

Explosives Safety Stakeholder Group (ESSG) Meeting Summary, May 15, 2020
Via Zoom

Division of Occupational Safety and Health (DOSH) Staff Present:

DOSH Safety and Health Specialist
DOSH Administrative Regulations Analyst
DOSH Standards Program Manager
DOSH Technical Services Safety Program Manager
DOSH Explosives Program Specialist
DOSH Management Analyst
Physician, Labor and Industries, Office of the Medical Director
Research Investigator, Labor and Industries, Research and Data Services

Organization represented (in no particular order):

Vail Resorts, Lead Avalancher
Northwest Energetics, General Manager
Wolverine West
Washington State Department of Transportation
Snoqualmie Ski Area
Wallace Technical Blasting
Joyson Safety, Continuous Improvement Lead
King County Sherriff
Snoqualmie Patrol
Sportsman's Warehouse-Compliance
Private
Port of Seattle Police
King County Sheriffs, SWAT
Richland Police, Bomb Squad
Vail Resorts NW Holdings, Inc.
CEng. Subterra Inc., President
Boeing
Washington State Depart of Natural Resources

Preparatory:

Approximately six weeks before the meeting, all ESSG Stakeholders provided electronic copies of the meeting materials with instruction to review and provide comments prior to the meeting. Participants provided with "Zoom Instructions" and meeting expectations. On May 4, 2020 and May 11, 2020, Zoom practice meetings held to allow stakeholders the opportunity to learn the Zoom application.

Summary:

DOSH Safety and Health Specialist, called the meeting to order at 9:00 am. DOSH Safety and Health Specialist reminded attendees of the meeting format to ask questions. Attendees called upon to address other attendees.

DOSH provided a safety tip on using a licensed contractor.

DOSH Safety and Health Specialist provided an overview of the rulemaking efforts to date; including the recent additions to the drafts as a result of an audit of the Explosives Program.

The group discussed elements of HB 2805; including, use of federal language; and, implications for persons with mental health issues, domestic violence and felony convictions. HB 2805 did not pass during the recent Legislative Session. The proposed language in the draft is based upon approval of the bill. If the bill, or similar legislation, does not pass in the 2021 Legislative Session, it will result in the removal of the language from the draft(s).

The group discussed Appendix D, Sample Medical Survey draft. DOSH Safety and Health Specialist noted the “duties” of the individual will determine the physical requirements; and, the required physical abilities of the applicant. Attendees asked if the form completed for a CDL physical would meet the requirements. DOSH Safety and Health Specialist stated “no,” however, the licensed medical treatment provider could complete both forms during one visit. An attendee expressed concerns with the costs of this new requirement, noting a DOT physical costs an employer approximately \$1,000.

DOSH Safety and Health Specialist asked the leads of the three sub-groups if they had met since the last meeting; and, if they had information for the ESSG Group. All reported no new information.

Attendees broke into their assigned sub-groups via separate Zoom break-out sessions/rooms: Rules/Licensing, Law Enforcement and Technical/Storage.

Following the break-out sessions, the group continued to discuss Appendix D, Sample Medical Survey. Attendees asked if the Department is going to develop a template letter to accompany the form to introduce/explain the form for the licensed medical treatment provider. DOSH Safety and Health Specialist informed stakeholders the agency envisions the industry member and employer to define the parameters required for the job duties; and, request the licensed medical treatment provider to evaluate health against this.

An attendee asked if any other state explosives program require this, noting the ATF does not require. An attendee noted a DOT physical is expensive. This could get costly for an employer if a large employer. DOSH Safety and Health Specialist stated the DOT physical and the Medical Survey can be completed at the same time.

DOSH Safety and Health Specialist stated the ATF does not license; ATF provides a license for the “act of buying.” Bomb Technicians are required to complete a similar process; as required by the Federal Bureau of Investigation (FBI).

An attendee asked the frequency requirement for the physical. DOSH Safety and Health Specialist noted it would not be annual. The thought is to require every three years; similar to fingerprinting. If law regarding fingerprinting is changed, this may need updating.

An attendee stated additional discussion is warranted. The level of physical fitness required for ski patrol is different than someone sitting on a bench, directing others.

An attendee stated doctors may feel uncomfortable; and, may not want the liability. An attendee suggested making a checklist. Labor and Industries is asking a provider to make a “judgment call,” and doctors do not want this. The attendee suggested making a checklist to keep it simple.

DOSH Safety and Health Specialist noted physicians currently perform flight physicals for pilots; and, sports physicals for student athletes annually.

An attendee asked how a physician could determine his level of physical fitness. His job requires him to ski in steep challenging terrain; and, asked why not leave this decision to the employer?

DOSH Safety and Health Specialist noted an obvious conflict of interest. In addition, an employer is not allowed to ask an employee about health issues (federal law).

An attendee noted the similarity to concussions in pro football; the decision of when a player can resume play is not up to the team.

An attendee noted there may be situations, such as underlying health conditions, in which a physician may not “certify” an employee for the requisite amount of time; for example, 6 or 12 months; would the agency accept?

DOSH Safety and Health Specialist noted “good point.” The agency would have to deal with the situation should it arise.

Attendee stated medical providers need standards by which to go by. The attendee stated the agency must develop the standards and provide to the licensed medical treatment providers.

DOSH Safety and Health Specialist noted it would be difficult to establish standards given the different roles/jobs. The FBI set national standards for bomb technicians since they certify them all. Ski areas would have to develop different standards than say Industrial Ordnance operations as it is more intensive than a lab setting, for example. However, medical condition, such as epilepsy, would not be allowed by either.

DOSH Safety and Health Specialist noted not all sports physicals are the same. The agency is trying not to overstep its authority; not trying to make standards for ski patrol apply to everyone. DOSH Safety and Health Specialist shared an example industry specific disqualifying criteria such as color-blindness. Bomb technicians’ must be able to differentiate between the colors of materials.

The proposed changes in the drafts were approved unless noted in the meeting summary. Only sections in which stakeholders voiced concerns, comments and questions are documented below.

Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part A

The group discussed the proposed changes in the draft; the following WAC sections were discussed in detail.

WAC 296-52-099 Definitions

The group discussed the definition of Employee possessor in detail.

DOSH Safety and Health Specialist noted there are three terms.

An attendee asked about situations in which the National Guard assists Law Enforcement; and, whether Washington State regulates the National Guard.

DOSH Safety and Health Specialist stated the state does not regulate the military; when the National Guard assists Law Enforcement, it is outside of Labor and Industries jurisdiction.

An attendee asked about federal laws.

DOSH Safety and Health Specialist stated ATF has no role in licensing blasters so this is not addressed federally.

WAC 52-12020 Drug use.

DOSH Safety and Health Specialist noted this language is consistent with RCW 70.74.360 Parts 1B; and, RCW 70.74.370 Part 2. “Illegal use of drugs is a deal breaker.”

WAC 296-52-12030 License revocation, suspension, and surrender.

DOSH Safety and Health Specialist noted that the agency’s internal database is unable to revoke/suspend and transmit a letter. This is something the agency is working to address in the future.

Poll Part A (taken after review of the draft):

“Do you agree with the proposed changes in the draft of Part A?”
12 of 24 voted; 11 voted yes (92%); 1 (8%) voted needs further discussion.

Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part B

Poll Part B (taken before review of the draft):

“Do you agree with the proposed changes in the draft of Part B?”
8 of 24 voted; 7 voted yes (88%); 1 (13%) voted needs further discussion.

The group discussed the proposed changes in the draft; the following WAC sections were discussed in detail.

WAC 296-52-20030 License Fees

An attendee asked if a fee schedule had been developed.

DOSH Safety and Health Specialist stated he was not aware of how the agency developed the current fee schedule.

WAC 296-52-20030 Table B-1 Type of License

An attendee asked for the breakdown of “how many” in state for each type of license.

DOSH Safety and Health Specialist stated; “out of blasters, ¼ avalanche, ¼ Law Enforcement; and sprinkling” for the remaining 50% between surface, underground and industrial ordinance.

An attendee stated he would like to see a breakdown of the numbers.

WAC 296-52-20060 Reasons why applicants may be disqualified.**WAC 296-52-20060(1)(b)(i)**

“A crime punishable by imprisonment for a term exceeding one year.”

WAC 296-52-20060(1)(g)

“Who has been dishonorably discharged from the United States Armed Forces.”

DOSH Safety and Health Specialist detailed the proposed changes. DOSH Safety and Health Specialist pointed out the proposed changes that do not agree with the law as currently written. If proposed HB 2805 is approved; the proposed language in the draft will agree with the law. DOSH Safety and Health Specialist noted that if an applicant is denied by the ATF, the agency will not license the individual. DOSH Safety and Health Specialist stated that a government employee is not regulated by ATF. DOSH Safety and Health Specialist noted trying to have law updated; then, code will follow. If HB 2805 is not approved, we (agency) are unable to keep the proposed changes in the draft.

An attendee noted that if the company’s insurance company learns an individual is not licensed; or, license revoked, the insurance company will prohibit the individual from being on the worksite.

WAC 296-52-2300 Responsibility to obtain a User’s (Blaster’s) license.

An attendee asked if there was a class for “disposal.”

DOSH Safety and Health Specialist stated there is not test for it. Usually, “disposal” is an additional skill. Every blaster is responsible for misfire or hire someone. Disposal must be within 24 hours or notify the agency.

WAC 296-52-23010 General Requirements and WAC 296-52-23060 List A and B renewal

Attendees inquired about amount of training time. DOSH Safety and Health Specialist stated to use what is in place at time of renewal; have up to a year.

An attendee noted it is a burden on the industry to develop.

An attendee stated; simply needs to be mobile, be able to hear and speak English. “I can direct.” An attendee stated it is best to keep requirements to a minimum; and, the group is overthinking.

An attendee stated there are many “underlying health conditions” which do not interfere with one’s ability to do their job.

WAC 296-52-23065 List C renewal:

DOSH Safety and Health Specialist stated it is a requirement of WAC 296-52-23065 now.

WAC 296-52-23070 Physical condition recertification.

An attendee asked “how long” a medical evaluation is good; is it for one year for resubmitting; or, is the employer required to keep and submit only if requested.

DOSH Safety and Health Specialist reviewed WAC 296-52-23070, which specifies every third year.

DOSH Safety and Health Specialist to research health conditions and ability to do one’s job and

modify language, if feasible.

WAC 296-52-23090 Reciprocity.

An attendee asked “which” states will Washington allow reciprocity, noting need to keep the bar high.

DOSH Safety and Health Specialist stated would probably begin with Montana; as Montana currently extends reciprocity to those licensed in Washington. The test for reciprocity will be that the state in question can show equal or higher testing standards to Washington.

WAC 296-52-24040 Site plan upkeep and posting**WAC 296-52-24040(1)(a)**

DOSH Safety and Health Specialist noted this is consistent with proposed language for Process Safety Management (PSM).

WAC 296-52-25020 Storage site inspections

DOSH Safety and Health Specialist acknowledged this section contains significant changes.

Break 12:20-12:40

**Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part C
Poll Part C (taken before review of the draft):**

“Do you agree with the proposed changes in the draft of Part C?”

8 of 22 voted; 6 (75%) voted yes; 2 (25%) voted needs further discussion.

WAC 296-52-3035 Blaster in charge responsibilities**WAC 296-52-3035(3) Blast Records**

An attendee noted it would be wonderful for the agency to develop one blast record; as currently has several. DOSH Safety and Health Specialist to develop new blast record/chart by June 15, 2020.

An attendee suggested developing a sample avalanche form.

DOSH Safety and Health Specialist noted the agency can include other samples; however, may confuse the novice.

Attendees noted blast records may indicate “owned by.”

DOSH Safety and Health Specialist noted the requirement of “any blast record” is to be submitted to LNI upon request of the agency.

WAC 296-52-3105 Blast design.

An attendee suggested modifying this section to split the information into smaller tables.

WAC 296-52-3105(4)(a)

The group discussed; license requirements in which the Registered Professional Engineer (RPE) is licensed.

WAC 296-52-3620 Loading tubes and casings

WAC 296-52-36290(1)

The group discussed the draft and made the following changes:

From:

When a tube is necessary, loading must be done through a nonsparking loading tube.

To:

When a tube is necessary, loading must be done through a ~~nonsparking~~ loading tube.

WAC 296-52-3625 Multiple charges.

WAC 296-52-3625(1)

The group discussed the draft and made the following changes:

From:

When more than one charge is placed underwater, a float device must be attached to an element of each charge to make sure it will be released when the charge is fired.

To:

When more than one charge is placed underwater, a float device must be attached to an element of each ~~charge~~row of a detonation sequence to make sure it will be released when the charge is fired.

Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part D

Poll Part D (taken before review of the draft):

“Do you agree with the proposed changes in the draft of Part D?”

12 of 23 voted; 11 (92%) voted yes; 1 (8%) voted no.

The group discussed the proposed changes in the draft; the following WAC sections were discussed in detail.

WAC 296-52-4010 Job sites and off highway roads.

WAC 296-52-40200 Delivery to carriers

An attendee brought up Seattle to Portland, Coast Guard regulations.

Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part E

The group discussed the proposed changes in the draft; the following WAC sections were discussed in detail.

WAC 296-52-50020 Storage limits

DOSH Safety and Health Specialist informed stakeholders the “goal” is to modify so that it requires only one notification and the agency will update through EOC for them.

WAC 296-52-50080 Blast size storage

WAC 296-52-50080(3)

The group discussed the storage of all divisions of explosives.

WAC 296-52-53040 Table E-4 Manufacturing buildings and plant magazines

WAC 296-52-53040(3)

The changes were submitted by a stakeholder a few days before the meeting. DOSH Safety and Health Specialist discussed the proposed changes with attendees.

**Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part F
Poll Part F (taken before review of the draft):**

“Do you agree with the proposed changes in the draft of Part F?”

9 of 21 voted; 8 (89%) voted yes; 1 (11%) voted needs further discussion.

The group discussed the proposed changes in the draft; the following WAC sections were discussed in detail.

An attendee asked if he had previously submitted The Bureau of Alcohol, Tobacco and Firearms (ATF) ruling. The attendee submitted the ATF Ruling, 76-18, via email during the meeting. ATF Rul.76-18 addresses Construction of Type 1 Storage Facilities.

WAC 296-52-60040 Lighting

DOSH Safety and Health Specialist discussed the proposed changes with attendees.

WAC 296-52-6100 Classification and Use of Magazines.

Attendees discussed; and, requested the agency develop a chart for each type of magazine.

DOSH Safety and Health Specialist stated, by definition, Type 3 can never be permanent.

Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part G

No poll.

The group discussed the proposed changes in the draft; the following WAC sections were discussed in detail.

WAC 296-52-72120 Commercial stocks

WAC 296-52-72120(4)

DOSH Safety and Health Specialist addressed attendees; and, asked if the proposed changes would represent an issue for retailers.

Page 19 296-52-7300 Use

WAC 296-52-7300(2) Exemption

WAC 296-52-7300(3)(b)(ii) note

Following the discussion, DOSH Safety and Health Specialist asked for a “straw vote” or “thumbs up” to communicate approval of proposed changes. Five attendees demonstrated “thumbs up.”

Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part H

Poll Part H (taken before review of the draft):

“Do you agree with the proposed changes in the draft of Part H?”

8 of 22 (36%) voted; 8 (100%) voted yes.

WAC 296-52-8300 Avalanche control blasting

The group discussed training specific to avalanche control; and, specifically aerial blasting. The group noted “ground crew” is not included in the standard.

An attendee asked if Blast Record needed in both Parts C and H.

During discussion; an attendee noted a chart is the best idea. Two attendees and DOSH Safety and Health Specialist will develop a chart specific to avalanche control blasting.

**Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, Part I
Poll Part I (taken before review of the draft):**

“Do you agree with the proposed changes in the draft of Part I?”

9 of 24 voted (37%); 9 (100%) voted yes.

During the discussion, DOSH Safety and Health Specialist stated for many of the procedures; there is “no safe way,” we perform the “safest way.” DOSH Safety and Health Specialist stated law enforcement has the requirement to help the public; and, “we” are all watching. Further, the Bomb Squad is not tested by the Department. Members of the Bomb Squad complete a six-week course and the FBI conducts testing. The testing criteria is federally mandated. The Department does not perform background checks on Law Enforcement as it is already done.

An attendee suggested the development of a checklist for the Law Enforcement Breacher’s Report, similar to the suggested checklist for the Blaster’s Report.

WAC 296-52-91010 Fixed Storage.

WAC 296-52-91010(3)

DOSH Safety and Health Specialist noted “need a professional to look at.” items that are brought in as evidence or home made before storage occurs.

The meeting adjourned at 4:30pm.

DOSH Staff due-outs:

- **WAC 296-52-20030 Table B-1 Type of License**
Break down on specific types of licenses requested.
- **WAC 296-52-23070 Physical condition recertification**
Research health conditions and ability to do one’s job and modify language, if feasible.
- **WAC 296-52-3035(3) Blast Records**
Develop new blast record/chart by June 15, 2020.