



STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES

Government Affairs and Policy Division • PO Box 44001 • Olympia, Washington 98504-4001

MEMORANDUM

January 31, 2018

TO: Kerry Radcliff, Editor
Washington State Office of the Code Reviser

FROM: Maggie Leland, Rules Coordinator *ML*
Department of Labor and Industries

SUBJECT: L&I's Semi-Annual Rules Development Agenda
January 1, 2018 – June 30, 2018

Pursuant to RCW 34.05.314, attached is the Department of Labor and Industries' Semi-Annual Rules Development Agenda for January 1, 2018 through June 30, 2018.

This report details current and anticipated rulemaking activities for the Department of Labor and Industries. This agenda is for information purposes, and the noted dates of anticipated rulemaking actions are estimates. There may be additional rulemaking activities not anticipated at this time, such as to implement new state laws, meet federal requirements, or other circumstances.

Please contact me at (360) 902-4504 or maggie.leland@lni.wa.gov if you have any questions.

Thank you.

Attachment

cc: Joint Administrative Rules Review Committee
Roselyn Marcus, Rules Coordinator
Office of Financial Management
Henri Gonzales, Rules Coordinator
Department of Agriculture
Jaime Rossman, Rules Coordinator
Department of Commerce
Debra J. Eisen, Rules Coordinator
Department of Corrections
Bari Schreiner, Rules Coordinator
Department of Ecology

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 31, 2018

TIME: 3:17 PM

WSR 18-04-047

Tami Thompson, Rules Coordinator
Department of Health
Grant Heap, Rules Coordinator
Department of Transportation
Wendy L. Barcus, Rules Coordinator
Health Care Authority



Washington State Department of
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WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Division: Administrative Services						
296-06	Public Records	Angela Wharton Information Governance 360-902-5542	9/19/17	2/20/18	TBD	The Department is intending to amend the current public records fee schedule in WAC 296-06-120. Legislation passed in 2017 to amend RCW 42.56.120, which governs agency charges to requestors for providing copies of public records.
Division: Division of Occupational Safety and Health (DOSH)						
296-36 296-155 Part Q	Compressed Air (Tunnels)	Chris Miller DOSH Standards Program 360-902-5516	9/18/12	TBD	TBD	This rulemaking is in response to petitions and other requests from labor and business industry stakeholders to update the compressed air work requirements in Chapters 296-36 WAC and 296-155 WAC Part Q.
296-809	Construction Confined Spaces	Chris Miller DOSH Standards Program 360-902-5516	1/5/16	9/19/17	1/2/18	This rulemaking is in response to OSHA adopting its final rule for confined space in construction on August 4, 2015. This final rule imposes additional or more stringent requirements on employers than current OSHA standards, and DOSH is required to adopt a standard or amend current standard to be “at-least-as-effective.”



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296-155	Trolley Lines	Chris Miller DOSH Standards Program 360-902-5516	3/22/16	TBD	TBD	This rulemaking is in response to a petition to amend the requirements in WAC 296-155-428 relating to the minimum clearance distance of vehicular and mechanical equipment when working around energized trolley lines. The last stakeholder meeting was April 13, 2016.
296-155	Fall Protection	Chris Miller DOSH Standards Program 360-902-5516	3/22/16	TBD	TBD	This rulemaking will consider correcting Part C-1 in construction rule, as well as amend the Department's rules to make them at least as effective as OSHA.
296-62 296-155	Lead	Chris Miller DOSH Standards Program 360-902-5516	4/19/16	TBD	TBD	This rulemaking is in response to a petition and a series of stakeholder meetings. This rulemaking was initiated to update existing lead standards in both general industry and construction in light of increasing evidence of the hazards associated with occupational lead exposure.



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296-840 (new) 296-841 296-307	Exposure to Respirable Crystalline Silica	Chris Miller DOSH Standards Program 360-902-5516	6/21/16	10/31/17	2/20/18	This rulemaking is in response to recently increased OSHA requirements in the final rule on respirable crystalline silica for general industry/maritime and construction. Respirable crystalline silica is currently included in the Department's air contaminant standard under Chapter 296-841 WAC and WAC 296-307-62625 (and other standards that reference these requirements). As part of this rulemaking, the Department proposed adding Chapter 296-840 WAC, Respirable Crystalline Silica.
296-62	eRules Reformatting, Phase 9	Chris Miller DOSH Standards Program 360-902-5516	7/19/16	TBD	TBD	This rulemaking is the ninth of an estimated ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.
296-27	Record Keeping and Reporting, Phase 3	Chris Miller DOSH Standards Program 360-902-5516	8/2/16	3/6/18	5/22/18	This rulemaking is in response to OSHA publishing changes to section CFR 1904.35, Employee Involvement, leaving some of our rules not as effective. Other housekeeping amendments may also be proposed in this WAC chapter.



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296-305 296-800 296-802 296-833 296-843 296-848 296-849 296-855 296-856	eRules Reformatting, Phase 6	Chris Miller DOSH Standards Program 360-902-5516	9/6/16	TBD	TBD	This rulemaking is the sixth of an estimated ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.
296-307	Worker Protection Standard (Pesticides)	Chris Miller DOSH Standards Program 360-902-5516	11/22/16	TBD	TBD	This rulemaking is in response to federal EPA’s worker protection standard updates. The Department is coordinating the adoption of the rules with the Department of Agriculture.
296-45 296-307	eRules Reformatting, Phase 10	Chris Miller DOSH Standards Program 360-902-5516	1/3/17	TBD	TBD	This rulemaking is the tenth of an estimated ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access. Note that amendments to Chapter 296-45 WAC will be removed at the proposed rulemaking (CR-102) stage and added to new rulemaking exclusive to Chapter 296-45 WAC.



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296-62 296-307 296-841	Beryllium	Chris Miller DOSH Standards Program 360-902-5516	4/18/17	TBD	TBD	This rulemaking is in response to recently increased OSHA requirements related to preventing worker exposure to beryllium and beryllium compounds. Beryllium and beryllium compounds are currently included in the Department's air contaminant standard under Chapter 296-841 WAC and WAC 296-307-62625 (and other standards that reference these requirements). As part of this rulemaking, the Department is proposing to add a new section, WAC 296-62-085, Beryllium.
296-45	Electric power generation, transmission, and distribution	Chris Miller DOSH Standards Program 360-902-5516	6/20/17	TBD	TBD	This rulemaking will correct errors from the recently adopted rule and apply eRule requirements for formatting to make the rule easier to read, comprehend, reference and access electronically.
296-67 Considering moving requirements to a new chapter specific to refineries	Process Safety Management of Highly Hazardous Chemicals (PSM) for petroleum refineries	Chris Miller DOSH Standards Program 360-902-5516	8/22/17	TBD	TBD	This rulemaking will consider changes to the process safety management requirements that apply to refineries. Currently, refineries are covered by the PSM requirements in Chapter 296-67 WAC. The current rules are outdated, not having been updated in over 20 years, and do not reflect current industry practices.



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296-24 296-56	Change Log Phase 3	Chris Miller DOSH Standards Program 360-902-5516	10/17/17 (CR-105)	N/A	1/23/18	The rulemaking proposes to fix any outstanding housekeeping issues, such as fixing typos or updating old references, which are on the DOSH change log.
296-59 296-78 296-115 296-304 296-823	Change Log Phase 4	Chris Miller DOSH Standards Program 360-902-5516	11/21/17 (CR-105)	N/A	2/6/18	The rulemaking proposes to fix any outstanding housekeeping issues, such as fixing typos or updating old references, which are on the DOSH change log.
296-65	Requirements for Certification and Training for Asbestos Removal and Encapsulation	Chris Miller DOSH Standards Program 360-902-5516	1/2/18	5/1/18	TBD	The purpose of this rulemaking is to update the requirements in Chapter 296-65 WAC, Asbestos removal and encapsulation. This is a state initiated change that proposes to remove confusing and unnecessary language, as well as add clarification where necessary throughout the rule. Some requirements that may have updates include: certification and testing requirements; when refresher training is required; and when temporary certificates can be issued.



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296-52	Explosives Program Requirements	Chris Miller DOSH Standards Program 360-902-5516	1/23/18	TBD	TBD	In order to reflect technological advancements in explosives over the past 10 to 30 years, and better align with federal regulations, the Department is updating Chapter 296-52 WAC Safety Standards for Possession, Handling, and Use of Explosives. Focus areas will likely include definitions, licensing, storage, background check requirements, public disclosure, and transportation, among others sections.
296-305 296-803 296-811 296-835 296-842 296-863 296-855	Change Log Phase 5	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	The rulemaking proposes to fix any outstanding housekeeping issues, such as fixing typos or updating old references, which are on the DOSH change log.



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Division: Field Services and Public Safety						
296-96	Elevator Rules	Alicia Curry Field Services & Public Safety 360-902-6244	5/30/17	4/3/18	6/19/18	The Elevator program adopted emergency rules creating a temporary limited Category 03 license specific to work performed on hand-powered manlifts in grain terminals in order to address the shortage of licensed mechanics in the grain industry for the upcoming harvest season. This rulemaking will consider adopting permanent rules for temporary limited Category 03 elevator mechanic licenses and will consider other changes to the elevator licensing rules.
296-96	Elevator Rules	Alicia Curry Field Services & Public Safety 360-902-6244	7/18/17	2/20/18	4/17/18	The Elevator Program is considering amendments to the elevator rules following a formal review of the rules and new safety code requirements from the 2016 edition of the American Society of Mechanic Engineers (ASME) and other related codes. The elevator program reviews the rules to ensure the rules are consistent with national electrical safety standards, industry practice, to clarify the rules, and for housekeeping changes.



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296-46B	Electrical Rules (Scope of work)	Alicia Curry Field Services & Public Safety 360-902-6244	8/15/17	11/21/17	1/23/18	The Department is adopting amendments to the scope of work rules for (02) Residential and (04) Signs in WAC 296-46B-920, Electrical/telecommunications license/certificate types and scope of work. The proposed rule allows (02) Specialty Electricians to work in multi-family occupancies of buildings of types III, IV or V construction when there are not more than six stories of multifamily dwellings of types III, IV or V construction above grade or above types I or II construction. The proposed rule also allows (04) Specialty Electricians to retrofit existing luminaires that are mounted on a pole or other structure with energy efficient technology, such as LED's.
296-46B	Electrical Rules (Special occupancies—Marinas, boatyards, and commercial and noncommercial docking facilities)	Alicia Curry Field Services & Public Safety 360-902-6244	2/6/18	4/3/18	5/22/18	The Department is initiating rulemaking based on a petition received in October 2017 regarding Washington's Electrical Code and safe wiring practices and ground-fault protection levels in marinas, in reference to National Electric Code 555.3.



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296-150F	Factory Assembled Structures Rules – Factory Built Housing and Commercial Structures	Alicia Curry Field Services & Public Safety 360-902-6244	TBD	TBD	TBD	The Factory Assembled Structures program is considering amending the rules in Chapter 296-150F WAC, based upon a review of the rules. Rulemaking is necessary to ensure the rules are up-to-date, consistent with industry practice, for rule clarity, to simplify the rules, and for possible housekeeping changes.
296-150R	Factory Assembled Structures Rules – Recreational Vehicles	Alicia Curry Field Services & Public Safety 360-902-6244	TBD	TBD	TBD	The Factory Assembled Structures program is considering amending the rules in Chapter 296-150R WAC, based upon a review of the rules. Rulemaking is necessary to ensure the rules are up-to-date, consistent with industry practice, for rule clarity, to simplify the rules, and for possible housekeeping changes.
296-150V	Factory Assembled Structures Rules – Conversion Vending Units and Medical Units	Alicia Curry Field Services & Public Safety 360-902-6244	TBD	TBD	TBD	The Factory Assembled Structures program is considering amending the rules in Chapter 296-150V WAC for Conversion Vendor Units and Medical Units, based upon a review of the rules. The proposed rules will adopt the latest safety code requirements and industry standards, update the existing rules, clarify the rules, and formulate housekeeping changes.



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Division: Financial Management						
296-30	Crime Victims Compensation (House Bill 1739)	Maty Brimmer Crime Victims 360-902-6707 Linda Messick Crime Victims 360-902-5374	1/23/18 (CR-105)	TBD	TBD	This rulemaking will create consistency with new legislation, House Bill 1739, regarding WAC 296-30-020, Who is covered when a motor vehicle crime occurs?, and WAC 296-30-090, What are the maximum allowable fees?
296-30 296-31 296-33	Crime Victims Compensation	Maty Brimmer Crime Victims 360-902-6707 Linda Messick Crime Victims 360-902-5374	April 2018	TBD	TBD	This rulemaking pertains to the administration of the Crime Victims Compensation (CVC) program, mental health treatment rules and fees, and attendant services. This rulemaking will adopt some rules from WAC Chapters 296-14, 296-20, 296-21, 296-23, 296-23A and 296-23B.
Division: Fraud Prevention and Labor Standards						
296-05	Apprenticeship Rules	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	8/1/17	TBD	TBD	This rulemaking will consider reorganizing and clarifying the current rules to improve understanding by regulated parties and align with newly issued federal regulations on equal employment opportunity provisions.



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296-128-500 through 296-128-540	Definitions of Executive, Administrative, Professional and Outside Salespeople	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	TBD	TBD	TBD	The Department is considering changes to the definitions of bona fide executive, administrative, professional and outside salespeople for the purposes of coverage under Chapter 49.46 RCW, Minimum Wage Requirements and Labor Standards.
296-200A	Contractor Registration	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	TBD	TBD	TBD	The Contractor Registration Program is proposing amendments to the contractor rules. WAC 296-200A-900 addresses fees the Department charges contractors for issuance, renewal, reregistration, and reinstatement of a certificate of registration. The rule proposals for consideration are based on RCW 18.27.075, which state that the Department shall revise this amount at least once every two years for the purpose of recognizing economic changes as reflected by the fiscal growth factor under chapter 43.135 RCW. The program has not done a fee increase since 2007.



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296-127	Prevailing Wage	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	TBD	TBD	TBD	This rulemaking will review prevailing wage rules, which have not been comprehensively reviewed since the early 1990s. Amendments will: <ul style="list-style-type: none"> • Reflect court decisions; • Integrate administrative policies; • Streamline current processes; • Create consistency with the statute; and • Make housekeeping changes.
Division: Insurance Services						
296-14	Pension Discount Rate 2018	Suzy Campbell Claims Specialty Services 360-902-5003	10/31/17	12/19/17	2/20/18	This rulemaking will reduce the current pension discount rate for 2018. The pension discount rate is the interest rate used to account for the time value of money when evaluating the present value of future pension payments.
296-20	Hearing Aid Replacement	Suzy Campbell Claims Specialty Services 360-902-5003	2/6/18	7/17/18	10/23/18	This rulemaking will consider the Department's criteria for replacing hearing instruments.



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296-17A	Stores II	Annie Peeples Employer Services 360-902-4723	5/23/17	9/19/17	2/20/18	This rulemaking will implement classification changes to improve homogeneity of store classification and for more equitable rates: <ul style="list-style-type: none"> • Repeal department stores, class 6304; • Move general and antique variety stores to class 6309; and • Move thrift stores to class 6504.
296-17 296-17A	2018 Miscellaneous Classification and Reporting Rule Changes	Jo Anne Attwood Employer Services 360-902-4777	1/23/18	3/20/18	5/22/18	This rulemaking will: <ul style="list-style-type: none"> • Correct typographical and other errors (such as invalid telephone numbers and out-of-date references); • Revise wording and formatting to make the rules easier to understand and apply; and • Incorporate and formalize existing agency practices (such as expressly including in a risk classification employment that the Department currently includes by interpretation or analogy).
296-17 296-17B	2019 Workers' Compensation Premium Rates	Jo Anne Attwood Employer Services 360-902-4777	6/19/18	9/18/18	11/30/18	This rulemaking will set the rates for 2019 workers' compensation insurance.



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296-20 296-23	Medical Aid Rules Update	Emily Stinson Health Services Analysis 360-902-5974	12/19/17	2/6/18	5/1/18	This rulemaking will update payment rates for health care services, which are published annually in the Medical Aid Rules and Fee Schedules.
296-20 296-23	Acupuncture Pilot	Jami Lifka Office of the Medical Director 360-902-4941	9/5/17	TBD	TBD	Based on a review of the efficacy of acupuncture for treating low back pain, the Department initiated a pilot that will help determine how acupuncture treatment could best be incorporated into the workers' compensation setting. Under this pilot, current provisions related to the exclusion of acupuncture treatment and acupuncturists will be waived only for pilot participants. The pilot began on October 1, 2017 and will continue throughout a two-year period or as otherwise specified. Pilot program results will be considered in developing proposed rule language, medical coverage decisions and/or payment policy.
296-20	Neurogenic Thoracic Outlet Syndrome (nTOS) Surgery	Jami Lifka Office of the Medical Director 360-902-4941	TBD	TBD	TBD	This rulemaking will put diagnostic and surgical criteria in rule, which will lead to more timely decisions regarding surgery, reduced time loss duration, and better clinical outcomes for workers.



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296-17B	Retrospective Rating	Tim Smolen Retrospective Rating 360-902-4835	11/5/13	TBD	TBD	This rulemaking will address extending requirements for businesses that enroll in individual retro plans and revise enrollment requirements for businesses under common majority ownership.
296-17B	Retrospective Rating for Workers' Compensation Insurance – Common Ownership (Pilot)	Julie Osterberg Retrospective Rating 360-902-5819 Tim Smolen Retrospective Rating 360-902-4835	8/5/2015	TBD	TBD	This pilot rulemaking will consider/allow exceptions to the Retroactive Rating Program's current common ownership rule (WAC 296-17B-770) as written.
296-15	Medical Bill Electronic Data Interchange	James Nylander Self-Insurance 360-902-6907	4/19/16	TBD	TBD	The Department and the self-insured employer community have agreed to partner in the development of a Self-Insurance Risk Analysis System. One component of this system will feature the collection of medical bill data using an Electronic Data Interchange. This rulemaking will consider amending existing rules and adopting a new rule in order to make reporting requirements clear and to ensure a uniform standard of reporting is established.



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296-15	Workers' Compensation Self-Insurance Rules and Regulations	James Nylander Self-Insurance 360-902-6907	TBD	TBD	TBD	This rulemaking will consider updating rules related to the management and reporting of self-insured claims, and the requirements for self-insured certified claims administrators.