-hour time-weighted average (TWA₈) of 0.75 ppm.
 - 15-minute short-term exposure limit (STEL) of 2 ppm.
- Reference:** To use the monitoring results to determine which additional chapter sections apply to employee exposure in your workplace, turn to the Scope, WAC 296-856-100, and follow Table 1 in that section.
- Note:**
- You may contact your local WISHA consultant for help with:
 - Interpreting data or other information.
 - Determining 8-hour employee exposure monitoring results.
 - To contact a WISHA consultant:
 - Go to the safety and health core rules, chapter 296-800 WAC; ~~((AND))~~ and
 - Find the resources section, and under "other resources," find service locations for labor and industries.
- AMENDATORY SECTION** (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)
- WAC 296-856-20060 Notification.** ~~((You must:))~~ **You must** provide written notification of exposure monitoring results to employees represented by your exposure evaluation, within five business days after the results become known to you.
- ~~((-))~~ In addition, when employee exposure monitoring results are above the permissible exposure limits (PEL), of either the 8-hour time-weighted average (TWA₈) or the 15-minute short-term exposure limit (STEL), provide written notification of both of the following within fifteen business days after the results become known to you:

((■)) (1) Corrective actions being taken and a schedule for completion.

((■)) (2) Any reason why exposures cannot be lowered to below the PEL.

- Note:**
- You can notify employees either individually or post the notifications in areas readily accessible to affected employees.
 - Posted notification may need specific information that allows affected employees to determine which monitoring results apply to them.
 - Notification may be:
 - In any written form, such as handwritten or email.
 - Limited to the required information, such as exposure monitoring results.
 - When notifying employees about corrective actions, your notification may refer them to a separate document that is available and provides the required information.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-20070 Exposure records. ((~~You must~~ •)) (1) You must establish and keep complete and accurate records for all exposure monitoring conducted under this chapter. Make sure the record includes at least the following:

- ((-)) (a) The name, unique identifier, and job classification of both:
 - ((■)) (i) The employee sampled;
 - AND
 - ((■)) (ii) All other employees represented by the sampled employee.
- ((-)) (b) An estimate of the exposure for each employee "represented" by this monitoring.
- ((-)) (c) A description of the methods used to obtain exposure monitoring results and evidence of the method's accuracy.
- ((-)) (d) Any environmental conditions that could affect exposure concentration measurements.
- ((-)) (e) A description of the procedure used to obtain representative employee exposure monitoring results.
- ((-)) (f) The operation being monitored.
- ((-)) (g) The date, number, duration, location, and the result of each sample taken.
- ((-)) (h) The type of protective devices worn.
- ((•)) (2) You must maintain documentation that conclusively demonstrates that employee exposure for formaldehyde and the operation where it is used cannot exceed the action level or the 15-minute short-term exposure limit, during any reasonable anticipated conditions.
 - ((-)) Such documentation can be based on observations, data, calculation, and previous air monitoring results.
- ((•)) (3) You must keep exposure monitoring records for at least thirty years.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-300 Exposure and medical monitoring.

Your responsibility:

To monitor employee health and workplace exposures to formaldehyde.

- ((~~Section contents:~~ **Periodic exposure evaluations** WAC 296-856-30010.
Medical and emergency evaluations WAC 296-856-30020.
Medical removal WAC 296-856-30030.
Multiple LHCP review WAC 296-856-30040.
Medical records WAC 296-856-30050.))

<u>You must meet the requirements...</u>	<u>in the section:</u>
<u>Periodic exposure evaluations</u>	<u>WAC 296-856-30010</u>
<u>Medical and emergency evaluations</u>	<u>WAC 296-856-30020</u>
<u>Medical removal</u>	<u>WAC 296-856-30030</u>
<u>Multiple LHCP review</u>	<u>WAC 296-856-30040</u>
<u>Medical records</u>	<u>WAC 296-856-30050</u>

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-30010 Periodic exposure evaluations.

Exemption: Periodic employee exposure monitoring is not required if exposure monitoring results conducted to fulfill requirements in this chapter, Exposure evaluations, WAC 296-856-20050, are below both the action level (AL) and 15-minute short-term exposure limit (STEL).

((~~You must~~ •)) You must obtain employee exposure monitoring results as specified in Table 2 by repeating Steps 1 and 7 of the exposure evaluation process found within this chapter, in Exposure evaluations, WAC 296-856-20050.

Note: If you document that one work shift consistently has higher exposure monitoring results than another for a particular operation, then you may limit sample collection to the work shift with higher exposures and use those results to represent all employees performing the operation on other shifts.

Table 2
Periodic Exposure Evaluation Frequencies

If employee exposure monitoring results	Then
Are above the action level (AL) of 0.5 ppm	Conduct additional exposure monitoring at least every six months for the employees represented by the monitoring results
Are above the short-term exposure limit (STEL) of 2 ppm	Repeat exposure monitoring at least once a year, or more often as necessary to evaluate employee exposure

If employee exposure monitoring results	Then
<p>Have decreased to below the AL and the STEL</p> <p style="text-align: center;">AND</p> <p>The decrease is demonstrated by two consecutive exposure evaluations made at least seven days apart</p>	<p>You may stop periodic employee exposure monitoring for employees represented by the monitoring results.</p> <p>Note: You need to monitor again if there is a change in any of the following that may result in new or increased employee exposures:</p> <ul style="list-style-type: none"> • Production • Processes • Exposure controls, such as ventilation systems or work practices • Personnel • Equipment

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-30020 Medical and emergency evaluations.

IMPORTANT:

• Medical evaluations completed to meet the respirator use requirements of this section also need to meet the requirements found in a separate chapter, Respirators, medical evaluations, WAC 296-842-140.

~~((You must~~

•)) (1) You must make medical evaluations available to current employees who:

((-) (a) Are exposed to formaldehyde concentrations above the action level (AL) or short-term exposure limit (STEL).

((-) (b) Are exposed to formaldehyde during an emergency situation.

((-) (c) Develops signs and symptoms commonly associated with formaldehyde exposure.

((*) (2) You must make medical examinations available to current employees as deemed necessary by the LHCP after reviewing the medical disease questionnaire for employees that are presently not required to wear a respirator.

((*) (3) You must complete Steps 1 through 4 of the medical evaluation process at the following times:

((-) (a) Initially, when employees are assigned to work in an area where exposure monitoring results are above the action level (AL) or above the STEL.

((-) (b) At least every twelve months from the initial medical evaluation for employees exposed to formaldehyde above the action level (AL) or the STEL.

((-) (c) Whenever the employee develops signs and symptoms commonly associated with formaldehyde.

Note: Signs and symptoms are rarely associated with formaldehyde concentrations in air less than 0.1 parts per million (ppm), and in materials at concentration levels less than 0.1 percent.

~~((You must~~

•)) (4) You must make medical evaluations available:

((-) (a) At no cost to employees, including travel costs and wages associated with any time spent obtaining the medical evaluation.

((-) (b) At reasonable times and places.

Note: • Employees who decline to receive a medical evaluation to monitor for health effects caused by formaldehyde are not excluded from receiving a separate medical evaluation for respirator use.

• If employers discourage participation in medical monitoring for health effects caused by formaldehyde, or in any way interferes with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17.160, Discrimination against employee filing complaint, instituting proceedings, or testifying prohibited—Procedure—Remedy.

Medical evaluation process:

Step 1: Select a licensed health care professional (LHCP) who will conduct or supervise examinations and procedures.

- If the LHCP is not a licensed physician, make sure individuals who conduct pulmonary function tests, have completed a training course in spirometry, sponsored by an appropriate governmental, academic, or professional institution.

Note: The LHCP must be a licensed physician or supervised by a physician.

Step 2: Make sure the LHCP receives all of the following information before the medical evaluation is performed:

- A copy of this chapter.

- The helpful tools: *Substance Technical Guideline for Formalin, Medical Surveillance, and Medical Disease Questionnaire*.

- A description of the duties of the employee being evaluated and how these duties relate to formaldehyde exposure.

- The anticipated or representative exposure monitoring results for the employee being evaluated.

- A description of the personal protective equipment (PPE) and respiratory protection each employee being evaluated uses or will use.

- Information in your possession from previous employment-related examinations when this information is not available to the examining LHCP.

- A description of the emergency and the exposure, when an examination is provided due to an exposure received during an emergency.

- Instructions that the written opinions the LHCP provides to you, does **not** include any diagnosis or other personal medical information, **and** is limited to the following information:

■ The LHCP's opinion about whether or not medical conditions were found that would increase the employee's risk for impairment from exposure to formaldehyde.

■ Any recommended limitations for formaldehyde exposure and use of respirators or other PPE.

■ A statement that the employee has been informed of medical results and medical conditions caused by formaldehyde exposure requiring further examination or treatment.

Step 3: Make a medical evaluation available to the employee. Make sure it includes the content listed in Table 3, Content of Medical Evaluations.

Step 4: Obtain the LHCP's written opinion for the employee's medical evaluation and make sure the employee receives a copy within five business days after you receive the written opinion.

- Make sure the written opinion is limited to the information specified for written opinions in Step 2.

Note: If the written opinion contains specific findings or diagnoses unrelated to occupational exposure, send it back and obtain a revised version without the additional information.

Table 3
Content of Medical Evaluations

When conducting an	Include
Initial	<ul style="list-style-type: none"> • A medical disease questionnaire that provides a work and medical history with emphasis on: <ul style="list-style-type: none"> - Upper or lower respiratory problems - Allergic skin conditions or dermatitis - Hyper reactive airway diseases - Eyes, nose, and throat irritation • Physical examinations deemed necessary by the LHCP, that include at a minimum: <ul style="list-style-type: none"> - Examinations with emphasis on evidence of irritation or sensitization of skin, eyes, and respiratory systems, and shortness of breath - Counseling, provided by the LHCP to the employee as part of the medical examination if the LHCP determines that the employee has a medical condition that may be aggravated by formaldehyde exposure • Pulmonary function tests for respirator users, that include at a minimum: <ul style="list-style-type: none"> - Forced vital capacity (FVC) - Forced expiratory volume in one second (FEV1) - Forced expiratory flow (FEF)
OR	
Annual evaluation	

When conducting an	Include
Emergency exposure evaluation	<ul style="list-style-type: none"> • A medical examination that includes a work history with emphasis on evidence of upper or lower respiratory problems, allergic conditions, skin reaction or hypersensitivity, and any evidence of eye, nose, or throat irritation • Additional examinations the licensed health care professional (LHCP) believes appropriate, based on the employee's exposure to formaldehyde
Evaluation of reported signs and symptoms	<ul style="list-style-type: none"> • A medical disease questionnaire that provides a work and medical history with emphasis on: <ul style="list-style-type: none"> - Upper or lower respiratory problems - Allergic skin conditions or dermatitis - Hyper reactive airway diseases - Eyes, nose, and throat irritation • A physical examination if considered necessary by the LHCP that includes at a minimum: <ul style="list-style-type: none"> - Examinations with emphasis on evidence of irritation or sensitization of skin, eyes, respiratory systems, and shortness of breath - Counseling if the LHCP determines that the employee has a medical condition that may be aggravated or caused by formaldehyde exposure

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-30030 Medical removal.

Exemption: Medical removal or restrictions do not apply when skin irritation or skin sensitization occurs from products that contain less than 0.05 percent of formaldehyde.

IMPORTANT:

• This section applies when an employee reports irritation of the mucosa of the eye or the upper airways, respiratory sensitization, dermal irritation, or skin sensitization from formaldehyde exposure.

- When determining the content of formaldehyde in materials that employees have exposure to, you may use documentation, such as manufacturer's data, or independent laboratory analyses.

~~((You must:~~

•) You must complete Steps 1 through 4 of the medical evaluation process for removal of employees, in this section, for employees that report signs and symptoms of formaldehyde exposure.

Note: When the employee is exposed to products containing less than 0.1 percent formaldehyde, the LHCP can assume, absent of contrary evidence, that employee signs and symptoms are not due to formaldehyde exposure.

Medical evaluation process for removal of employees:

Step 1: Provide the employee with a medical evaluation by an LHCP selected by the employer.

Step 2: Based on information in the medical questionnaire the LHCP will determine if the employee will receive an examination as described in Table 3, Content of Medical Evaluations, in Medical and emergency evaluations, WAC 296-856-30020.

- If the LHCP determines that a medical examination is not necessary, there will be a two-week evaluation and correction period to determine whether the employee's signs and symptoms resolve without treatment, from the use of creams, gloves, first-aid treatment, personal protective equipment, or industrial hygiene measures that reduce exposure.

- If before the end of the two-week period the employee's signs or symptoms worsen, immediately refer them back to the LHCP.

- If signs and symptoms persist after the two-week period, the LHCP will administer a physical examination as outlined in Table 3, Content of Medical Evaluations, in Medical and emergency evaluations, WAC 296-856-30020.

Step 3: Promptly follow the LHCP's restrictions or recommendations. If the LHCP recommends removal from exposure, do either of the following:

- Transfer the employee to a job currently available that:

- The employee qualifies for, or could be trained for, in a short period of time (up to six months);

AND

- Will keep the employee's exposure to as low as possible, and never above the AL of 0.5 parts per million.

- Remove the employee from the workplace until either:

- A job becomes available that the employee qualifies for, or could be trained for in a short period of time **and** will keep the employee's exposure to as low as possible and never above the AL;

OR

- The employee is returned to work or permanently removed from formaldehyde exposure, as determined by completing Steps 1 through 3 of the medical evaluation process for removal of employees, in this section.

Step 4: Make sure the employee receives a follow-up examination within six months from being removed from the formaldehyde exposure by the LHCP. At this time, the LHCP will determine if the employee can return to their original job status, or if the removal is permanent.

~~((You must:~~

•) (1) You must maintain the employee's current pay rate, seniority, and other benefits if:

((-) (a) You move them to a job that they qualify for, or could be trained in a short period of time, and will keep the employee's exposure to as low as possible and never above the AL;

OR

((-) (b) In the case there is no such job available, then until they are able to return to their original job status or after six months, (~~which ever~~) whichever comes first.

Note:

- If you must provide medical removal benefits and the employee will receive compensation for lost pay from other sources, you may reduce your medical removal benefit obligation to offset the amount provided by these sources.

- Examples of other sources are:

- Public or employer-funded compensation programs.

- Employment by another employer, made possible by the employee's removal.

((*) (2) You must make medical evaluations available:

((-) (a) At no cost to employees, including travel costs and wages associated with any time spent obtaining the medical examinations and evaluations((-

-)); and

(b) At reasonable times and places.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-30040 Multiple LHCP review.

IMPORTANT:

- This section applies each time a medical examination or consultation is performed to determine whether medical removal or restriction is required.

~~((You must:~~

•) (1) You must promptly notify employees that they may seek a second medical opinion from an LHCP of their choice, each time a medical examination or consultation is conducted by an LHCP selected by the employer to evaluate medical removal.

((-) At a minimum, this notification must include the details of your multiple physician review process.

Note: Notification may be provided in writing or by verbal communication.

~~((You must:~~

•) (2) You must complete requirements in the multiple LHCP review process once you have been informed of an employee's decision to seek a second medical opinion.

((*) (3) You must pay for and complete the multiple LHCP review process for employees who:

((-) (a) Inform you in writing or by verbal communication that they will seek a second medical opinion.

((-) (b) Initiate steps to make an appointment with the LHCP they select. This LHCP will be referred to as the second LHCP.

((-) (c) Fulfill the previous actions to inform you, and initiate steps for an appointment, within fifteen days from receiving either your notification or the initial LHCP's written opinion, whichever is received later.

Note: This process allows for selection of a second LHCP and, when disagreements between LHCPs persist, for selection of a third LHCP.

Multiple LHCP review process:

Step 1: Make sure the information required by Step 4 of the medical evaluation process is received by the second LHCP. This process is located in the section, Medical and emergency evaluations, WAC 296-856-30020.

- This requirement also applies when a third LHCP is selected.

Step 2: Allow the second LHCP to:

- Review findings, determinations, or recommendations from the original LHCP you selected;

AND

- Conduct medical examinations, consultations, and laboratory tests as necessary to complete their review.

Step 3: Obtain a written opinion from the second LHCP and make sure the employee receives a copy within five business days from the date you receive it. If findings, determinations, and recommendations in the written opinion are:

- Consistent with the written opinion from the initial LHCP, you can end the multiple physician review process. Make sure you follow the LHCP's recommendations.

- Inconsistent with the written opinion from the initial LHCP, then you and the employee must make sure efforts are made for the LHCPs to resolve any disagreements.

■ If the LHCPs quickly resolve disagreements, you can end the multiple physician review process. Make sure you follow the LHCP's recommendations.

■ If disagreements are not resolved within thirty business days, continue to Step 4.

Step 4: You and the employee must work through your respective LHCPs to agree on the selection of a third LHCP, or work together to designate a third LHCP to:

- Review findings, determinations, or recommendations from the initial and second LHCP;

AND

- Conduct medical examinations, consultations, and laboratory tests as necessary to resolve disagreements between the initial and second LHCP.

Step 5: Obtain a written opinion from the third LHCP and make sure the employee receives a copy within five business days from the day you receive it.

- Follow the third LHCP's recommendations, unless you and the employee agree to follow recommendations consistent with at least one of the three LHCPs.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-30050 Medical records.

IMPORTANT:

• This section applies when a medical evaluation is performed or any time a medical record is created for an employee exposed to formaldehyde.

~~((You must:~~

•)) (1) You must establish and maintain complete and accurate medical records for each employee receiving a medical evaluation for formaldehyde and make sure the records include all the following:

- ((-) (a) The employee's name and unique identifier.
- ((-) (b) A description of any health complaints that may be related to formaldehyde exposure.
- ((-) (c) A copy of the licensed health care professional's (LHCP's) written opinions.
- ((-) (d) Exam results.
- ((-) (e) Medical questionnaires.
- ((*) (2) You must maintain medical records for the duration of employment plus thirty years.

Note:

- Employee medical records need to be maintained in a confidential manner. The medical provider may keep these records for you.
- Medical records may only be accessed with the employee's written consent.

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-400 Exposure control areas.

Your responsibility:

To control employee exposure to airborne formaldehyde and protect employees by using appropriate respirators.

IMPORTANT:

• These sections apply when employee exposure monitoring results are above the permissible exposure limit (PEL):

- The 8-hour time-weighted average (TWA₈) of 0.75 parts per million (ppm);

OR

- The 15-minute short-term exposure limit (STEL) of two parts per million (ppm).

~~((Section contents:~~

~~Exposure controls~~

~~WAC 296-856-40010:~~

~~Establishing exposure control areas~~

~~WAC 296-856-40020:~~

~~Respirators~~

~~WAC 296-856-40030.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Exposure controls</u>	<u>WAC 296-856-40010</u>
<u>Establishing exposure control areas</u>	<u>WAC 296-856-40020</u>
<u>Respirators</u>	<u>WAC 296-856-40030</u>

AMENDATORY SECTION (Amending WSR 06-08-087, filed 4/4/06, effective 9/1/06)

WAC 296-856-40010 Exposure controls.

IMPORTANT:

• Respirators and other personal protective equipment (PPE) are **not** exposure controls.

~~((You must:~~

•)) You must use feasible exposure controls to reduce employee exposures to a level below the permissible exposure limit (PEL) or to as low a level as achievable.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-856-40020 Establishing exposure control areas. ~~((You must:~~

•)) (1) You must establish temporary or permanent exposure control areas where airborne concentrations of formaldehyde are above either the 8-hour time-weighted average (TWA₈) or the 15-minute short-term exposure limit (STEL), by doing at least the following:

((-) (a) Clearly identify the boundaries of exposure control areas in any way that minimizes employee access.

((-) (b) Post signs at access points to exposure control areas that:

((■) (i) Are easy to read (for example, they are kept clean and well lit);

AND

((■) (ii) Include this warning:

DANGER
FORMALDEHYDE
MAY CAUSE CANCER
CAUSES SKIN, EYE, AND RESPIRATORY IRRITATION
AUTHORIZED PERSONNEL ONLY

~~((Prior to June 1, 2016, employers may use the following legend in lieu of the above one in this section:~~

DANGER
FORMALDEHYDE
IRRITANT AND POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

Note: This requirement does not prevent you from posting other signs.

~~((You must:~~

•)) (2) You must allow only employees, who have been trained to recognize the hazards of formaldehyde exposure, to enter exposure control areas.

Note:

- When identifying the boundaries of exposure control areas you should consider factors such as:
 - The level and duration of airborne exposure.
 - Whether the area is permanent or temporary.
 - The number of employees in adjacent areas.
- You may use permanent or temporary enclosures, caution tape, ropes, painted lines on surfaces, or other materials to visibly distinguish exposure control areas or separate them from the rest of the workplace.

~~((You must:~~

•)) (3) You must inform other employers at multi-employer work sites of the exposure control areas, and the restrictions that apply to those areas.

AMENDATORY SECTION (Amending WSR 09-15-145, filed 7/21/09, effective 9/1/09)

WAC 296-856-40030 Respirators.

IMPORTANT:

- The requirements in this section are in addition to the requirements found in the following separate chapters:
 - Respiratory hazards, chapter 296-841 WAC.

- Respirators, chapter 296-842 WAC.

- Medical evaluations meeting all requirements of Medical and emergency evaluations, WAC 296-856-30020, will fulfill the medical evaluations requirements found in Respirators, chapter 296-842 WAC, a separate chapter.

~~((You must:~~

•)) (1) You must develop, implement, and maintain a respirator program as required by chapter 296-842 WAC, Respirators, which covers each employee required by this chapter to use a respirator.

((-) Require that employees use respirators in any of the following circumstances:

((■) (a) Employees are in an exposure control area.

((■) (b) Feasible exposure controls are being put in place.

((■) (c) Where you determine that exposure controls are not feasible.

((■) (d) Feasible exposure controls do not reduce exposures to, or below, the PEL.

((■) (e) Employees are performing tasks presumed to have exposures above the PEL.

((■) (f) Emergencies.

((*) (2) You must select, and provide to each employee who uses a respirator required by this chapter, an appropriate respirator as specified in this section and in WAC 296-842-13005 in the respirator rule.

((*) (3) You must equip full-facepiece air-purifying respirators with cartridges or canisters approved for protection against formaldehyde.

((*) (4) You must provide to employees, for escape, one of the following respirator options:

((-) (a) A self-contained breathing apparatus operated in demand or pressure-demand mode;

OR

((-) (b) A full-facepiece air-purifying respirator equipped with a chin-style, or front- or back-mounted industrial size canister or cartridge.

((*) (5) You must make sure all air-purifying respirator use is accompanied by eye protection either through the use of full-facepiece models or effective, gas-proof chemical goggles.

((*) (6) You must provide employees with powered air-purifying respirators (PAPRs) when:

((-) (a) The employee has difficulty using a negative pressure respirator or a LHCP recommends this type of respirator;

AND

((-) (b) The employee chooses to use this type of respirator.

((*) (7) You must replace the chemical cartridges or canisters on air-purifying respirators;

((-) (a) When indicated by NIOSH-approved, end-of-service-life indicators if these are used;

OR

((-) (b) When NIOSH-approved ESLIs aren't used:

((■) (i) At times specified by your cartridge change schedule;

OR

((■) (ii) At the end of the work shift, when this occurs before the time indicated by your cartridge change schedule.

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-856-420 Communication of hazards.

~~((Section contents:~~

~~Hazard communication—General~~

~~WAC 296-856-42010))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Hazard communication—General</u>	<u>WAC 296-856-42010</u>

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

WAC 296-856-42010 Hazard communication—General. ((*) (1) Chemical manufacturers, importers, distributors and employers must comply with all requirements of Hazard communication, WAC 296-901-140.

((*) (2) You must, in classifying the hazards of formaldehyde, at least address the following hazards (~~are to be addressed~~): Cancer; skin and respiratory sensitization; eye, skin and respiratory tract irritation; acute toxicity effects; and flammability.

((*) (3) Employers (~~shall~~) must include formaldehyde in the hazard communication program established to comply with the HCS, WAC 296-901-140. Employers (~~shall~~) must ensure that each employee has access to labels on containers of formaldehyde and to safety data sheets, and is trained in accordance with the requirements of HCS and WAC 296-856-20020.

((*) (4) The above information in this section applies to chemicals associated with formaldehyde gas, all mixtures or solutions composed of greater than 0.1% formaldehyde, and materials capable of releasing formaldehyde into the air at concentrations reaching or exceeding 0.1 ppm.

((*) (5) In making the determinations of anticipated levels of formaldehyde release, the employer may rely on objective data indicating the extent of potential formaldehyde release under reasonably foreseeable conditions of use.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-856-500 Definitions.

**WSR 18-22-127
PERMANENT RULES
OFFICE OF THE
LIEUTENANT GOVERNOR**

[Filed November 7, 2018, 9:19 a.m., effective December 8, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To establish copy fees and payment procedures to the office under chapter 42.56 RCW.

Citation of Rules Affected by this Order: New WAC 241-10-050.

Statutory Authority for Adoption: RCW 42.56.040.

Adopted under notice filed as WSR 18-19-015 on September 7, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 5, 2018.

Cathleen Bright
Executive Assistant

NEW SECTION

WAC 241-10-050 Copying fees—Payments. (1) The following copy fees and payment procedures apply to requests to the office under chapter 42.56 RCW and received on or after August XX, 2017.

(2) Pursuant to RCW 42.56.120 (2)(b), the office is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons: (i) The office does not have the resources to conduct a study to determine all its actual copying costs; (ii) to conduct such a study would interfere with other essential agency functions; and, (iii) through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The office will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The office will charge for customized services pursuant to 42.56.120(3). Under RCW 42.56.130, the office may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The office may enter into an alternative fee agreement with a requester under RCW 42.56.120(4). The charges for copying methods used by the office are summarized in the fee schedule available on the office's website at www.atg.wa.gov.

(4) Requesters are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(a) It is within the discretion of the public records officer to waive copying fees when: (i) all of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or (ii) all of the records responsive to an entire request are electronic and can be provided in a single

email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requester will be charged in accordance with this rule. `

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The office will notify the requester of when payment is due.

(7) Payment should be made by check or money order to the Office of the Lieutenant Governor. The office prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The office will close a request when a requester fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.