



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES

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

MEMORANDUM

July 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  
July 1, 2018 – December 31, 2018

Pursuant to RCW 34.05.314, attached is the Department of Labor and Industries' Semi-Annual Rules Development Agenda for July 1, 2018 through December 31, 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](mailto: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 <b>DATE: July 31, 2018</b> <b>TIME: 10:30 AM</b> <b>WSR 18-16-092</b>
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Tami Thompson, Rules Coordinator  
Department of Health  
Grant Heap, Rules Coordinator  
Department of Transportation  
Wendy L. Barcus, Rules Coordinator  
Health Care Authority



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WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
<b>Division: Administrative Services</b>						
296-30 296-31 296-33	Crime Victims Compensation	Maty Brimmer Crime Victims 360-902-6707  Linda Messick Crime Victims 360-902-5374	TBD	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 consider adopting some rules from WAC chapters 296-14, 296-20, 296-21, 296-23, 296-23A and 296-23B.
<b>Division: Division of Occupational Safety and Health (DOSH)</b>						
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.



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296-155	Fall Protection	Chris Miller DOSH Standards Program 360-902-5516	3/22/16	N/A	N/A	The purpose of this rulemaking is to consider correcting Part C-1 in construction rule, as well as amend the Department's rules to make them at least as effective as the Occupational Safety and Health Administration (OSHA). The Department intends to withdraw this Preproposal Statement of Inquiry (WSR 16-07-121) and combine this rulemaking with Unified Fall Protection rulemaking, listed further down.
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.
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.



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296-27	Recordkeeping and Reporting, Phase 3	Chris Miller DOSH Standards Program 360-902-5516	8/2/16	TBD	TBD	This rulemaking is in response to OSHA publishing changes to section CFR 1904.35, Employee Involvement, which left some of our rules not as effective. Other housekeeping amendments may also be considered in this WAC chapter.
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	8/21/18	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	8/21/18	November 2018	This rulemaking is in response to the federal Environmental Protection Agency (EPA) worker protection standard updates. The Department is coordinating the adoption of the rules with the Department of Agriculture.



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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 from this rulemaking at the proposed rulemaking (CR-102) stage and added to the rulemaking for chapter 296-45 WAC, listed below.
296-850 296-307 296-841	Beryllium	Chris Miller DOSH Standards Program 360-902-5516	4/18/17	5/1/18	8/21/18	This rulemaking is in response to recently increased OSHA requirements related to preventing worker exposure to beryllium and beryllium compounds. The Department proposed to add chapter 296-850, Beryllium. Beryllium and beryllium compounds are currently included in the Department's air contaminant standard under WAC chapters 296-307 and 296-841, so updates to the air contaminant tables are included in this rulemaking.
296-45	Electric power generation, transmission, and distribution	Chris Miller DOSH Standards Program 360-902-5516	6/20/17	TBD	TBD	This rulemaking will make housekeeping changes resulting from the 2016 rule change. These eRule requirements for formatting will make the rule easier to read, comprehend, reference and access electronically.



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296-67	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 addresses the PSM requirements specific to petrochemical refining facilities. The current rules are outdated, not having been updated in over 20 years and do not reflect current industry practices.
296-65	Requirements for Certification and Training for Asbestos Removal and Encapsulation	Chris Miller DOSH Standards Program 360-902-5516	1/2/18	TBD	TBD	The purpose of this rulemaking is to update the requirements regarding asbestos removal and encapsulation. This rulemaking intends 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	Safety Standards for Possession, Handling, and Use of Explosives	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 the 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.
296-155	Crane Incident Reporting Requirement	Chris Miller DOSH Standards Program 360-902-5516	3/20/18	TBD	TBD	The purpose of this rulemaking is to provide clarity on the Department's interpretation of requirements relating to crane decertification and reinstatement. This rulemaking intends to address what activities are covered, and will clearly state that damage to critical parts of the crane would require notification, rather than just implying it. This rulemaking will include additional housekeeping changes as well.





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296-840	Respirable Crystalline Silica – Non-Mandatory Appendices	Chris Miller DOSH Standards Program 360-902-5516	5/22/18 (CR-105)	TBD	TBD	The expedited proposed rules add two non-mandatory appendices to the WAC chapter to provide guidance to healthcare providers on medical surveillance. These rules amend recently filed rulemaking regarding occupational exposure to respirable crystalline silica.
296-155, Part S	Demolition Standards	Chris Miller DOSH Standards Program 360-902-5516	7/5/18	TBD	TBD	The purpose of this rulemaking is to update the requirements in chapter 296-155 WAC, Standards for Construction Work, Part S, Demolition. The Department is initiating this rulemaking to remove confusing and unnecessary language, as well as add clarification where necessary throughout the rule to improve safety. Other updates and housekeeping changes may also be made throughout this chapter.



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296-900	Penalties (SB 1953)	Chris Miller DOSH Standards Program 360-902-5516	8/21/18 (CR-105)	TBD	11/20/18 (Unless objection to expedited filing received, then TBD.)	This proposed rulemaking is as a result of a recent amendment to RCW 49.17.180 during the 2018 legislative session (SHB 1953). The proposed rule equals the recent amendment to RCW 49.17.180 which sets up an annual adjustment system retaining the current penalty amounts in statute unless required to be higher by the Federal Occupational Safety and Health Act (OSHA).
296-24	Walking Working Surfaces	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	The purpose of this rulemaking is to address the requirements in chapter 296-24 WAC, General Safety and Health Standards, Part J-1, Walking-working surfaces. The Department plans on initiating this rulemaking to align with possible new language under the plan to adopt a single unified fall protection chapter (see below) and to be at least as effective as OSHA CFR 1910.



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296-155 296-24 296-800 (other chapters that reference the requirements may be updated to align with the changes)	Unified Fall Protection	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	This rulemaking is planned in response to Occupational Safety and Health Administration (OSHA) updates made in November 2016. Stakeholders requested the Department create a single unified fall protection standard that applies to all industries statewide. This rulemaking will amend the Department's rules to make them at least as effective as OSHA.
296-840	Respirable Crystalline Silica (Agriculture)	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	This rulemaking plans on clarifying the application of the respirable crystalline silica chapter to agriculture.
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 (CR-105)	TBD	TBD	The rulemaking will consider amendments to correct outstanding housekeeping issues, such as correcting typos and updating old references, which are on the DOSH change log.



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<b>Division: Field Services and Public Safety</b>						
296-96	Elevator Rules (Licensing)	Alicia Curry Field Services & Public Safety 360-902-6244	5/30/17	6/5/18	8/21/18	The Elevator Program is proposing changes to the elevator rules to update and clarify the rules, and to make housekeeping changes. An initial emergency rule (WSR 17-12-022) was filed on May 30, 2017, creating a temporary limited Category 03 license that is restricted to work performed on hand-powered manlifts in grain terminals. A CR-101 Preproposal Statement of Inquiry (WSR 17-12-023) was filed simultaneously. A second emergency rule (WSR 17-20-028) to renew the rule was filed on September 27, 2017. The emergency rule was needed to address the shortage of licensed mechanics in the grain industry for the upcoming harvest season. The Elevator Program has solicited input from stakeholders in the development of permanent rules and for other changes to the licensing rules.



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296-96	Elevator Rules (Code Adoption)	Alicia Curry Field Services & Public Safety 360-902-6244	7/18/17	6/5/18	8/21/18	The Elevator Program is proposing amendments to the elevator rules in chapter 296-96 WAC. The Department performed a formal review of the rules to adopt new safety code requirements, to update and clarify the rules, and make housekeeping changes.
296-104	Board of Boiler Rules	Alicia Curry Field Services & Public Safety 360-902-6244	7/5/18	9/18/18	11/20/18	<p>The Board of Boiler Rules and Boiler Program is considering amending the boiler rules to adopt new safety code requirements and clarify existing rules. The boiler rules are reviewed on a regular basis to ensure the rules are consistent with national boiler and unfired pressure vessel safety standards and industry practice.</p> <p>In addition, the program is considering a fee increase by the fiscal-growth factor of 4% for fiscal year 2019 (OFM's maximum allowable fiscal growth rate). The Boiler Program's budget and projected revenue indicate a fee increase is necessary to cover the program's operating expenses.</p>



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296-96 296-150C 296-150F 296-150I 296-150M 296-150P 296-150R 296-150T 296-150V 296-200A	Fee Increases: Contractor Registration, Elevator, Factory Assembled Structures (FAS)	Alicia Curry Field Services & Public Safety 360-902-6244)	7/17/18	9/18/18	11/20/18	The purpose of this rulemaking is to consider increasing fees by 4.00% (Office of Financial Management's (OFM) Maximum Allowable Fiscal Growth Factor for FY 2019) for the Contractor Registration, Elevator, and FAS programs. The Department evaluated the programs' budgets and projected revenue and determined fee increases are necessary to help cover the cost of ongoing services. The programs have not increased fees for several years.
<b>Division: Fraud Prevention and Labor Standards</b>						
296-05	Apprenticeship Rules	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	8/1/17	5/22/18	8/21/18	The purpose of this rulemaking is to reorganize and clarify the current rules to improve understanding by regulated parties and align with newly issued federal regulations on equal employment opportunity provisions.
296-128-500 through 296- 128-540	Executive Administrative Professional (EAP) Exemptions	Beverly Clark Fraud Prevention and Labor Standards 360-902-6272	3/20/18	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.



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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"> <li>• Reflect court decisions;</li> <li>• Integrate administrative policies;</li> <li>• Streamline current processes;</li> <li>• Create consistency with the statute; and</li> <li>• Make housekeeping changes.</li> </ul>
<b>Division: Insurance Services</b>						
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.
296-17A	2019 Classification Amendments	Jo Anne Attwood Employer Services 360-902-4777	10/2/18	TBD	TBD	The Department will propose combining and amending various subclassifications; and creating a subclassification for pile construction drilled method. This rulemaking will not change employers' rates.



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296-20	Hearing Aid Replacement	Robert Mayer Health Services Analysis 360-902-5021	2/6/18	TBD	TBD	This rulemaking is considering the criteria for replacing hearing instruments. The Department is convening a workgroup of experts and interested parties to understand the issues and develop criteria reflecting current technology, taking into consideration insurance coverage best practices. The rule was last updated March 22, 2008.
296-20 296-23	Medical Aid Rules Update	Emily Stinson Health Services Analysis 360-902-5974	November 2018	February 2018	May 2018	This rulemaking will update payment rates for health care services, which are published annually in the Medical Aid Rules and Fee Schedules.





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296-14	Pension Discount Rate (Dual Rates)	Suzy Campbell Legal Services 360-902-5003	6/19/18	Tentative - 10/23/18	Tentative - 12/18/18	This rulemaking will reduce the current pension discount rate (PDR) using different assumptions for annual investment returns for the reserve funds for self-insured and State Fund pension claims, and to align with recent Department requested legislation passed in the 2018 session allowing for the Department to use different methods of calculating State Fund and self-insured liabilities when determining the annuity values of a pension based on the rates of mortality, disability, remarriage, and interest. 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.
296-14	Presumptive PTSD Coverage (SB 6214)	Suzy Campbell Legal Services 360-902-5003	8/21/18	TBD	TBD	This rulemaking will update existing rules and create new rules needed to implement SB 6214, allowing industrial insurance coverage for posttraumatic stress disorders of law enforcement, firefighters and emergency medical technicians.



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296-20 296-23	Acupuncture Pilot	Jami Lifka Office of the Medical Director 360-902-4941	9/5/17	10/23/18	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.
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.



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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.
296-15	Workers' Compensation Self-Insurance Rules and Regulations	James Nylander Self-Insurance 360-902-6907	4/17/18	8/21/18	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.