



Semi-Annual Rules Development Agenda January 1, 2024 – June 30, 2024

The Department of Labor & Industries' (L&I) prepares a semi-annual rules development agenda in January and July each year to inform the public of expected upcoming rule changes. Pursuant to RCW 34.05.314, the agenda is filed with the Office of the Code Reviser for publication in the Washington State Register. This report details current and anticipated rulemaking activities for L&I. This agenda is for informational 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.

L&I encourages the public to be involved in the rulemaking processes by attending public hearings and submitting comments regarding rules. Rulemaking information is available on the agency website at <https://www.lni.wa.gov/rulemaking-activity/>. To stay informed of our progress and be notified of any changes, please sign up for email notifications: <https://public.govdelivery.com/accounts/WADLI/subscriber/new>. Under General, select *Rules Update*.

Please contact Maggie Leland at 360- 902-4504 or Maggie.Leland@Lni.wa.gov if you have any questions.

KEY

CR: "Code Reviser" on the rulemaking forms, which are produced by the Office of the Code Reviser for use by all state agencies.

CR-101: Preproposal Statement of Inquiry filed under RCW 34.05.310

CR-102: Proposed Rule Making notice filed under RCW 34.05.320 or 34.05.340

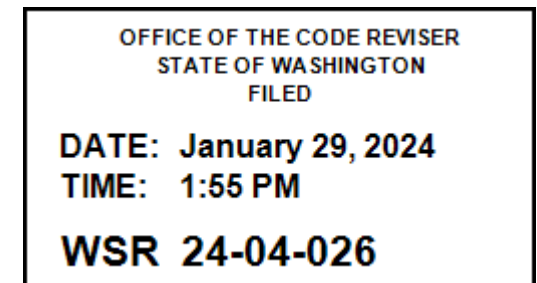
CR-103: Rule Making Order permanently adopting a rule, and filed under RCW 34.05.360 and 34.05.380

CR-105: Expedited Rule Making Proposal filed under RCW 34.05.353

RCW: Revised Code of Washington

WAC: Washington Administrative Code

WSR: Washington State Register official filing reference number given by the Office of the Code Reviser when a notice is filed.





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Division: Division of Occupational Safety and Health (DOSH)						
296-62 296-155	Lead	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.	4/19/16 16-09-092	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
296-52	Safety Standards for Possession, Handling, and Use of Explosives	The purpose of this rulemaking is to update the safety standards concerning explosives in order to reflect technological advancements in explosives over the past 10 to 30 years, and better align with federal regulations. Focus areas will likely include definitions, licensing, storage, background check requirements, public disclosure, and transportation, among others sections.	1/23/18 18-03-162	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
To be determined	Occupational Exposures to Infectious or Contagious Diseases (ESSB 5092 Implementation)	The purpose of this rulemaking is to implement the requirements of 2021’s Engrossed Substitute Senate Bill 5092, Section 220(8), to establish occupational health protections related to infectious diseases to ensure the state has general guidelines to follow in the case of an infectious disease outbreak. This would include when there is an outbreak subject to a public health emergency under a national or state-declared state of emergency.	5/13/21 21-11-051	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758



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296-155	Trenching Rescue and Excavation Plan	The purpose of this rulemaking is to require employers to develop and implement a written excavation plan detailing appropriate risk analysis and rescue planning prior to beginning any work that requires a protective system (generally defined as any excavation four feet or deeper that is not in stable, solid rock).	6/22/21 21-13-140	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
296-155	Cranes, Rigging, and Personnel Lifting	The purpose of this rulemaking is to amend the safety standards for cranes and derricks in construction, due in part to the federal Occupational Safety and Health Administration (OSHA) updating their standards. This rulemaking is also intended to provide clarity on L&I's interpretation of requirements related to crane decertification and reinstatement. In addition, state-initiated amendments will also be considered to address other areas in chapter 296-155 WAC relating to cranes that either need to be updated based on current industry practice or clarifying some of the language to maintain safety and health protections for employees. Due to OSHA updating their standard, prior rulemaking preproposals regarding these subjects initiated in 2018 and 2019 were withdrawn under WSR 21-14-078 and WSR 21-14-079 .	7/6/21 21-14-080	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758



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296-56	Longshore and Waterfront Operations & Restrooms in Ports and Railyards (SHB 1706 Implementation)	The purpose of this rulemaking is to align the standard with Substitute House Bill 1706 (RCW 70.54.480), passed by the legislature in 2022, regarding drayage truck operators access to restrooms when operating in or on a port or rail yard property. New requirements will include access to restrooms and dedicated space for lactation. This rulemaking will also better align chapter 296-56 WAC with OSHA requirements for marine terminals in 29 CFR 1917, Subpart A.	9/6/22 22-18-081	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
286-305	Safety Standards for Firefighters	The purpose of this rulemaking is to consider rulemaking for WAC 296-305-03002, Hazardous materials, after receiving a rule petition. As requested in the petition, the rulemaking will consider updating rule language about the appropriate selection of chemical, biological, radiological and nuclear (CBRN) ensembles and using the statement of standard for NIOSH CBRN SCBA testing. L&I will also consider updating WAC 296-305-04001, Respiratory equipment protection, which has guidance for breathing air quality for firefighters. The reference to ANSI/CGA G6-1, Commodity Specification for Air, needs to be updated to fix a typo in the standard number.	2/28/23 23-06-068	1/23/24 24-03-149	Anticipate filing 4/16/23	Ryan Allen DOSH Standards Program 360-902-4758



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To be determined	Voluntary Use of Personal Protective Equipment (PPE)	The purpose of this rulemaking is to consider permanent rulemaking to allow the voluntary use of personal protective equipment (PPE) when workers feel the need to protective themselves from noise, dust, or possible infectious or contagious diseases. The voluntary use of PPE must not introduce hazards to the work environment and facial coverings must not interfere with an employer’s security requirements.	3/22/23 23-07-139	Anticipate filing 3/5/24	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
To be determined	Safety Standards for Quotas at Warehouse Distribution Centers (2SHB 1762 Implementation)	The purpose of this rulemaking is to implement 2023’s Second Substitute House Bill 1762, codified under chapter 49.84 RCW, which addresses protections for employees at warehouse distribution centers who are subject to quotas. In part, chapter 49.84 RCW includes requirements enforced under the Washington Industrial Safety and Health Act, chapter 49.17 RCW.	10/11/23 23-21-059	Anticipate filing 3/5/24	Anticipate filing 5/21/24	Ryan Allen DOSH Standards Program 360-902-4758
296-880	Unified Safety Standards for Fall Protection	The purpose of this rulemaking is to amend sections of rule in order to be at least as effective as OSHA under the Washington State Plan and to provide additional worker protections. This rulemaking will consider changes to sections of the current rule that address leading edge work, safety monitor system requirements, and roofing activity on low pitched roofs.	N/A	Anticipate filing 2/6/24 (CR-105)	Anticipate filing 4/30/24	Ryan Allen DOSH Standards Program 360-902-4758



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To be determined	Training and Certification Program – Application of Fire-Resistant Materials (SHB 1323 Implementation)	Rulemaking is anticipated to implement the provisions of Substitute House Bill 1323 (Chapter 145, Laws of 2023) related to requiring a training and certification program for individuals who apply fire-resistant materials.	Anticipate filing 2/6/24	Anticipate filing 9/3/24	Anticipate filing 11/19/24	Ryan Allen DOSH Standards Program 360-902-4758
296-45	Requiring Automated External Defibrillators for High Voltage Work (HB 1542 Implementation)	Rulemaking is anticipated to implement the provisions of 2023’s House Bill 1542 related to requiring automated external defibrillators to be available and accessible when work is being performed on high voltage lines and equipment.	N/A	Anticipate filing April 2024 (CR-105)	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
296-900	Daily Penalties for Violating an Order of Immediate Restraint (ESHB 1097 Implementation)	Rulemaking is anticipated to implement the provisions of 2021’s Engrossed Substitute House Bill 1097 related to daily penalties for violating an Order of Immediate Restraint, including establish inspection procedures and enforcement policies related to calculating penalties when Orders of Immediate Restraint and/or Red Tags are placed; and provide guidance on how to correctly calculate penalties arising from the placement of an Order of Immediate Restraint (OIR), or a Red Tag.	To be determined	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758



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To be determined	Prevent Musculoskeletal Injuries and Disorders in Certain Risk Classifications (ESSB 5217 Implementation)	Rulemaking is anticipated to implement the provisions of 2023’s Engrossed Substitute Senate Bill (ESSB) 5217 related to regulating certain industries and risk classifications to prevent musculoskeletal injuries and disorders. ESSB 5217 directs L&I to annually publish a list of industries and risk classes eligible for rulemaking based on the criteria in ESSB 5217 and a high priority list of those most likely to be selected for new rules. This rulemaking will cover one industry or risk class from the high priority list published in November 2023.	To be determined	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
296-27	Improving Illness and Injury Tracking	Rulemaking is anticipated to update Washington’s rule regarding illness and injury tracking and reporting to align with recent updates from the federal Occupational Safety and Health Administration.	To be determined	To be determined	To be determined	Ryan Allen DOSH Standards Program 360-902-4758
Division: Field Services and Public Safety						
296-150F	Factory Assembled Structures: Factory-Built Housing and Commercial Structures (Implementation of E3SHB 1257, HB 1486, ESSB 5383)	The purpose of this rulemaking is to update the rule regarding factory-built housing and commercial structures, to include panelized construction. This rulemaking will include intent to make the rule related to Engrossed Third Substitute House Bill 1257 – Energy efficiency, House Bill 1486 – Delegation of authority, and Engrossed Substitute Senate Bill 5383 – Tiny homes.	7/2/19 19-14-106	To be determined	To be determined	Alicia Curry Field Services and Public Safety 360-902-6244



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296-400A	Plumber Certification Rule – Phase 3	The purpose of this rulemaking is to consider amendments under the Plumber Certification Rule in order to implement the legislative changes made within 2020’s Plumbing Act (Chapter 153, Laws of 2020, Senate Bill 6170), updates to continuing education, training programs, and other necessary updates to the plumbing rule.	1/18/22 22-03-073	To be determined	To be determined	Alicia Curry Field Services and Public Safety 360-902-6244
296-46B	Electrical Rule (Code Adoption)	The purpose of this rulemaking is to amend the rule based on the 2023 edition of the National Fire Protection Agency (NFPA) 70, the National Electrical Code (NEC), and other related codes for electrical. The Electrical Program reviewed the existing rule and 2023 NEC (NFPA 70-2023) to update the rule for consistency with the latest national safety standards and industry practice. The 2023 edition of the code presents the latest comprehensive regulations for electrical wiring, overcurrent protection, grounding and installation of equipment.	4/4/23 23-08-066	12/5/23 23-24-084	Anticipate filing 2/20/24	Meagan Edwards Field Services and Public Safety 360-522-0125



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296-150P 296-150R 296-49A	Factory Assembled Structures (FAS) (SB 5089 & HB 1514 Implementation)	The purpose of this rulemaking is to consider amendments to implement House Bill 1514 (Chapter 78, Laws of 2023) and Senate Bill 5089 (Chapter 36, Laws of 2023). The changes would affect L&I's FAS Advisory Board, and distributing inspection insignia to manufacturers of recreational vehicles. L&I is also reviewing the FAS Advisory Board rule, chapter 296-49A WAC, to consider updates, clarification, housekeeping, and other amendments.	9/19/23 23-19-075	Anticipate filing 3/19/24	To be determined	Meagan Edwards Field Services and Public Safety 360-522-0125
296-104	Boiler Rule and Fee Increases (FY25)	The purpose of this rulemaking is to amend the boiler rule to, in part, ensure it is consistent with national boiler and unfired pressure vessel safety standards and industry practice. The changes affect safety codes, installer and clearance requirements, and fees for boilers and pressure vessels.	10/10/23 23-21-043	1/2/24 24-02-070	Anticipate filing 4/16/24	Meagan Edwards Field Services and Public Safety 360-522-0125
296-200A	Contractor Registration (2SHB 1534 Implementation - Phase 2)	The purpose of this rulemaking is to amend the contractor registration rule to implement Second Substitute House Bill 1534 (Chapter 213, Laws of 2023), which helps strengthen protections for consumers in the construction industry. Provisions of the law take effect July 1, 2024. The amendments affect the definitions, penalty and bond amounts, and fees for general and specialty contractors. The amendments are also necessary to support operating expenses of the Contractor Registration Program.	10/10/23 23-21-052	Anticipate filing 2/20/24	Anticipate filing 4/30/24	Alicia Curry Field Services and Public Safety 360-902-6244



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296-46B	Electrical Fees Increase (FY25)	The purpose of this rulemaking is to increase to the electrical fees by the fiscal growth factor of 6.40%. The fee increase is the maximum allowed by the state Office of Financial Management for fiscal year 2025. A fee increase is needed to support increased operating expenses for inspections and other Electrical Program services, as the current fee levels are insufficient to cover current Electrical Program expenses. This rulemaking also proposes removing the fee for printed copies of the electrical laws and rule. The Electrical Program will no longer be providing printed copies as electronic versions are available online for customers.	10/31/23 23-22-104	12/19/23 24-01-113	Anticipate filing 3/19/24	Meagan Edwards Field Services and Public Safety 360-522-0125
296-200A	Contractor Registration - Classification Updates	The purpose of this rulemaking is to consider updates to the definitions for specialty contractor classifications.	To be determined	To be determined	To be determined	Alicia Curry Field Services and Public Safety 360-902-6244
Division: Fraud Prevention and Labor Standards						
To be determined	Labor Standards for Quotas at Warehouse Distribution Centers (2SHB 1762 Implementation)	The purpose of this rulemaking is to implement 2023's Second Substitute House Bill 1762, codified under chapter 49.84 RCW, which addresses protections for employees at warehouse distribution centers who are subject to quotas.	10/11/23 23-21-058	Anticipate filing 3/5/24	Anticipate filing 5/21/24	Reed Simock Fraud Prevention and Labor Standards 360-480-3237



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296-127	Prevailing Wage – Housekeeping	The purpose of this rulemaking is to update five rule sections to bring them into alignment with the statutes they help to interpret and enforce. Minor amendments planned for the following: WAC 296-127-010(9); 296-127-019; 296-127-140; 296-127-160; and 296-127-320.	N/A	Anticipate filing 3/5/24 (CR-105)	Anticipate filing 5/7/24	Reasa Pearson Fraud Prevention and Labor Standards 360-999-7226
296-128	Subminimum Wage Certificates	The purpose of this rulemaking is to repeal sections of rule related to issuing subminimum wage certificates to individuals with disabilities because the underlying statute, RCW 49.46.170, is no longer in effect. Repealing WAC 296-128-055 through 296-128-090.	N/A	To be determined (CR-105)	To be determined	Bridget Osborne Fraud Prevention and Labor Standards 360-902-5552
Division: Insurance Services						
296-17 296-17A	Employment Covered by RCW 51.32.187 (Department of Energy Hanford Site Contractors)	The purpose of this rulemaking is to allow contractors of the United States Department of Energy (DOE) working at the Hanford site to have their contractors and subcontractors covered under the state fund. L&I filed continuances on Oct. 27 and Nov. 6, 2020, ultimately extending the comment period to Feb. 1, 2021, under WSR 20-22-038 and WSR 20-23-017 . The CR-102 Proposal was withdrawn (WSR 21-04-019) due to the need for more stakeholder involvement and coordination. L&I will continue working with stakeholders to refine the proposed rule amendments for potential future rulemaking.	3/3/20 20-06-060	9/22/20 20-19-132 (withdrawn) 10/27/20 20-22-038 11/6/20 20-23-017	To be determined	Jo Anne Attwood Employer Services 360-902-4777



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296-17 296-17A	Reporting and Classification Amendments for 2025	The purpose of this rulemaking is to implement clear rule writing to ensure staff and customers can easily understand and apply the workers' compensation insurance classification and reporting rules. Classification Development studied some subclassifications for potential reduction in number, and reviewed classification and reporting rules for improvement and clarification.	Anticipate filing 5/21/24	Anticipate filing 8/20/24	Anticipate filing 11/19/24	Jo Anne Attwood Employer Services 360-902-4777
296-17 296-17B	Industrial Insurance Premium Rates 2025	The purpose of this rulemaking is to establish the premium rates and experience rating parameters for calendar year 2025.	Anticipate filing 6/18/24	Anticipate filing 9/17/24	Anticipate filing 11/27/24	Jo Anne Attwood Employer Services 360-902-4777
296-23	Naturopathic Physician Services	The purpose of this rulemaking is to update billing and coding requirements for naturopathic physicians to support consistency with other payers and other attending provider types.	11/21/23 23-23-156	Anticipate filing 2/6/24	Anticipate filing 5/21/24	Megan Lemon 360-902-5161 Tina Vorse 360-902-5934 Health Services Analysis
296-20 296-23	Medical Aid Rules - Conversion Factors	The purpose of this rulemaking is to update rates for most professional health care services for injured workers, which are published annually in the Medical Aid Rules and Fee Schedules.	12/5/23 23-24-080	Anticipate filing 3/19/24	Anticipate filing May 2024	Megan Lemon 360-902-5161 Marc Hobbs 360-902-4244 Health Services Analysis



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296-20	Physician Assistant Billing Procedure	The purpose of this rulemaking is to remove the requirement that physician assistants be paid 90% of the fee schedule value for procedures they perform and instead allow them to be paid up to the maximum fee listed on the fee schedule.	Anticipate filing 6/4/24	Anticipate filing 8/20/24	Anticipate filing 10/22/24	Megan Lemon 360-902-5161 Marc Hobbs 360-902-4244 Health Services Analysis
296-23	Independent Medical Examination (IME) Recording Notification Process and Accompanying Person	The purpose of this rulemaking is to amend the rule to define the recording notification process for when a worker wants to record Independent Medical Examinations (IMEs) requested by L&I and self-insured employers. Substitute House Bill 1068 (Chapter 166, Laws of 2023) allows a worker to audio and visually record an IME, and includes an observer may be present for all examinations with the worker. The updated statute, RCW 51.36.070, requires L&I create sections in rule defining the notification process the worker must follow when they want to record an IME. WAC 296-23-362 needs to be updated as the statute removed the prohibition against having an observer attend a mental health independent medical examination.	6/20/23 23-13-096	1/2/24 24-02-068	Anticipate filing 3/26/24	Suzy Campbell Legal Services 360-902-5003



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296-14	Pension Discount Rate 2024	The purpose of this rulemaking is to lower the pension discount rate (PDR) to better align with the rate of return for long-term treasuries for self-insured pensions. The PDR is the interest rate used to account for the time value of money when evaluating the present value of future pension payments. This rulemaking proposes to lower the PDR for self-insured employers from 5.6% to 5.5% effective April 1, 2024.	8/1/23 23-16-116	10/17/23 23-21-085	1/2/24 24-02-069	Suzy Campbell Legal Services 360-902-5003
296-20	Psychologists as Attending Providers on Mental Health Only Claims (HB 1197 Implementation)	The purpose of this rulemaking is to implement House Bill 1197 (Chapter 171, Laws of 2023). This rulemaking will add language that clarifies that psychologists can be the attending provider on mental health only claims and other technical amendments to support that change.	To be determined	To be determined	To be determined	Jami Lifka Office of the Medical Director 360-902-4941 Jami.Lifka@Lni.wa.gov
296-17B	Retrospective Rating for Workers' Compensation Insurance	This rulemaking will address extending requirements for businesses that enroll in individual retro plans and revise enrollment requirements for businesses under common majority ownership.	11/5/13 13-22-071	To be determined	To be determined	Rachelle Bohler Retrospective Rating 360-902-5967
296-17B	Retrospective Rating for Workers' Compensation Insurance – Common Ownership (Pilot)	This pilot rulemaking will consider/allow exceptions to the Retroactive Rating Program's current common ownership rule (WAC 296-17B-770) as written.	8/5/15 15-16-132	To be determined	To be determined	Rachelle Bohler Retrospective Rating 360-902-5967



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296-15	Self-Insured Good Faith and Fair Dealing (SHB 1521 Implementation)	The purpose of this rulemaking is to implement Senate House Bill 1521 (Chapter 293, Laws of 2023), which adds additional applications of the duty of good faith and fair dealing, as well as criteria for determining appropriate penalties for violations. Good faith and fair dealing in this context refers to the administration of workers’ compensation benefits. The rule sections on this subject seek to protect the best interests of impacted workers by ensuring they are free from coercion or other unfair practices regarding industrial insurance benefits that may be due to them. This rulemaking will establish a “good faith and fair dealing” standard for self-insured employers and their Third-Party Administrators (TPAs).	9/5/23 23-18-076	Anticipate filing 2/20/24	Anticipate filing 4/30/24	Nicole Mitchell Self-Insurance 360-902-6833