



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Miners Health Safety And Training

TITLE-SERIES: 56-02

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Rule Governing Safety Provisions for Clearing Crews

CITE STATUTORY AUTHORITY: W. Va. Code 22A-1-6 and 22A-1-38

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/21/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule details the safety provisions applicable to clearing crews while working on mine property in West Virginia.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The changes to this rule are for the purpose of updating language found in this rule and incorporating formatting recommendations of the Secretary of State's office.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	-0-	-0-	-0-
Personal Services	-0-	-0-	-0-
Current Expenses	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-
Assets	-0-	-0-	-0-
Other	-0-	-0-	-0-
2. Estimated Total Revenues	-0-	-0-	-0-

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Garner Marks -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 56
LEGISLATIVE RULE
OFFICE OF MINERS' HEALTH, SAFETY & TRAINING

SERIES 2
RULE GOVERNING SAFETY PROVISIONS FOR CLEARING CREWS

§56-2-1. General.

1.1. Scope. -- This rule governs safety provisions for clearing crews while on mine property in the State of West Virginia. It does not extend to commercial logging operations that may be on mine property and are regulated by OSHA and/or the ~~WV~~ West Virginia Division of Forestry.

1.2. Authority. -- W. Va. Code §§22A-1-6 and 22A-1-38.

1.3. Filing Date. -- ~~May 8, 2006~~ _____.

1.4. Effective Date. -- ~~May 8, 2006~~ _____.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, 2029.

1.6. ~~1.5:~~ Applicability. -- This rule applies to each mine operator and independent contractor registered with the ~~WV~~ West Virginia Office of Miners' Health, Safety and Training as required by ~~West Virginia~~ W. Va. Code §22A-2-63.

§56-2-2. Definitions.

2.1. Unless the context in which a word or phrase appears clearly requires a different meaning, all terms used in this rule that are not defined herein shall have the meanings set forth in W. Va. Code §22A-1-2.

~~2.1:~~ 2.2. "Backcut" (felling cut) shall mean ~~means~~ the final cut in a felling operation.

~~2.2:~~ 2.3. "Ballistic Nylon" shall mean ~~means~~ a nylon fabric of high tensile properties designed to provide protection from lacerations.

~~2.3:~~ 2.4. "Butt" shall mean ~~means~~ the bottom of the felled part of a tree.

~~2.4:~~ 2.5. "Clearing Crew" (Land Clearing) shall mean ~~means~~ persons employed by the mine operator or independent contractor to clear and grub vegetation in preparation of, or during, mining operations.

~~2.5:~~ 2.6. "Chock" shall mean ~~means~~ a block, often wedge shaped, which is used to prevent movement.

~~2.6:~~ 2.7. "Competent Person" shall mean ~~means~~ a person designated by the mine operator or independent contractor who has a minimum of twelve (12) months experience in the clear cutting industry and is familiar with the normal hazards associated therein.

~~2.7:~~ 2.8. "Danger Tree" shall mean ~~means~~ a standing tree that presents a hazard to employees due to conditions such as, but not limited to, deterioration or physical damage to the root system, trunk, stem or

limbs, and the direction and lean of the tree.

~~2-8:~~ 2.9. "Designated Person" ~~shall mean~~ means an employee who has the requisite knowledge, training and experience to perform specific duties.

~~2-9:~~ 2.10. "Director" ~~shall mean~~ means the Director of the Office of Miners' Health, Safety and Training or his or her authorized ~~representative~~ provided for in W. Va. Code §22A-1-3.

~~2-10:~~ 2.11. "Domino felling" ~~shall mean~~ means partial cutting of multiple trees which are left standing and then pushed over with a pusher tree.

~~2-11:~~ 2.12. "Employer" ~~shall mean~~ means the person or entity that directly employs the clearing crew. It may be an independent contractor or in some cases it may be the production operator.

~~2-12:~~ 2.13. "Fell" (fall) ~~shall mean~~ means to cut down trees.

~~2-13:~~ 2.14. "Feller" (faller) ~~shall mean~~ means an employee who fells trees.

~~2-14:~~ 2.15. "Grounded" ~~shall mean~~ means the placement of a component of a machine on the ground or on a device where it is firmly supported.

~~2-15:~~ 2.16. "Guarded" ~~shall mean~~ means covered, shielded, fenced, enclosed, or otherwise protected by means of suitable enclosures, covers, casings, shields, troughs, railings, screens, mats, or platforms, or by location, to prevent injury.

~~2-16:~~ 2.17. "Independent Contractor" ~~shall mean~~ means any firm, corporation, partnership or individual that contracts to perform services or construction at a coal mine.

~~2-17:~~ 2.18. "Limbing" ~~shall mean~~ means to cut branches off felled trees.

~~2-18:~~ 2.19. "Lodged Tree" (hung tree) ~~shall mean~~ means a tree leaning against another tree or object which prevents it from falling to the ground.

~~2-19:~~ 2.20. "Machine" ~~shall mean~~ means any vehicle (such as a car, bus, truck, trailer, or semi-trailer owned, leased or rented by the employer that is used for transportation of employees or movement of material), or any piece of stationary or mobile equipment having a self-contained power plant that is operated off-road and used for the movement of material. Machines include, but are not limited to, tractors, skidders, front-end loaders, scrapers, graders, bulldozer and mechanical felling devices, such as tree shears and feller bunchers. Machines do not include airplanes or aircraft (e.g., helicopters).

~~2-20:~~ 2.21. "Production Operator" ~~shall mean~~ means any owner, lessee or other person who operates, controls or supervisors at a coal mine.

~~2-21:~~ 2.22. "Rated Capacity" ~~shall mean~~ means the maximum load a system, vehicle, machine, or piece of equipment was designed by the manufacturer to handle.

~~2-22:~~ 2.23. "Root Wad" ~~shall mean~~ means the ball of a tree root and dirt that is pulled from the ground when a tree is uprooted.

~~2-23:~~ 2.24. "Serviceable Condition" ~~shall mean~~ means a state or ability of a tool, machine, vehicle or

other device to operate as it was intended by the manufacturer to operate.

~~2-24:~~ 2.25. "Slope" (grade) ~~shall mean~~ means the increase or decrease in altitude over a horizontal distance expressed as a percentage. For example, a change of altitude of 20 feet (6 m) over a horizontal distance of 100 feet (30 m) is expressed as a 20 percent slope.

~~2-25:~~ 2.26. "Snag" ~~shall mean~~ means any standing dead tree or portion thereof.

~~2-26:~~ 2.27. "Spring Pole" ~~shall mean~~ means a tree, segment of a tree, limb, or sapling, which is under stress, or tension due to the pressure or weight of another object.

~~2-27:~~ 2.28. "Tie Down" ~~shall mean~~ means chain, cable, steel strips or fiber webbing and binders attached to a truck, trailer or other conveyance as a means to secure loads and to prevent them from shifting or moving when they are being transported.

~~2-28:~~ 2.29. "Undercut" ~~shall mean~~ means a notch cut in a tree to guide the direction of the tree fall and to prevent splitting or kickback.

~~2-29:~~ 2.30. "Winching" ~~shall mean~~ means the winding of cable or rope onto a spool or drum.

§56-2-3. Personal Protective Equipment.

3.1. The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is maintained in a serviceable condition.

3.2. The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is inspected before initial use during each work shift. Defects or damage shall be repaired or the unserviceable personal protective equipment shall be replaced before work is commenced.

3.3. The employer shall provide, at no cost to the employee, and assure that each employee handling wire rope wears, hand protection which provides adequate protection from puncture wounds, cuts and lacerations.

3.4. The employer shall provide, at no cost to the employee, and assure that each employee who operates a chain saw wears leg protection constructed with cut-resistant material, such as ballistic nylon. The leg protection shall cover the full length of the thigh to the top of the boot on each leg to protect against contact with a moving chain saw. Exception: This requirement does not apply when an employee is working as a climber if the employer demonstrates to the Director that a greater hazard is posed by wearing leg protection in the particular situation, or when an employee is working from a vehicular mounted elevating and rotating work platform.

3.5. The employer shall assure that each employee wears foot protection, such as heavy-duty logging boots that are waterproof or water repellent, cover and provide support to the ankle. The employer shall assure that each employee who operates a chain saw wears foot protection that is constructed with cut-resistant material, which will protect the employee against contact with a running chain saw. Sharp, calk-soled boots or other slip-resistant type boots may be worn where the employer demonstrates to the director that they are necessary for the employee's job, the terrain, the timber type, and the weather conditions, provided that foot protection otherwise required by West Virginia Surface Mine Rule 56CSR3.47 is met.

56CSR2

3.6. The employer shall provide, at no cost to the employee, and assure that each employee who works in an area where there is potential for head injury from falling or flying objects wears head protection as stated in West Virginia Surface Mine Rule 56CSR3.47.

3.7. The employer shall provide, at no cost to the employee, and assure that each employee wears the following:

~~(a)~~ 3.7.a. Eye protection where there is potential for eye injury due to falling or flying objects, face protection where there is potential for facial injury such as, but not limited to, operating a chipper.

~~(b)~~ 3.7.b. Logger-type mesh screens may be worn by employees performing chain-saw operations. The employee does not have to wear a separate eye protection device where face protection covering both the eyes and face is worn.

§56-2-4. Emergency Provisions.

4.1. Each worksite shall have one first-aid kit for every three (3) persons located at each worksite and equipped with items listed in Appendix A.

4.2. In accordance with West Virginia Surface Mine Rule 56 CSR § 3.48.3, emergency arrangements shall be provided for the mine site.

4.3. Each worksite in accordance with the West Virginia Surface Mine Rule 56 CSR § 3.48.4 shall be provided with emergency communications.

§56-2-5. Seat Belts.

5.1. Seat belts - For each vehicle or machine (equipped with rollover protective structure or falling object protective structure or overhead guards), including any vehicle or machine provided by an employee, the employer should assure:

5.1.a. ~~(a)~~ That a seat belt is provided for each vehicle or machine operator;

5.1.b. ~~(b)~~ That each employee uses the available seat belt while operating the vehicle or machine;

5.1.c. ~~(c)~~ That each employee securely and tightly fastens the seat belt to restrain the employee within the vehicle or machine cab;

5.1.d. ~~(d)~~ That each machine seat belt must meet the manufacturer's specifications.

5.1.e. ~~(e)~~ That seat belts are not removed from any vehicle or machine. The employer shall replace each seat belt which has been removed from any vehicle or machine that was equipped with seat belts at the time of manufacture; and

5.1.f. ~~(f)~~ That each seat belt is maintained in a serviceable condition.

§56-2-6. Environmental Conditions.

6.1. All work shall terminate and each employee shall move to a place of safety when environmental conditions, such as but not limited to, electrical storms, strong winds which may affect the fall of a tree,

heavy rain or snow, extreme cold, dense fog, fires, mudslides, and darkness, create a hazard for the employee in the performance of the job.

§56-2-7. Work Areas.

7.1. ~~(a)~~ Employees shall be spaced and the duties of each employee shall be organized so the actions of one employee will not create a hazard for any other employee.

7.2. ~~(b)~~ Work areas shall be assigned so that trees cannot fall into an adjacent occupied work area. The distance between adjacent occupied work areas shall be at least two tree lengths of the trees being felled. The distance between adjacent occupied work areas shall reflect the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at that work site. A distance of greater than two tree lengths shall be maintained between adjacent occupied work areas on any slope where rolling or sliding of trees is reasonably foreseeable.

7.3. ~~(c)~~ Each employee performing land clearing on mine property shall work in a position or location that is within visual or audible contact with another employee.

7.4. ~~(d)~~ The employer shall account for each employee at the end of each work shift.

§56-2-8. Signaling and Signal Equipment.

8.1. ~~(a)~~ Hand signals and audible contact, such as but not limited to, whistles, horns, or radios, shall be utilized whenever noise, distance, restricted visibility, or other factors prevent clear understanding of normal voice communications between employees.

8.2. ~~(b)~~ Engine noise, such as from a chain saw, is not an acceptable means of signaling.

8.3. ~~(c)~~ Only a designated person shall give signals, except in an emergency.

§56-2-9. Overhead Electric Lines.

9.1. Clearing operations near overhead electric lines shall be done in accordance with the requirements of the West Virginia Surface Mine Rule 56CSR3.37.

9.2. The employer shall notify the power company immediately if a felled tree makes contact with any power line. Each employee shall remain clear of the area until the power company advises that there are no electrical hazards.

§56-2-10. Flammable and Combustible Liquids.

10.1. ~~(a)~~ Flammable and combustible liquids shall be stored, handled, transported, and used in accordance with the requirements the West Virginia Surface Mine Rule 56CSR3.45.2 and 56CSR3.45.3.

10.2. ~~(b)~~ Flammable and combustible liquids shall not be transported in the driver compartment or in any passenger-occupied area of a machine or vehicle.

10.3. ~~(c)~~ Each machine, vehicle and portable powered tool shall be shut off during fueling. Diesel-powered machines and vehicles may be fueled while they are at idle, provided that continued operation is intended and that the employer follows safe fueling and operating procedures.

10.4. ~~(d)~~ Flammable and combustible liquids, including chain-saw and diesel fuel, may be used to start a fire, provided the employer assures that in the particular situation its use does not create a hazard for an employee.

§56-2-11. Explosives and Blasting Agents.

11.1. If at any time explosives and blasting agents are used in clearing operations they shall be secured and safely stored, handled, transported, and used in accordance with the requirements of the West Virginia Surface Mine Rule 56CSR3.32.3 and Department of Environmental Protection, Office of Explosives and Blasting Rule 199CSR1.

§56-2-12. Hand and Portable Powered Tools General Requirements.

12.1. The employer shall assure that each hand and portable powered tool, including any tool provided by an employee, is maintained in serviceable condition. The employer shall assure that each tool, including any tool provided by an employee, is inspected before initial use during each work shift. At a minimum, the inspection shall include the following:

~~(a)~~ 12.1.a. Handles and guards to assure that they are sound, tight-fitting, properly shaped, free of splinters and sharp edges, and in place;

~~(b)~~ 12.1.b. Controls, to assure proper function;

~~(c)~~ 12.1.c. Chain-saw chains, to assure proper adjustment;

~~(d)~~ 12.1.d. Chain-saw mufflers, to assure that they are operational and in place;

~~(e)~~ 12.1.e. Chain brakes and nose shielding devices, to assure that they are in place and function properly;

~~(f)~~ 12.1.f. Heads of shock, impact-driven and driving tools, to assure that there is no mushrooming;

~~(g)~~ 12.1.g. Cutting edges, to assure that they are sharp and properly shaped; and

~~(h)~~ 12.1.h. All other safety devices, to assure that they are in place and function properly.

12.2. The employer shall assure that each tool is used only for purposes for which it has been designed.

12.3. When the head of any shock, impact-driven or driving tool begins to chip, it shall be repaired or removed from service.

12.4. The cutting edge of each tool shall be sharpened in accordance with manufacturer's specifications whenever it becomes dull during the work shift.

12.5. Each tool shall be stored in the provided location when not being used at a work site.

12.6. Racks, boxes, holsters or other means shall be provided, arranged and used for the transportation of tools so that a hazard is not created for any vehicle operator or passenger.

§56-2-13. Chain Saws.

13.1. ~~(a)~~ Each chain saw shall be equipped with an operable chain brake which shall meet the requirements of the manufacturer.

13.2. ~~(b)~~ Each gasoline-powered chain saw shall be equipped with a continuous pressure throttle control system, which will stop the chain when pressure on the throttle is released.

13.3. ~~(c)~~ The chain saw shall be operated and adjusted in accordance with the manufacturer's instructions.

13.4. ~~(d)~~ The chain saw shall be fueled at least 10 feet (3 m) from any open flame or other source of ignition.

13.5. ~~(e)~~ The chain saw shall be started at least 10 feet (3 m) from the fueling area.

13.6. ~~(f)~~ The chain saw shall be started on the ground or where otherwise firmly supported. Drop starting a chain saw is prohibited.

13.7. ~~(g)~~ The chain saw shall be started with the chain brake engaged.

13.8. ~~(h)~~ The chain saw shall be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer demonstrates to the director that a greater hazard is posed by keeping both hands on the chain saw in that particular situation.

13.9. ~~(i)~~ The chain-saw operator shall be certain of footing before starting to cut. The chain saw shall not be used in a position or at a distance that could cause the operator to become off-balance, to have insecure footing, or to relinquish a firm grip on the saw.

13.10. ~~(j)~~ Prior to felling any tree, the chain-saw operator shall clear away brush or other potential obstacles, which might interfere with cutting the tree or using the retreat path.

13.11. ~~(k)~~ The chain saw shall not be used to cut directly overhead.

13.12. ~~(l)~~ The chain saw shall be carried in a manner that will prevent operator contact with the cutting chain and muffler.

13.13. ~~(m)~~ The chain saw shall be shut off or the throttle released before the feller starts his retreat.

13.14. ~~(n)~~ The chain saw shall be shut down or the chain brake shall be engaged whenever a saw is carried further than 50 feet (15.2 m). The chain saw shall be shut down or the chain brake shall be engaged when a saw is carried less than 50 feet if conditions such as, but not limited to, the terrain, underbrush and slippery surfaces, may create a hazard for an employee.

§156-2-14. Machines, Vehicles, and Mobile Equipment.

14.1. General Requirements.

~~(a)~~ 14.1.a. The employer shall assure that each machine including any machine provided by an employee is maintained in serviceable condition.

~~(b)~~ 14.1.b. The employer shall assure that each machine including any machine provided by an

employee is inspected before initial use during each work shift. Defects or damage shall be repaired on the unserviceable machine or shall be replaced before work is commenced.

(c) 14.1.c. The employer shall assure that operating and maintenance instructions are available for each machine in the area where the equipment is being operated. Each machine operator and maintenance employee shall comply with the operating and maintenance instructions.

14.2. Machine Operation.

(a) 14.2.a. The machine shall be started and operated only by a designated person.

(b) 14.2.b. The rated capacity of any machine shall not be exceeded.

(c) 14.2.c. To maintain stability, the machine must be operated within the limitations imposed by the manufacturer as described in the operating and maintenance instructions for that machine on any slope which is greater than the maximum slope recommended by the manufacturer.

(d) 14.2.d. Before starting or moving any machine, the operator shall determine that no employee is in the path of the machine.

(e) 14.2.e. The machine shall be operated only from the operator's station or as otherwise recommended by the manufacturer.

(f) 14.2.f. The machine shall be operated at such a distance from employees and other machines such that operation will not create a hazard for an employee.

(g) 14.2.g. No employee other than the operator shall ride on any mobile machine unless seating, seat belts and other protection equivalent to that provided for the operator are provided.

(h) 14.2.h. No employee shall ride on any load.

(i) 14.2.i. Before the operator leaves the operator's station of a machine, it shall be secured as follows:

1: 14.2.i.1. The parking brake or brake locks shall be applied.

2: 14.2.i.2. The transmission shall be placed in the manufacturer's specified park position; and

3: 14.2.i.3. Each moving element such as, but not limited to blades, buckets, saws, and shears shall be lowered to the ground or otherwise secured.

(j) 14.2.i. If a hydraulic or pneumatic storage device can move the moving elements such as, but not limited to, blades, buckets, saws and shears, after the machine is shut down, the pressure or stored energy from the element shall be discharged as specified by the manufacturer.

(k) 14.2.k. The rated capacity of any vehicle transporting a machine shall not be exceeded.

(l) 14.2.l. The machine shall be loaded, secured, and unloaded so that it will not create a hazard for any employee.

~~(m)~~ 14.2.m. For safe operation of equipment on slopes the operator shall follow the manufacturer's specifications and limitations of the mobile equipment, wire ropes, and all attachments.

~~1.~~ 14.2.m.1. The machine being used to assist a dozer, or other machines working on slopes shall be of proper size and strength to provide adequate anchorage. The machine providing anchorage shall be positioned to provide maximum stability.

~~2.~~ 14.2.m.2. The winch line assembly shall be of proper size and strength, and properly maintained to provide safety for all machines.

~~(a)~~ 14.2.m.2.A. Winch cables used by machines working on slopes shall be of proper size according to manufacturer's specifications.

~~(b)~~ 14.2.m.2.B. Winch cables shall be secured to the winch assembly drum according to the manufacturer's specifications.

~~(c)~~ 14.2.m.2.C. A minimum of three (3) wraps of winch cable shall remain on the drum at all times.

~~(d)~~ 14.2.m.2.D. The live-end connection device used to secure the two machines together shall be of a design that minimizes the possibility of accidental disconnection. The connection device shall be of the proper strength for the duties performed and maintained in safe condition according to manufacturer's specifications.

~~(e)~~ 14.2.m.2.E. All winch cables shall be securely fastened to the live-end connection device by the proper number of wire-rope clamps, or properly wedged according to the manufacturer's specifications.

~~(f)~~ 14.2.m.2.F. All components of the winch line assembly shall be inspected by the machine operator periodically during daily operations.

~~3.~~ 14.2.m.3. Constant communications either audible or visual shall be maintained between machine operators while working on slopes.

14.3. Protective Structures.

~~(a)~~ 14.3.a. Each tractor, skidder and mechanical felling device, such as tree shears or feller-buncher, placed into initial service after February 9, 1995, shall be equipped with falling object protective structure or rollover protective structure. The employer shall replace falling object protective structure or rollover protective structure, which have been removed from any machine. Exception: This requirement does not apply to machines, which are capable of 360-degree rotation. Rollover protective structure shall be tested, installed, and maintained in serviceable condition.

~~(b)~~ 14.3.b. Each machine shall have rollover protective structure or falling object protective structure tested, installed, and maintained in accordance with manufacturer's specifications.

~~(c)~~ 14.3.c. Each protective structure shall be of a size that does not impede the operator's normal movements.

~~(d)~~ 14.3.d. The overhead covering of each cab shall be of solid material and shall extend over the entire canopy.

~~(e)~~ 14.3.e. Each machine manufactured after August 1, 1996, shall have a cab that is fully enclosed with mesh material with openings no greater than 2 inches (5.08 cm) at its least dimension. The cab may be enclosed with other material(s) where the employer demonstrates to the Director such material(s) provides equivalent protection and visibility. Exception: Equivalent visibility is not required for the lower portion of the cab where there are control panels or similar obstructions in the cab, or where visibility is not necessary for safe operation of the machine.

~~(f)~~ 14.3.f. Each machine manufactured on or before August 1, 1996, shall have a cab, which meets the requirements specified in the above paragraph or a protective canopy for the operator which meets the following requirements:

~~1:~~ 14.3.f.1. The protective canopy shall be constructed to protect the operator from injury due to falling trees, limbs, saplings or branches which might enter the compartment side areas and from snapping winch lines or other objects.

~~2:~~ 14.3.f.2. The lower portion of the cab shall be fully enclosed with solid material, except at entrances, to prevent the operator from being injured from obstacles entering the cab.

~~3:~~ 14.3.f.3. The upper rear portion of the cab shall be fully enclosed with open mesh material with openings of such size as to reject the entrance of an object larger than 2 inches in diameter. It shall provide maximum rearward visibility; and

~~4:~~ 14.3.f.4. Open mesh shall be extended forward as far as possible from the rear corners of the cab sides so as to give the maximum protection against obstacles, branches, etc., entering the cab area.

~~5:~~ 14.3.f.5. The enclosure of the upper portion of each cab shall allow maximum visibility.

~~6:~~ 14.3.f.6. When transparent material is used to enclose the upper portion of the cab, it shall be made of safety glass or other material that the employer demonstrates to the director provides equivalent protection and visibility.

~~7:~~ 14.3.f.7. Transparent material shall be kept clean to assure operator visibility.

~~8:~~ 14.3.f.8. Transparent material that may create a hazard for the operator, such as but not limited to, cracked, broken or scratched safety glass shall be replaced.

~~9:~~ 14.3.f.9. Deflectors shall be installed in front of each cab to deflect whipping saplings and branches. Deflectors shall be located so as not to impede visibility and access to the cab.

~~10:~~ 14.3.f.10. The height of each cab entrance shall be at least 52 inches (1.3 meters) from the floor of the cab.

~~(g)~~ 14.3.g. Each forklift shall be equipped with an overhead guard and maintained in accordance with the manufacturer's specifications.

~~14.5~~ 14.4. Machine Access.

(a) 14.4.a. Machine access systems shall be installed and maintained in accordance with the manufacturer's specifications. Access systems shall be provided for each machine where the operator or any other employee must climb onto the machine to enter the cab or to perform maintenance.

(b) 14.4.b. Each machine cab shall have a second means of egress. (This requirement does not pertain to skid steer loaders.)

(c) 14.4.c. Walking and working surfaces of each machine and machine workstation shall have a slip resistant surface to assure safe footing.

(d) 14.4.d. The walking and working surface of each machine shall be kept free of waste, debris and any other material, which might result in fire, slipping, or falling.

~~14.6~~ 14.5. Exhaust Systems.

(a) 14.5.a. The exhaust pipes on each machine shall be located so exhaust gases are directed away from the operator. The exhaust pipes on each machine shall be mounted or guarded to protect each employee from accidental contact.

(b) 14.5.b. The exhaust pipes shall be equipped with spark arresters. (Engines equipped with turbochargers do not require spark arresters).

(c) 14.5.c. Each machine muffler provided by the manufacturer, or their equivalent, shall be in place at all times the machine is in operation.

~~14.7~~ 14.6. Brakes.

(a) 14.6.a. Service brakes shall be sufficient to stop and hold each machine and its rated load capacity on the slopes over which it is being operated.

(b) 14.6.b. Each machine placed into initial service on or after September 8, 1995 shall also be equipped with: back-up or secondary brakes that are capable of stopping the machine regardless of the direction of travel or whether the engine is running; and parking brakes that are capable of continuously holding a stopped machine stationary.

~~14.8~~ 14.7. Guarding.

(a) 14.7.a. Each machine shall be equipped with guarding to protect employees from exposed moving elements, such as but not limited to, shafts, pulleys, belts on conveyors, and gears.

(b) 14.7.b. Each machine used for limbing and chipping shall be equipped with guarding to protect employees from flying wood chunks, chips, bark, limbs and other material.

(c) 14.7.c. The guarding on each machine shall be in place at all times the machine is in operation.

~~14.9~~ 14.8. Equipment.

(a) 14.8.a. The employer shall assure that each machine used to perform any clearing operation is maintained in safe condition.

(b) 14.8.b. The employer shall assure that each machine used to perform any clearing operation is inspected before initial use during each work shift. Defects shall be recorded on a form approved by the Director and shall be signed by the person performing the examination. Imminent danger equipment defects shall be corrected before the equipment is put into operation.

(c) 14.8.c. The employer shall assure that operating and maintenance instructions are available in each machine. Each machine operator and maintenance employee shall comply with the operating and maintenance instructions.

(d) 14.8.d. Mounting steps and handholds shall be provided for each machine wherever it is necessary to prevent an employee from being injured when entering or leaving the machine.

(e) 14.8.e. The seats of each machine shall be securely fastened.

§56-2-15. Tree Felling.

15.1. General requirements.

(a) 15.1.a. Trees shall not be felled in a manner that may create a hazard for an employee, such as but not limited to, striking a rope, cable, power line, or machine.

(b) 15.1.b. The immediate supervisor shall be consulted when unfamiliar or unusually hazardous conditions necessitate the supervisor's approval before cutting is commenced.

(c) 15.1.c. While manual felling is in progress, no machine shall be operated within two tree lengths of trees being manually felled. Exception: This provision does not apply to machines performing tree-pulling operations.

(d) 15.1.d. No employee shall approach a feller closer than two tree lengths of trees being felled until the feller has acknowledged that it is safe to do so, unless the employer demonstrates to the Director that a team of employees is necessary to manually fell a particular tree.

(e) 15.1.e. No employee shall approach a mechanical felling operation closer than two tree lengths of the trees being felled until the machine operator has acknowledged that it is safe to do so.

(f) 15.1.f. Each danger tree shall be felled, removed or avoided. Each danger tree, including lodged trees and snags, shall be felled or removed using mechanical or other techniques that minimize employee exposure before work is commenced in the area of the danger tree. If the danger tree is not felled or removed, it shall be marked and no work shall be conducted within two tree lengths of the danger tree unless the employer demonstrates to the Director that a shorter distance will not create a hazard for an employee.

(g) 15.1.g. Each danger tree shall be carefully checked for signs of loose bark, broken branches and limbs or other damage before they are felled or removed. Accessible loose bark and other damage that may create a hazard for an employee shall be removed or held in place before felling or removing the tree.

(h) 15.1.h. Felling on any slope where rolling or sliding of trees or is reasonably foreseeable shall be done uphill from, or on the same level as, previously felled trees.

(i) 15.1.i. Domino felling of trees is prohibited. (The definition of domino felling does not include

the felling of a single danger tree by felling another single tree into it).

§56-2-16. Manual Tree Felling.

16.1. ~~(a)~~ Before felling is started, the feller shall plan and clear a retreat path. The retreat path shall extend diagonally away from the expected felling line unless the employer demonstrates to the Director that such a retreat path poses a greater hazard than an alternate path. Once the back cut has been made the feller shall immediately move a safe distance away from the tree on the retreat path. Before each tree is felled, conditions such as, but not limited to, snow and ice accumulation, the wind, the lean of tree, dead limbs, and the location of other trees, shall be evaluated by the feller and precautions taken so a hazard is not created for an employee.

16.2. ~~(b)~~ Each tree shall be checked for accumulations of snow and ice. Accumulations of snow and ice that may create a hazard for an employee shall be removed before felling is commenced in the area or the area shall be avoided.

16.3. ~~(c)~~ When a spring pole or other tree under stress is cut, no employee other than the feller shall be closer than two trees lengths when the stress is released.

16.4. ~~(d)~~ An undercut shall be made in each tree being felled unless the employer demonstrates to the Director that felling the particular tree without an undercut will not create a hazard for an employee. The undercut shall be of a size so the tree will not split and will fall in the intended direction.

16.5. ~~(e)~~ A backcut shall be made in each tree being felled. The backcut shall leave sufficient 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. The backcut shall not penetrate into the predetermined hinge area.

16.6. ~~(f)~~ The backcut shall be above the level of the horizontal facecut in order to provide an adequate platform to prevent kickback.

16.7. ~~(g)~~ Notches shall be used on all trees and trunks over five inches or (12.5cm) in diameter at breast height.

§56-2-17. Limbing and Bucking.

17.1. ~~(a)~~ Limbing and bucking on any slope where rolling or sliding of trees or is reasonably foreseeable shall be done on the uphill side of each tree.

17.2. ~~(b)~~ Before bucking or limbing wind-thrown trees, precautions shall be taken to prevent the root wad, butt, or trees from striking an employee. These precautions include, but are not limited to, chocking or moving the tree to a stable position.

§56-2-18. Chipping (in-woods locations).

18.1. ~~(a)~~ Chipper access covers or doors shall not be opened until the drum or disc is at a complete stop.

18.2. ~~(b)~~ Infeed and discharge ports shall be guarded to prevent contact with the disc, knives, or blower blades.

18.3. ~~(c)~~ The chipper shall be shut down, locked and tagged out when an employee performs any servicing or maintenance.

18.4. ~~(d)~~ Detached trailer chippers shall be chocked during usage on any slope where rolling or sliding of the chipper is reasonably foreseeable.

§56-2-19. Pre-shift and On-shift Examination.

19.1. ~~(a)~~ Prior to the beginning of any shift a designated competent person shall visit and carefully examine all work areas for dangerous conditions. Upon completion of the examination, the competent person shall record the results in a book prescribed by the Director, before persons enter the work area. This book shall be kept at the work area and made available for inspection by an authorized representative of the Director.

19.2. ~~(b)~~ The designated competent person shall examine all work areas under his supervision for hazards at least once every four (4) hours during each working shift, or more often if necessary for safety. The competent person shall record the results of the on shift examination in a book prescribed by the Director.

19.3. ~~(c)~~ Should the competent person find a place to be in a dangerous condition, they shall not leave the place until it has been made safe, or shall remove the persons working therein until the place is made safe.

19.4. ~~(d)~~ The competent person shall also record any dangerous conditions and practices found during the examination in a book provided for that purpose.

§56-2-20. Safety Meetings.

20.1. The employer shall have weekly safety meetings with all employees which shall provide training in the working practices and conditions at the work area and rules applicable thereto.

§56-2-21. Training.

21.1. ~~(a)~~ The employer shall provide training for each employee, including supervisors, at no cost to the employee.

21.2. ~~(b)~~ As soon as possible but not later than ninety (90) days from the effective date of this rule all employees shall receive a minimum of sixteen (16) hours of training. This training shall consist of:

- ~~1.~~ 21.2.a. Eight (8) hours of task specific safety (clear cutting).
- ~~2.~~ 21.2.b. Eight (8) hours of first aid, CPR, and emergency procedures.

~~21.23.~~ Before any new employee begins work they shall receive the 16-hours of training described in Section 21.1.

~~21.34.~~ The employer shall provide annual continuing training of at least eight hours covering the subjects listed in ~~subdivision 21.1.b~~ subsection 21.2. for each employee, including supervisors, at no cost to the employee.

APPENDIX A

First Aid Requirements

The contents of the first-aid kit listed should be adequate for small work sites, consisting of approximately two to three employees. When larger operations or multiple operations are being conducted at the same location, additional first-aid kits should be provided at the work site or additional quantities of supplies should be included in the first-aid kits:

Automated external defibrillator (AED)

Gauze pads (at least 4 x 4 inches)

Two large gauze pads (at least 8 x 10 inches)

Box adhesive bandages (band-aids)

One package gauze roller bandage at least 2 inches wide

Two triangular bandages

Wound cleaning agent such as sealed moistened towelettes

Scissors

At least one blanket

Tweezers

Adhesive tape

Latex gloves

Resuscitation equipment such as resuscitation bag, airway, or pocket mask

Two elastic wraps

Splint

Directions for requesting emergency assistance