

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**SECOND NOTICE OF PROPOSED MODIFICATIONS TO
CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Chapter 4, Subchapter 7, Group 2, Article 7, Section 3314
of the General Industry Safety Orders**

The Control of Hazardous Energy

Pursuant to Government Code Section 11346.8(c), the Occupational Safety and Health Standards Board (Standards Board) gives notice of the opportunity to submit written comments on the above-named regulations in which further modifications are being considered as a result of public comments and/or Board staff evaluation.

On August 23, 2004, the Standards Board mailed a Notice of Proposed Modifications to interested parties and Board members to consider revisions to Title 8, Section 3314 of the General Industry Safety Orders, California Code of Regulations. The Standards Board received written comments on the proposed revisions, and the regulations have been further modified as a result of the comments and Board consideration.

A copy of the modified text and subsequent modifications clearly indicated are attached for your information. In addition, a summary of the written comments regarding the Notice of Proposed Modifications and staff responses are included.

Pursuant to Government Code Section 11346.8(d), notice is also given of the opportunity to submit comments concerning the addition to the rulemaking file of the following documents relied upon:

- Oregon Administrative Rules, Section 1910.147, The Control of Hazardous Energy (Lockout/Tagout).
- Washington Administrative Code, Chapter 296-24, Part A-4, Safety Procedures.
- U.S. Department of Labor, Occupational Safety and Health Administration, Standard Interpretation of 29 CFR 1910.147(b) and 1910.147(c)(7), dated February 10, 2004.

Any written comments on these modifications or additional documents relied upon must be received by 5:00 p.m. on October 4, 2004, at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. These regulations will be scheduled for adoption at a future business meeting of the Standards Board.

The Standards Board's rulemaking files on the proposed action are open to public inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Standards Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833.

Inquiries concerning the proposed changes may be directed to the Executive Officer, Keith Umemoto at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date: September 17, 2004

Keith Umemoto, Executive Officer

PROPOSED MODIFICATIONS FOR 1st 15-DAY NOTICE
(Modifications are indicated by bold, double-underlined for
new language and bold, strikeout for deleted language.)

STANDARDS PRESENTATION
TO
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

PROPOSED STATE STANDARD,
TITLE 8, CHAPTER 4

Amend Section 3314 as follows:

§3314. The Control of Hazardous Energy for the Cleaning, Repairing, Servicing, Setting-Up, and Adjusting Operations of Prime Movers, Machinery and Equipment, Including Lockout/Tagout.

(a) Application.

(1) This Section applies to the cleaning, repairing, servicing, setting-up and adjusting of machines and equipment in which the unexpected energization or start up of the machines or equipment, or release of stored energy could cause injury to employees.

(2) For the purposes of this Section, cleaning, repairing, servicing and adjusting activities shall include unjamming prime movers, machinery and equipment.

(3) **NOTE:** Requirements for working on energized electrical systems are prescribed in Sections 2320.1 through 2320.9 or 2940 through 2945.

(b) Definitions:

Affected employee. For the purposes of this section, an employee whose job requires them to operate or use a machine or equipment on which cleaning, repairing, servicing, setting-up or adjusting operations are performed under lockout or tagout, or whose job requires the employee to work in an area in which such activities are being performed under lockout or tagout.

Authorized employee or person. For the purposes of this section, a qualified person who locks out or tags out specific machines or equipment in order to perform cleaning, repairing, servicing, setting-up, and adjusting operations on that machine or equipment. An affected employee becomes an authorized employee when that employee's duties include performing cleaning, repairing, servicing, setting-up and adjusting operations covered under this section.

Locked out. The use of devices, positive methods and procedures, which will result in the effective isolation or securing of prime movers, machinery and equipment from mechanical, hydraulic, pneumatic, chemical, electrical, thermal or other hazardous energy sources.

Normal Production Operations. The utilization of a machine or equipment to perform its intended production function.

Prime Mover. The source of mechanical power for a machine.

(a)(c) Cleaning, Servicing and Adjusting Operations.

Machinery or equipment capable of movement shall be stopped and the power source de-energized or disengaged, and, if necessary, the moveable parts shall be mechanically blocked or locked out to prevent inadvertent movement, or release of stored energy during cleaning, servicing or and adjusting operations unless. Accident prevention signs or tags or both shall be placed on the controls of the power source of the machinery or equipment.

(1) If the machinery or equipment must be capable of movement during this period in order to perform the specific task. If so, the employer shall minimize the hazard of movement by

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providing and requiring the use of extension tools (e.g., extended swabs, brushes, scrapers) or other methods or means, ~~including but not limited to interlocks,~~ to protect employees from injury due to such movement. Employees shall be made familiar with the safe use and maintenance of such tools, methods or means, by thorough training. ~~For the purpose of Section 3314, cleaning, repairing, servicing and adjusting activities shall include unjamming prime movers, machinery and equipment.~~

~~(b)~~(d) Repair Work and Setting-Up Operations.

Prime movers, equipment, or power-driven machines equipped with lockable controls or readily adaptable to lockable controls shall be locked out or positively sealed in the “off” position during repair work and setting-up operations. Machines, equipment, or prime movers not equipped with lockable controls or readily adaptable to lockable controls shall be considered in compliance with Section 3314 when positive means are taken, such as de-energizing or disconnecting the equipment from its source of power, or other action which will effectively prevent the equipment, prime mover or machine from inadvertent movement or release of stored energy. In all cases, accident prevention signs ~~and/or~~ tags or both shall be placed on the controls of the equipment, machines and prime movers during repair work and setting-up operations.

EXCEPTIONS to subsections (c) and (d):

1. Minor tool changes and adjustments, and other minor servicing activities, which take place during normal production operations are not covered by the requirements of Section 3314 if they are routine, repetitive, and integral to the use of the equipment or machinery for production, provided that the work is performed using alternative measures which provide effective protection.
2. Work on cord and plug-connected electric equipment for which exposure to the hazards of unexpected energization or start up of the equipment is controlled by the unplugging of the equipment from the energy source and by the plug being under the exclusive control of the employee performing the work.

~~NOTE: For the purpose of Section 3314, “locked out” means the use of devices, positive methods and procedures, which will result in the effective isolation or securing of prime movers, machinery and equipment from mechanical, hydraulic, pneumatic, chemical, electrical, thermal or other energy sources.~~

~~(c)~~(e) Materials and Hardware. The employer shall provide ~~a sufficient number of~~ accident prevention signs, ~~or~~ tags, ~~and~~ padlocks, seals or other similarly effective means which may be required ~~by any~~ reasonably foreseeable for cleaning, servicing, adjusting, repair work or setting-up operations emergency. Signs, tags, padlocks, and seals shall have means by which they can be readily secured to the controls. Tagout device attachment means shall be of a non-reusable type, attachable by hand, self-locking and non-releasable with a minimum unlocking strength of no less than 50 pounds.

~~(d)~~ During repair, prime movers, machines or equipment shall be effectively blocked or otherwise secured to prevent inadvertent movement if such movement can cause injury to employees.

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~~(e)~~(f) Repetitive Process Machines. On repetitive process machines, such as numerical control machines, which require power or current continuance to maintain indexing and where repair, adjustment, testing, or setting-up operations cannot be accomplished with the prime mover or hazardous energy source disconnected, such operations may be performed under the following conditions:

(1) The operating station where the machine may be activated must at all times be under the control of a qualified operator or craftsman.

(2) All participants must be in clear view of the operator or in positive communication with each other.

(3) All participants must be beyond the reach of machine elements which may move rapidly and present a hazard to them.

(4) Where machine configuration or size requires that the operator leave his control station to install tools, and where machine elements exist which may move rapidly, if activated, ~~exist~~ such elements must be separately locked out by positive means.

(5) During repair procedures where mechanical components are being adjusted or replaced, the machine shall be de-energized or disconnected from its power source.

NOTE: "Participant" shall mean any other person(s) engaged in the repair, adjustment, testing or setting up operation in addition to the qualified operator or craftsman having control of the machine operating station.

~~(f)~~(g) Hazardous Energy Control Procedures. An hazardous energy control procedure shall be developed and utilized by the employer when employees are engaged in the cleaning, repairing, servicing, setting-up or adjusting of prime movers, machinery and equipment.

(1) The procedure shall clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance, including, but not limited to, the following:

~~(1)~~(A) A statement of the intended use of the procedure;

~~(2)~~(B) The procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy;

~~(3)~~(C) The procedural steps for the placement, removal and transfer of lockout devices and ~~or~~ tagout devices and ~~the responsibilities for them~~; and,

~~(4)~~(D) The requirements for testing a machine or equipment, to determine and verify the effectiveness of lockout devices, tagout devices and other hazardous energy control devices.

(2) The employer's hazardous energy control procedures shall be documented in writing.

~~EXCEPTION to subsection (g)(2): The employer need not document the required procedure for a particular machine or equipment, when all of the following elements exist:~~

1. The machine or equipment has no potential for stored or residual energy or re-accumulation of stored energy after shut down which could endanger employees;

2. The machine or equipment has a single energy source which can be readily identified and isolated;

3. The isolation and locking out of that energy source will completely de-energize and deactivate the machine or equipment;

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- ~~4. The machine or equipment is isolated from that energy source and locked out during cleaning, repairing, servicing, setting up, and adjusting operations;~~
- ~~5. A single lockout device will achieve a locked-out condition;~~
- ~~6. The lockout device is under the exclusive control of the authorized employee performing the cleaning, repairing, servicing, setting up, and adjusting operations;~~
- ~~7. The cleaning, repairing, servicing, setting up, and adjusting operations do not create hazards for other employees; and~~
- ~~8. The employer, in utilizing this exception, has had no accidents involving the unexpected activation or re-energization of the machine or equipment during cleaning, repairing, servicing, setting up, and adjusting operations.~~

(A) The employer's hazardous energy control procedure shall include separate instructions procedural steps for the safe lockout/tagout of each machine or piece of equipment affected by the hazardous energy control procedure.

EXCEPTION to subsection (g)(2)(A): The instructions procedural steps for the safe lockout/tagout of prime movers, machinery or equipment may be used for a group or type of machinery or equipment, when either all of the following elements two conditions exist:

(1) Condition 1:

~~(1)(A)~~ The operational controls named in the instructions procedural steps are configured in a similar manner, and

~~(2)(B)~~ The locations of disconnect points (energy isolating devices) are identified, and

~~(3)(C)~~ The sequence of steps to safely lockout or tagout the machinery or equipment are similar.

(2) Condition 2: The machinery or equipment has a single energy supply that is readily identified and isolated and has no stored or residual hazardous energy.

~~(B) The instructions for the safe lockout/tagout of each machine, or piece of equipment shall be readily available and understandable to all affected employees.~~

(h) Periodic inspection.

The employer shall conduct a periodic inspection of the hazardous energy control procedure(s) at least annually to ensure that the procedure and the requirements of this section are being followed evaluate their continued effectiveness and determine necessity for updating the written procedure(s).

(1) The periodic inspection shall be performed by an authorized employee an authorized employee or a qualified person other than the one(s) utilizing the hazardous energy control procedures being inspected.

(2) Where lockout and/or tagout is used for hazardous energy control, the periodic inspection shall include a review between the inspector and ~~each~~ authorized employees, of ~~that employee's~~ their responsibilities under the hazardous energy control procedure being inspected.

(3) The employer shall certify that the periodic inspections have been performed. The certification shall identify the machine or equipment on which the hazardous energy control

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procedure was being utilized, the date of the inspection, the employees included in the inspection, and the person performing the inspection.

(i) Whenever outside servicing personnel are to be engaged in activities covered by this section, the on-site employer's lockout or tagout procedures shall be followed.

(j) Training.

~~Affected~~ **Authorized** employees shall be trained on ~~the~~ hazardous energy control procedures and on the hazards related to performing ~~any activity~~ **activities** required for cleaning, repairing, servicing, setting-up and adjusting prime movers, machinery and equipment.

(2) Each affected employee shall be instructed in the purpose and use of the energy control procedure.

(3) All other employees whose work operations may be in an area where energy control procedures may be utilized, shall be instructed about the prohibition relating to attempts to restart or reenergize machines or equipment which are locked out or tagged out.

~~(4)(2)~~ Such training shall be documented ~~and kept in the employee's training records~~ as required by Section 3203.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

PROPOSED MODIFICATIONS FOR 2ND 15-DAY NOTICE
(Modifications are indicated by bold, italics and double-underlined for new language and bold, italics, strikeout for deleted language.)

(Only modified pages are included.)

STANDARDS PRESENTATION
TO
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PROPOSED STATE STANDARD,
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(a) Application.

(1) This Section applies to the cleaning, repairing, servicing, setting-up and adjusting of machines and equipment in which the unexpected energization or start up of the machines or equipment, or release of stored energy could cause injury to employees.

(2) For the purposes of this Section, cleaning, repairing, servicing and adjusting activities shall include unjamming prime movers, machinery and equipment.

(3) **NOTE:** Requirements for working on energized electrical systems are prescribed in Sections 2320.1 through 2320.9 or 2940 through 2945.

(b) Definitions:

Affected employee. For the purposes of this section, an employee whose job requires them to operate or use a machine or equipment on which cleaning, repairing, servicing, setting-up or adjusting operations are being performed under lockout or tagout, or whose job requires the employee to work in an area in which such activities are being performed under lockout or tagout.

Authorized employee or person. For the purposes of this section, a qualified person who locks out or tags out specific machines or equipment in order to perform cleaning, repairing, servicing, setting-up, and adjusting operations on that machine or equipment. An affected employee becomes an authorized employee when that employee's duties include performing cleaning, repairing, servicing, setting-up and adjusting operations covered under this section.

Locked out. The use of devices, positive methods and procedures, which will result in the effective isolation or securing of prime movers, machinery and equipment from mechanical, hydraulic, pneumatic, chemical, electrical, thermal or other hazardous energy sources.

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Machinery or equipment capable of movement shall be stopped and the power source de-energized or disengaged, and, if necessary, the moveable parts shall be mechanically blocked or locked out to prevent inadvertent movement, or release of stored energy during cleaning, servicing or and adjusting operations unless. Accident prevention signs or tags or both shall be placed on the controls of the power source of the machinery or equipment.

(1) If the machinery or equipment must be capable of movement during this period in order to perform the specific task. If so, the employer shall minimize the hazard of movement by

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~~(b)~~(d) Repair Work and Setting-Up Operations.

Prime movers, equipment, or power-driven machines equipped with lockable controls or readily adaptable to lockable controls shall be locked out or positively sealed in the “off” position during repair work and setting-up operations. Machines, equipment, or prime movers not equipped with lockable controls or readily adaptable to lockable controls shall be considered in compliance with Section 3314 when positive means are taken, such as de-energizing or disconnecting the equipment from its source of power, or other action which will effectively prevent the equipment, prime mover or machine from inadvertent movement or release of stored energy. In all cases, accident prevention signs ~~and/or~~ tags or both shall be placed on the controls of the equipment, machines and prime movers during repair work and setting-up operations.

EXCEPTIONS to subsections (c) and (d):

1. Minor tool changes and adjustments, and other minor servicing activities, which take place during normal production operations are not covered by the requirements of Section 3314 if they are routine, repetitive, and integral to the use of the equipment or machinery for production, provided that the work is performed using alternative measures which provide effective protection.
2. Work on cord and plug-connected electric equipment for which exposure to the hazards of unexpected energization or start up of the equipment is controlled by the unplugging of the equipment from the energy source and by the plug being under the exclusive control of the employee performing the work.
3. Where an employer has a uniform system with unique and personally identifiable locks designed for lockout, that are placed on the source of energy, accident prevention signs or tags are not required.

NOTE: ~~For the purpose of Section 3314, “locked out” means the use of devices, positive methods and procedures, which will result in the effective isolation or securing of prime movers, machinery and equipment from mechanical, hydraulic, pneumatic, chemical, electrical, thermal or other energy sources.~~

~~(e)~~(e) Materials and Hardware. The employer shall provide a ~~sufficient number~~ of accident prevention signs, ~~or~~ tags, ~~and~~ padlocks, seals or other similarly effective means which may be required ~~by any~~ reasonably foreseeable for cleaning, servicing, adjusting, repair work or setting-up operations emergency. Signs, tags, padlocks, and seals shall have means by which they can be readily secured to the controls. Tagout device attachment means shall be of a non-reusable type, attachable by hand, self-locking and non-releasable with a minimum unlocking strength of no less than 50 pounds.

SUMMARY AND RESPONSE TO COMMENTS

SUMMARY AND RESPONSE TO WRITTEN COMMENTS

Ms. Judith S. Freyman, Director, Western Occupational Safety and Health Operations, ORC Worldwide, by letter dated September 8, 2004.

Comment:

Ms. Freyman suggested that the use of personally identifiable locks instead of tags on a power source should be reconsidered. The commenter stated that the use of locks in lieu of tags is not only a method of improving safety, it is also more reliable, since employees tend to default to the easiest practice over time, when under pressure or as training fades. The commenter opined that requiring tags, as proposed in subsection 3314(c), would provide no additional protection while adding an unnecessary burden for employers.

The commenter suggested adding the following note to subsection 3314(c): “Where an employer has a uniform system with unique, personally identifiable locks that are placed on the source of energy no accident prevention signs or tags are required.”

Response:

The suggested wording offered by the commenter is substantially the same as proposed by Ms. Treanor’s (Phylmar Regulatory Roundtable) written comment dated January 15, 2004. Subsequent to the Board’s response to the 45-Day public comments, Board staff learned that the proposed lockout system is used by a number of California employers. Furthermore, the proposed exception would permit a system compliant with federal standards [1910.147(c)(5)]. Therefore, the Board has reconsidered, and proposes to add an exception for subsections 3314(c) and (d) to permit the use of a uniform and compliant lockout system in lieu of providing accident prevention signs or tags.

The Board thanks Ms. Freyman for her comments and participation in the Board’s rulemaking process.

Mr. Robert Moats, Safety Professional, by e-mails dated September 8, 2004, and September 10, 2004.

A number of the comments offered were outside the scope of the 15-Day Notice; however, the Board responds to the following comments, which are within the scope of the proposed modifications.

Comment No. 1:

Mr. Moats commented that the “area” referenced in the definition of “affected employee” in Section 3314(b) is vague. He speculated that in a large manufacturing area, all employees could be considered to be affected employees, and suggested the definition be modified so that an employee becomes an affected employee if the person could be affected by the energy should it be released.

Response:

This definition is taken nearly verbatim from 29 CFR 1910.147(b) and Board staff is of the opinion the proposed definition is consistent, not only with the federal definition, but with a

federal OSHA interpretation dated February 10, 2004¹. Neighboring and nearby states, Arizona and Nevada, enforce the federal standard, and Oregon² and Washington³ have adopted the federal definition for “affected employee” nearly verbatim. None of these definitions are more specific with regard to the extent of the area in question. The Board believes that a reasonable interpretation of the definition could not be construed to apply to employees who would not be affected by the hazardous energy procedures. In light of the consistency of the proposed definition with federal OSHA, as well as with standards in nearby states, the Board is of the opinion that further clarification is unnecessary, and therefore declines to modify the proposed definition.

Comment No. 2:

Mr. Moats opines that there is an apparent inconsistency in the use of the singular and plural form of the words “procedure” and “procedures” in subsection 3314(g) of the proposal. He recommended that the form be consistent throughout the standard.

Response:

Subsection 3314(g)(1) prescribes the content of the procedure; i.e., it shall outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance, etc. Subsection (g)(2) addresses documentation requirements, and prescribes where machine-specific procedures are required and where a single procedure may be used for a group or type of machinery or equipment.

The Board is of the opinion that Mr. Moats’ proposed editorial modification could potentially re-introduce confusion regarding documentation requirements, that were addressed in the 45-Day Notice, and therefore declines to make the suggested modification.

The Board notes that Mr. Moats raised a number of issues that are outside the scope of the 15-Day Notice of Proposed Modifications, and that some were outside the scope of the original proposal as well. The Board notes that other comments offered by Mr. Moats may actually pertain in whole or in part to the Electrical Safety Orders. In all cases, Mr. Moats may petition the Board for a future rulemaking to address these issues under the provisions of Labor Code Section 142.2 if he so desires.

The Board thanks Mr. Moats for his comments and participation in the Board’s rulemaking process.

Mr. Larry Tipton, Industrial Hygiene Manager, Southern California Edison, by fax dated September 10, 2004.

Comment No. 1:

Mr. Tipton asked how the “area,” as used in the last part of the definition of “affected employee” in Section 3314(b), which reads, “or whose job requires the employee to work in an area in which such activities are being performed under lockout or tagout,” is defined. Mr. Tipton

¹ U.S. DOL, OSHA Standard Interpretation of 29 CFR 1910.147(b) and 1910.147(c)(7), by letter dated February 10, 2004.

² OAR 1910.147(b)

³ WAC 296-24-11003

opined that the term is ambiguous and confusing, and recommends that the definition be clarified by deleting this last part.

Response:

See the Board's response to Mr. Moats' Comment No. 1 above.

Comment No. 2:

Mr. Tipton commented that two of the three levels of training outlined in Section 3314(j) are redundant, and asked what the differences were between subsections (j)(2) and (j)(3). Mr. Tipton opined that "the training provided to an affected employee who may be in the work area where energy control procedures may be utilized should be the same." He suggested that subsections (j)(2) and (j)(3) be replaced with a single performance-oriented requirement reading: "Employees other than authorized employees will receive sufficient instruction or information regarding the employer's LOTO program that is appropriate for their exposure or work task."

Response:

The Board is of the opinion that combining these two subsections into one could potentially impose more (and unnecessary) training requirements on the employer. Subsection 3314(j)(2) prescribes training for the "affected employee" i.e., an employee whose job requires them to operate or use a machine or equipment on which cleaning, repairing, servicing, setting-up or adjusting operations are performed under lockout or tagout, or whose job requires the employee to work in an area in which such activities are being performed under lockout or tagout. Subsection 3314(j)(3), however, applies to all other employees who are not using or operating a machine or equipment undergoing work under lockout/tagout, but whose job may require them to work in an area where lockout/tagout is being performed. Subsection (j)(3) only requires general instruction to employees who may be in the area where lockout/tagout is utilized so that they are aware that those machines or equipment that are locked out or tagged out should not be restarted, and that the lockout/tagout devices on such machines or equipment should not be tampered with or defeated.

The Board notes that this language is nearly verbatim of 29 CFR 1910.147(b)(7)(i)(A) through (b)(7)(C), which is enforced in both Arizona and Nevada. Furthermore, these provisions are nearly identical to those enforced in Oregon⁴ and Washington⁵. In light of the consistency of the proposal with federal OSHA, as well as with nearby states, the Board is of the opinion that the suggested modifications are not warranted.

The Board notes that Mr. Tipton's comment regarding the degree of training prescribed in subsection 3314(c) is outside the scope of both the original proposal and the modified proposal. Mr. Tipton may petition the Board for a future rulemaking to address this issue under the provisions of Labor Code Section 142.2 should he so desire.

The Board thanks Mr. Tipton for his comments and participation in the Board's rulemaking process.

⁴ OAR 1910.149(b)(7)(i)(A) through (C).

⁵ WAC 296-24-11005(7)(a)(i) through (iii).