

**Explosives Safety Stakeholder Group Meeting Summary, July 23, 2019**

Washington State Department of Transportation, North Central Region  
2830 Euclid Avenue, Wenatchee, WA, 8:30am-5:00pm

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

Safety and Health Specialist

Administrative Regulations Analyst

Technical Services Safety Program Manager

Senior Program Manager, DOSH Standards, Technical and Laboratory Services

**Organization represented (in no particular order):**

Sportsman's Warehouse

Vail Resorts

Subterra Inc.

Northwest Energetics

Richland Police, Bomb Squad

Snoqualmie Patrol Director

Institute of Makers of Explosives (IME)

Private Rocketeer

King County Sheriffs, SWAT

Joyson Safety

Washington State Department of Transportation

**Via WebEx:**

Dyno Nobel

Alaska Occupational Safety and Health Enforcement

Port of Seattle Police, SWAT

Approximately two months before today's meeting, all attendees provided electronic copies of the meeting materials with instruction to review and provide comments prior to the meeting. Stakeholder comments and suggested changes were re-distributed to stakeholders July 9, 2019, to allow adequate time to review before the meeting.

**Summary:**

DOSH staff called the meeting to order at 8:30am.

DOSH staff provided an overview of the rulemaking efforts to date. He reminded attendees of the meeting format; attendees expected to review meeting materials prior to a meeting; and, the group will focus on specified sections of each section of the chapter.

DOSH staff informed attendees House Bill 1673-2019-20 passed April 30, 2019; with an effective date of July 28, 2019. HB 1673-2019-20 exempts information relating to the regulation of explosives from

public disclosure.

An attendee provided additional information on a second bill, HB 2133, stating it did not pass during the recent session. He stated it will be re-presented next year. HB 2133 proposed the requirement of one set of fingerprints at the beginning with yearly checks based on Social Security Number; updates to the list offenses to be more inclusive and require self-reporting; and, add an appeal system.

The group discussed elements of HB 2133 further; including, use of federal language; and, implications for persons with mental health issues, domestic violence and felony convictions. DOSH Staff informed the group, approval of the bill in the future would necessitate updating Chapter 296-52 WAC Safety Standards for possession, handling, and use of explosives to agree with the law.

DOSH staff asked attendees if there were additional sections the group would like to discuss in addition to those previously identified by comments in the drafts. Issues identified were documented for review with the correlating part. The proposed change in the drafts were approved unless noted in the meeting summary. Only sections in which stakeholders voiced concerns, comments and questions are documented below.

DOSH staff shared an overview of the Explosives program. The presentation detailed number of staff, roles and responsibilities of employees, and recent issues with license testing. DOSH staff provided an Explosives Customer Service Survey for attendees to complete. The Survey will be distributed electronically to customers as well.

## **Chapter 296-52 WAC Safety Standards for Possession, handling and use of explosives, proposed Part I Law Enforcement**

### **WAC 296-52-9000 General**

#### **WAC 296-52-9000(3)(b) General**

An attendee expressed concerns with proposed language. Operationally, and for training purposes, the intent may be to damage property. The group discussed alternative language, including the addition of language specific to training operations with the approval of the property owner. Proposed changes approved by the group.

The attendee expressed concerns with the proposed language within the “Note” which read:  
*“The damage caused is not in violation of WAC 296-52-3100 so long as it is the minimum amount necessary.”*

The attendee stated law enforcement uses the minimum amount of force necessary. Damage may occur; however, the intent is not to purposefully damage. The group discussed alternative language, to strike *“so long as it is the minimum amount necessary.”* Proposed changes approved by the group.

### **WAC 296-52-90010 License Types and Training**

The group discussed Canine Handlers (K9) in detail. Attendees discussed the uniqueness in that the individuals carry explosives; however, do not use. It was noted that K9 handlers are used outside of law enforcement. For example, airports may subcontract to private firms as do professional sports teams. The group discussed licensing versus creation of a certificate; and/or moving to a different part within

the Chapter. An attendee noted K9 Handlers also store and transport explosives. The group also discussed whether the license should be related to the individual, versus dependent upon employment relationship with specific employer.

**WAC 296-52-90010(5) proposed new**

The group discussed and added the following:

*“Noise and Flash Diversionary Devices (NFDD’s) officers transporting and/or using only NFDD’s in compliance with other parts of this section are not required to license or maintain certifications with the department. Their agency must record their training and keep it on file with other explosive use records.”* Proposed changes approved by the group.

The group took lunch at noon; and, resumed the meeting at 1:00pm.

**WAC 296-52-91020 Vehicular Storage**

The group discussed the amount of explosives law enforcement may transport and store in professional assigned vehicle at personal residence. Attendees noted reducing the amounts, or, prohibiting, would impact law enforcement ability to respond to a call in the middle of the night directly from personal residence. Should law enforcement be required to go pick up car, would hamper law enforcement from performing job and ultimately affect public safety due to delayed response time.

Attendees asked for statistics on break-ins into law enforcement vehicles when stored at personal residences.

DOSH staff stated statistics not available.

The group discussed deterrents to prevent access to law enforcement vehicles parked at residences; such as, locks, club, GPS, ignition interlock, and alarm. The group discussed having options, for example, use of two non-GPS items from list above. DOSH staff asked if “2 ½ pounds sounds reasonable.” The group stated “yes.”

DOSH staff stated the goal is to prevent detonation. Explosives considered another passenger in the vehicle. Larger amounts permissible in larger/heavier vehicle as vehicle capable to absorb more energy should detonation occur.

An attendee identified the differences in response time of law enforcement between east and west of mountains due to difference in populations; and, remoteness in certain areas.

Law enforcement office present in the room expressed concerns with use of GPS on law enforcement vehicles that would be parked at officers’ homes. Two attendees (representing two different counties) stated the unions representing law enforcement would not support use of GPS as it is a change in “working conditions.”

An attendee stated all vehicles of Northwest Kinetics have tracking devices.

An attendee representing IME stated the explosives industry has voluntarily put tracking on vehicles.

An attendee responded to the above comment stated they “are not driving the vehicle(s) home.”

The group discussed “who” would have access to the data should GPS be required.

DOSH staff asked an attendee if he has heard information about “feds requiring GPS.”

The attendee replied, “feds require for DOT.”

An attendee stated the department would use tracking to locate explosives if stolen; whereas, law enforcement worried about activities being tracked.

An attendee stated the union would not support use of tracking. The attendee noted he and another attendee represent the 1<sup>st</sup> and 3<sup>rd</sup> largest county for law enforcement in the state. Use of tracking would “take them out of explosives.” This would impact public safety.

The attendee expressed concern with the language being added independent of an explosives meeting without support of ESSG members.

**WAC 296-52-91020(6) proposed new**

The group discussed and added the following:

*“(6) Storage in an attached garage is allowed and does not violate the residential restrictions in Part E.”* Proposed changes approved by the group.

**WAC 296-52-91025 Vehicular Magazine Requirements**

**WAC 296-52-91025(5)(a) proposed new**

The group discussed and added the following:

*“(a) in the same container as detonators if segregated by a non-sparking barrier of 12 gauge steel or 3/4” plywood;”*

Proposed changes approved by the group.

**WAC 296-52-9300 Reporting**

The group discussed the reporting requirements. Questions were asked regarding details to be reported annually to the department.

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

**WAC 296-52-805 Hand charge makeup methods**

An attendee explained Method 1 is “at the blast site.” Method 2 is a “dedicated make up room with walls, security etc.”

An attendee noted, depending on terrain, employees may be accessing blast site on foot or skis and not via highway.

**WAC 296-52-805(3)(e)(iv)**

The group discussed and modified to read as follows:

*“A full containment makeup room that is located closer than specified in Part E must meet the following requirements:”* Proposed changes approved by the group.

**WAC 296-52-805(3)(e)(iv)(A)**

The group discussed and modified to read as follows:

*“The makeup room must be constructed in accordance with a registered professional engineer’s approved design.”* Proposed changes approved by the group.

The group discussed distance tables and “stamp” of Professional Engineer. Attendees commented on use of plans developed elsewhere. An attendee stated “plan-stamping” is illegal.

*Plan stamping: When a Professional Engineer places his/her registration seal [stamp] on something he/she did not author/develop. \*Follow up needed.*

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

**Part G Miscellaneous; proposed to read as:**

**Part G Commercial Consumer Materials (Ammunition, Propellants, Primers and Binary Mixes)**

An attendee questioned the group creating “new classifications” of explosives that do not agree with federal regulations and laws in other states. An attendee asked “why” create regulations applicable to unrealistic scenarios that will never happen. An attendee stated “you can’t fix stupid.”

Proposed changes approved by the group.

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

**Part D Transportation of Explosive Materials**

No controverted issues identified during discussion.

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

**Part C Use of Explosive Materials**

**WAC 296-52-3030 User (Blaster) responsibilities**

DOSH staff reviewed the proposed changes with attendees; and, provided details of Washougal flyrock incident. The Blaster in Charge has ultimate responsibility.

An attendee voiced concerns with the proposed changes. Stated proposed changes the equivalent of a law enforcement officer issuing a ticket to not only the driver of a car pulled over for speeding; but to all licensed drivers in the car. Proposed changes make any licensed user on site criminally liable.

An attendee stated the proposed changes undermine the authority of the Blaster in Charge; either they are the “blaster **in charge**,” or, they are not.

An attendee suggested “charging” those in Blaster in Charge chain of command; not, all those on site who possess license. The latter may have nothing to do with the blasting.

An attendee stated if you override the Blaster in Charge, you assume responsibility; and, added only a

PE can (sign).

An attendee asked “who” decides best practice.

An attendee stated a licensed Blaster in Charge does not have to accept direction from someone who is not a licensed blaster (PE).

The meeting officially adjourned at 4:30pm. Many attendees remained and discussed the chapter further.

Meeting adjourned at 4:45pm.

**Materials available at the meeting:**

Chapter 296-52 WAC Safety standards for possession, handling, and use of explosives (all parts)

**Materials presented at the meeting:**

DOSH Safety and Health Specialist Power Point

DOSH Staff Power Point