

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|---|-----|----------|---------|----------|----------|----------|
| Federal statute: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Federal rules or standards: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Recently enacted state statutes: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | | |
|--|-----|----------|---------|----------|----------|----------|
| | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
|--|-----|----------|---------|----------|----------|----------|

The number of sections adopted in the agency's own initiative:

| | | | | | | |
|--|-----|----------|---------|-----------|----------|----------|
| | New | <u>1</u> | Amended | <u>11</u> | Repealed | <u>2</u> |
|--|-----|----------|---------|-----------|----------|----------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | | |
|--|-----|----------|---------|-----------|----------|----------|
| | New | <u>1</u> | Amended | <u>11</u> | Repealed | <u>2</u> |
|--|-----|----------|---------|-----------|----------|----------|

The number of sections adopted using:

| | | | | | | |
|---------------------------------------|-----|----------|---------|-----------|----------|----------|
| Negotiated rule making: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Pilot rule making: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Other alternative rule making: | New | <u>1</u> | Amended | <u>11</u> | Repealed | <u>2</u> |

Chapter 296-115 WAC, Safety Requirements for Charter Boats

Purpose:

Why was rulemaking proposed?

This proposal would update the appeal process to more accurately reflect the intent of chapter 88.04 RCW, the Charter Boat Safety Act, and chapter 49.17 RCW, the Washington Industrial Safety and Health Act. The penalty language is being changed to align the charter boat penalty structure with other Division of Occupational Safety and Health (DOSH) penalties. A few requirements are being updated to make them consistent with current U.S. Coast Guard requirements under 46 CFR. Typographical errors found in a couple of references are also being corrected.

What changes were proposed?

New section:

WAC 296-115-110, Appeal of Decisions

- This section was previously WAC 296-115-010. We repealed WAC 296-115-010 and moved these requirements to the end of the rule with a new section number to create a more logical flow for the rule.
- The place to request a hearing changed from the Director to the Assistant Director, and we clarified the steps involved.
- The appeal venue changed to the BIIA to be consistent with RCW 88.04.055 for all citations **except** those regarding denial of a certificate of inspection or license, or a decision on the maximum passengers, crew, or total capacity of a charter boat.

Amended sections:

WAC 296-115-005, Scope and Purpose

- Changed name from “Scope and Application” to be consistent with current DOSH rule design.

WAC 296-115-015, Definitions

- Deleted definitions that are no longer in the rule.
- Added new terms (Assistant Director, employee, keel laid, master)

WAC 296-115-025, Vessel Inspection and Certification

-
-
- Changed the title from “Vessel Inspection and Licensing” for consistency within the rule and with Coast Guard regulations.

WAC 296-115-030, Master’s Examination and Licensing

- Removed penalty language and placed it in the penalty section (WAC 296-115-100).

WAC 296-115-035, Specific Inspection Requirements

- Applied clear rule writing principles.

WAC 296-115-040, Vessel Construction and Arrangement

- Applied clear rule writing principles.

WAC 296-115-050, General Requirements

- Made life preserver requirements consistent with U.S. Coast Guard regulations under 46 CFR 180.71 by adding the requirement to provide an appropriate life jacket for each child-sized person on board.
- Made ring life buoy requirements consistent with U.S. Coast Guard regulations under 46 CFR 180.70(d) by adding requirement for a floating water light when operating at night.
- Updated fixed fire extinguishing system requirements to be consistent with U.S. Coast Guard regulations under 46 CFR 181.115 by including vessels with wood and fiber-reinforced hulls among those needed a fixed fire extinguishing system
- Deleted requirement for use of carbon dioxide in the fixed fire extinguishing systems since it is no longer commonly used.
- Updated fixed fire extinguishing system requirements to be consistent with U.S. Coast Guard regulations under 46 CFR 181.410(10) by adding a requirement for an automatic shut-down device for power ventilation.
- Added Table 1, Portable Fire Extinguishers to assist employers in determining the correct type of fire extinguisher needed.
- Made deck railing requirements consistent with 46 CFR 116.900(c) and (g) by changing the spacing for rails from 12 inches to 4 inches, and clarifying that hand grabs in lieu of railings are only allowed for areas designed for crew. Corrected a typographical error in the USCG Manual reference.
- Made emergency portable battery light requirements consistent with 46 CFR 183.430 by clarifying minimum requirements.
- Applied clear rule writing principles.

WAC 296-115-060, Operations

-
- Made injury or casualty reporting requirements consistent with 46 CFR 185.202(a)(6) by clarifying types of injuries that require reporting, and adding fire on board the vessel as one of the conditions that require reporting.
 - Made emergency drill requirements consistent with 46 CFR 185.520(f) by adding requirement for documentation of drills.
 - Applied clear rule writing principles

WAC 296-115-070, Rules of Navigation

- Corrected a typographical error and updated the reference number for the navigation rules.
- Updated to correct term for testing compass readings.
- Applied clear rule writing principles.

WAC 296-115-100, Penalties for Certificate of Inspection and Operator's License

- Changed title for clarity.
- Changed penalty for owners of vessels who violate the certification and inspection provisions from \$200 to penalties provided under WISHA to be consistent with RCW 88.04.320(3).
- Applied clear rule writing principles.

WAC 296-115-120, Annual Fee Schedule

- Changed the term "license" to "certification" to use consistent terminology within the rules and to be consistent with U.S. Coast Guard requirements under 46 CFR.
- Applied clear rule writing principles.

Repealed Sections:

WAC 296-115-001, Forward

- This section was incorporated into WAC 296-115-005, Scope and Purpose, to be more consistent with the structure of our other rules.

WAC 296-115-010, Appeal of Decisions

- This section was re-numbered as WAC 296-115-110 for better organizational flow. See New Sections above.

CR 103 RULE-MAKING ORDER (RCW 34.05.360)

Department of Labor and Industries

Division of Occupational Safety and Health

Chapter 296-115 WAC, Safety Requirements for Charter Boats

Hearing Date: August 7 and 8, 2008

CR-103 Filing Date: October 1, 2008

Page 1

Attachment 2

(Citation of Rules)

Citation of existing rules affected by this order:

AMENDED SECTIONS:

WAC 296-115-005, Scope and application.

WAC 296-115-015, Definitions applicable to all sections of this chapter.

WAC 296-115-025, Vessel inspection and licensing.

WAC 296-115-030, Master's examination and licensing.

WAC 296-115-035, Specific inspection requirements.

WAC 296-115-040, Construction and arrangement.

WAC 296-115-050, General requirements.

WAC 296-115-060, Operations.

WAC 296-115-070, Rules of navigation.

WAC 296-115-100, Violations and setting of penalties.

WAC 296-115-120, Annual fee schedule.

REPEALED SECTIONS:

WAC 296-115-001, Forward

WAC 296-115-010, Appeal of decisions.

NEW SECTIONS:

WAC 296-115-110, Appeal of decisions.

Because of comments received, the final rule language was changed from the proposed rule language as follows:

| Stakeholder Comment | CR-102 language | CR-103 language | Comment |
|--|--|--|---|
| <p>WAC 296-115-050(3)(a)</p> <p>Needs additional language stating that floatation devices are only required for vessels that operate further than a certain distance from shore.</p> | <p>WAC 296-115-050</p> <p>(3) The following lifesaving equipment is required:</p> <p>(a) All vessels carrying passenger must carry life floats or buoyant apparatus for all persons on board.</p> <p>(b) All life floats or buoyant apparatus must be international orange in color.</p> <p>(c) Vessels operating not more than one mile from land may be permitted to operate with reduced numbers of life floats or buoyant apparatus if the assistant director determines it is safe.</p> <p>(d) Lifeboats, life rafts, dinghies, dories, skiffs, or similar type craft may be substituted for the required life floats or buoyant apparatus if the substitution is approved by the assistant director</p> <p>(e) Life floats, buoyant apparatus, or any authorized substitute must have the</p> | <p>WAC 296-115-050</p> <p>(3) The following lifesaving equipment is required:</p> <p>(a) All vessels carrying passenger must carry life floats or buoyant apparatus for all persons on board.</p> <p>(i) All life floats or buoyant apparatus must be international orange in color.</p> <p>(ii) Vessels operating not more than one mile from land may be permitted to operate without or with reduced numbers of life floats or buoyant apparatus if the assistant director determines it is safe.</p> <p>(iii) Lifeboats, life rafts, dinghies, dories, skiffs, or similar type craft may be substituted for the required life floats or buoyant apparatus if the substitution is approved</p> | <p>We renumbered to show that (b) through (e) are all subrequirements of (a).</p> <p>We also clarified that for vessels operating within one mile from land, “reduced numbers” of life floats or buoyant apparatus could mean none, when permitted by the Assistant Director.</p> |

| Stakeholder Comment | CR-102 language | CR-103 language | Comment |
|---|--|---|---|
| | following equipment: (i) A life line around the sides at least equivalent to 3/8 inch manila, festooned in bights or at least three feet, with a seine float in the center of each bight. (ii) Two paddles or oars not less than four feet in length. (iii) A painter of at least thirty feet in length and of at least two-inch manila or the equivalent. | by the assistant director (iv) Life floats, buoyant apparatus, or any authorized substitute must be U.S. Coast Guard approved and have the following equipment: <ul style="list-style-type: none"> • Two paddles or oars not less than four feet in length. • A painter of at least half-inch diameter and thirty feet in length | |
| <p>WAC 296-115-050 Regarding (5)(a)(i) on fire protection equipment. We have never been required to have a fire main system. The vessel was built to Coast Guard standards when it was built.</p> | <p>WAC 296-115-050 (5) (a) Fire pumps. (i) All vessels carrying more than 49 passengers must carry an approved power fire pump, and have a fire main system, including fire main, hydrants, hose, and nozzles. The fire hose may be a good commercial grade garden hose of not less than 5/8 inch size.</p> | <p>WAC 296-115-050 (5) (a) Fire pumps. (i) All vessels carrying more than 49 passengers must carry an approved power fire pump capable of reaching any part of the vessel.</p> | Deleted the extra information about a fire main. |
| <p>WAC 296-115-060(3)(i) Need further clarification on what hazardous materials could be legally carried on a</p> | <p>WAC 296-115-060(3)(i) Carrying hazardous substances is prohibited on vessels. However, the assistant director</p> | <p>WAC 296-115-060(3)(i) Carrying hazardous substances is prohibited on vessels. However, the assistant director</p> | The definitions section includes a definition of hazardous materials. |

| Stakeholder Comment | CR-102 language | CR-103 language | Comment |
|--|---|---|---|
| passenger vessel, where they should be carried, how they should be handled. Hazardous materials can be anything from a can of fly spray to a 5-gallon can of gasoline. | may authorize a vessel to carry specific types and quantities of hazardous substances if the assistant director deems it necessary. | may authorize a vessel to carry specific types and quantities of hazardous substances if the assistant director approves the type, quantity, and manner in which it is carried. | However, we added more detail about the Assistant Director allowing hazardous materials under certain conditions. |