



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Department of Labor and Industries

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: January 20, 2004

(2) Purpose:

Chapter 296-809 WAC, Confined Spaces
Chapter 296-62 WAC, Part M, Confined Spaces

The Confined Spaces rule was rewritten and reorganized for clarity and ease of use for employers and employees. We eliminated unnecessary requirements and outdated terminology

(3) Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 296-62-141, Confined Space

(4) Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060
Other Authority: None

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 03-19-106 on September 16, 2003.
Describe any changes other than editing from proposed to adopted version: See attachment (5.1)

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

Yes No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) May 1,

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
- Later (specify) _____

CODE REVISER USE ONLY

Name (Type or Print)

Paul Trause

Signature

WSR # 04-03-081

Title
Director

Date
January 20, 2004

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>31</u>	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>31</u>	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>31</u>	Amended	<u>1</u>	Repealed	_____

Changes other than editing from proposed to adopted version

(5.1) Describe any changes other than editing from proposed to adopted version:

The department has made some corrections and clarifying changes to the rule. As a result of written and oral comments received, the following sections are being changed as indicated below:

Chapter 296-809 WAC, Confined Spaces

WAC 296-809-100, Scope

- Reworded and reformatted Table 1 for clarity
- Added titles to the WAC sections of the “list of other rules that apply to your workplace.” And moved this list to the Resources section of the rule.

WAC 296-809-20002, Identify permit-required confined spaces

- Added WAC titles to WAC numbers in 1st paragraph of “Important” section
- Correction in first paragraph of the “important” section: “See the scope section” was corrected to “see the Resources section”
- Reworded the 2nd bullet for clarity
- Changed definition of “permit required confined space” for clarity

WAC 296-809-20004, Inform employees and control entry to permit-required confined spaces

- Changed wording in Note under subsection (1): “other similar language” was changed to: “other similar wording”

WAC 8296-09-20006, Follow these requirements when you contract with another employer to enter your confined space

- Reworded the “Important” statement for clarity
- Changed 1st bullet “ involves entry of...” was changed to “involves entry into...”
- Changed wording in sub-bullet: “debrief.....” was changed to “discuss entry operations with....”

WAC 296-809-300

- Corrected the title of this section to be consistent with the rule requirements: “Permit Space Entry Program was changed to: Permit-Required Confined Space Program”

Changes other than editing from proposed to adopted version

WAC 296-809-30002, Develop a written permit-required confined space entry program

- Reworded the “Important:” section for clarity
- Rearranged the bulleting order of the requirements under the first “you must” statement, to be consistent with the layout of the rule requirements
- Reworded the “Note” for clarity
- Reworded the “Link” to indicate the guide will be located in the resource section as well as the website

WAC 296-809-50002, Implement procedures for entry permits

- Reworded the 4th main bullet by making it into a 1st and 2nd level bullet
- Reworded last bullet in this section for clarity

WAC 296-809-50004, Use an entry permit that contains all required information

- Reworded the 1st bullet for clarity
- Reworded sub-bullet “Rescue and emergency services available.....” for clarity

WAC 296-809-50006, Keep and review your entry permits

- Added “you must” above the 1st requirement
- Added a note for clarity under the 1st sub-bullet provide “examples of circumstances requiring review of programs”
- Added a “you must” after the note

WAC 296-809-50008, Prevent unauthorized entry

- Added wording to 1st bullet for clarity

WAC 296-809-50012, Evaluate and control hazards for safe entry

- Changed wording in the 1st sub-bullet for clarity
- Deleted “or” after wording “subsequent testing”, as it was not needed
- The department inadvertently left out one of the requirements and added it back in for clarity. The requirement is: “Continuously monitor conditions in areas where entrants are working, when isolation of the space is not feasible. Examples would be a large space or space that is part of a continuous system, such as a sewer.”
- Eliminated the note in Table 3 for clarity

WAC 296-809-50014, Make sure you have adequate rescue and emergency services available

- Moved sub-bullet wording “make sure that at least one member of the rescue team....” from section (2) to: section (1), for better organization
- Corrected reference in note: 296-841-WAC Respiratory Hazards, was changed to: 296-842 WAC, Respirators.

WAC 296-809-50018, Make sure entry supervisors perform their responsibilities and duties

- Added “the” to the last bullet in the note for clarity

WAC 296-809-50020

- Edited the 2nd bullet in the important section for clarity
- Added “you must” as needed before the 1st requirement

WAC 296-809-50022

- Deleted “or” after “solvents,” as it is not needed

Changes other than editing from proposed to adopted version

WAC 296-809-600, Alternate entry procedures

- On summary page:
 - Reworded the “Your Responsibility” statement for clarity.
 - Corrected the WAC 296-809-300 title

WAC 296-809-60002, Make sure the following conditions are met if using alternate entry procedures

- Added wording and reformatted first bullet for clarity

WAC 296-809-700, Nonpermit confined Space requirements

- On summary page reworded title for WAC 296-809-70004: “Reclassify nonpermit confined spaces if conditions change” was changed to: “Re-evaluate nonpermit confined spaces if hazards develop”

WAC 296-809-70002, Follow these requirements when classifying a confined space as a non-permit confined space

- In 1st bullet “...reclassified as nonpermit” was changed to: “...classified as nonpermit confined spaces”
- Changed wording in note for clarity:
 - Added a bullet for clarification: “Use of Lock Out /Tag Out, as found in WAC 296-24-110, needs to be evaluated to determine if it fully eliminates the hazard.”
 - Reworded and corrected the WAC title in the 3rd bullet
- Added “you must” after the note

WAC 296-809-70004, Reclassify nonpermit confined spaces if conditions change

- The WAC section title was changed for clarity: “Reclassify nonpermit confined spaces if conditions change” was changed to: “Re-evaluate nonpermit confined spaces if hazards develop”

WAC 296-809-800, Definitions

- Reworded the definition of Permit-required confined spaces for clarity and to be consistent with changes in section 296-809-20002.
- The definition of Hazardous atmosphere was edited to reflect the correct chapter references.