



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Labor and Industries

- Preproposal Statement of Inquiry was filed as WSR 04-21-067 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: Chapter 296-52 WAC, Safety Standards for Possession and Handling of Explosives. The purpose of this rulemaking is to correct the inconsistency between chapter 70.74 RCW, Washington State Explosive Act, and chapter 296-52 WAC, Safety Standards for Possession and Handling of Explosives. The rulemaking will change the licensing requirements from two years to one year, in order to be consistent with the RCW. We will also be incorporating recommendations from the FBI regarding bomb technicians, along with housekeeping changes throughout the rule.

Hearing location(s):
 Department of Labor & Industries
 Room: S117
 7273 Linderson Way Southwest
 Tumwater, Washington

Date: February 16, 2005 Time: 1:30 p.m.

Submit written comments to:
 Name: Sally Elliott, Administrative Regulations Analyst
 Address: Post Office Box 44620
 Olympia, Washington 98504-4620
 e-mail: yous235@lni.wa.gov
 fax (360)902-5529 by February 23, 2005

Assistance for persons with disabilities: Contact
 Sally Elliott by February 1, 2005
 at yous235@lni.wa.gov

Date of intended adoption: April 5, 2005
 (Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rulemaking is to correct the inconsistency between chapter 70.74 RCW, Washington State Explosive Act, and chapter 296-52 WAC, Safety Standards for Possession and Handling of Explosives. The rulemaking will change the licensing requirements from two years to one year, in order to be consistent with the RCW. We will also be incorporating recommendations from the FBI regarding bomb technicians, along with housekeeping changes throughout the rule. See Attachment A.

Reasons supporting proposal: See Attachment A.

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, RCW 70.74.020, 70.74.025, 70.74.030, 70.74.061

Statute being implemented: Chapter 49.17 RCW

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

WSR#05-01-171

DATE
 December 21, 2004

NAME (type or print)
Paul Trause

SIGNATURE

TITLE
 Director

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Department of Labor and Industries

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Tracy Spencer	Tumwater	(360) 902-5530
Implementation.... Michael Silverstein	Tumwater	(360) 902-5495
Enforcement..... Michael Silverstein	Tumwater	(360) 902-5495

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:
Address:
Phone:
Fax:
E-mail:

No. Explain why no statement was prepared.
See Attachment B.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Trista Zugel
Address: Department of Labor and Industries
Post Office Box 44321
Olympia, Washington 98504-4321
Phone: (360) 902-5122
Fax: (360) 902-4249
E-mail: zugy235@lni.wa.gov

No: Please explain:

AMENDED SECTIONS:

WAC 296-52-60130, Definitions

- The proposal will add definitions for alien and electronic detonator.

WAC 296-52-61020, License fees

- The proposal will update license fees. The fees were changed to reflect yearly renewals.

WAC 296-52-61045, License terms

- The proposal will change license requirements from two years to one year, in order to be consistent with chapter 70.74 RCW.

WAC 296-52-62010, Dealer applicant information

- The proposal will correct a reference to WAC 296-52-61010, License applicants must provide this information.

WAC 296-52-63010, Applicant information

- The proposal will correct a reference to WAC 296-52-61010, License applicants must provide this information.

WAC 296-52-64005, Responsibility to obtain a blaster's license

- The proposal is updating the license classifications based upon the FBI recommendations for bomb technicians

WAC 296-52-64040, List C qualifications

- The proposal is updating the qualifications for a bomb technician based upon the FBI recommendations.

WAC 296-52-64050, Blaster license applicant information

- The proposal will correct a reference to WAC 296-52-61010, License applicants must provide this information.

WAC 296-52-64090, Blaster license renewal

- The proposal will change license requirements from two years to one year, in order to be consistent with chapter 70.74 RCW.

WAC 296-52-64095, List A and B renewal qualifications

- The proposal will change the basic blaster's classroom training to eight hours instead of sixteen hours and change blasting experience to one year instead of two years. The training was reduced to reflect yearly renewals.

WAC 296-52-64100, List C renewal qualifications

- The proposal is updating the qualifications for a bomb technician based upon the FBI recommendations.

WAC 296-52-65005, Responsibility to obtain a manufacturer's license.

- The proposal is updating the wording to say manufacturer's permit instead of user's permit.

WAC 296-52-65010, Manufacturer applicant information

- The proposal will correct a reference to WAC 296-52-61010, License applicants must provide this information.

WAC 296-52-66005, Responsibility to obtain a storage license

- The proposal is deleting "and a valid user permit or license issued by the ATF" because the ATF does not issue user permits or licenses for storage.

WAC 296-52-66010, Storage applicant information

- The proposal will correct a reference to WAC 296-52-61010, License applicants must provide this information.

WAC 296-52-67080, Drilling

- The proposal is updating subsection (2), to eliminate confusing wording.

WAC 296-52-67165, Fixed location mixing

- The proposal will correct a numbering error.

WAC 296-52-69020, Storage facilities

- The proposal is clarifying wording to note 1 and note 4, in order to eliminate confusion.

WAC 296-52-70005, Class 1 magazines: Permanent storage facilities

- The proposal will update "class" to "type", in order to be consistent with the ATF and IME.

WAC 296-52-70010, Building construction for class 1 magazines

- The proposal will update "class" to "type", in order to be consistent with the ATF and IME.

WAC 296-52-70015, Igloos, army-type structures, tunnels, and dugouts

- The proposal will update "class" to "type", in order to be consistent with the ATF and IME.

WAC 296-52-70020, Class 2 magazines: Portable field storage

- The proposal will update "class" to "type", in order to be consistent with the ATF and IME.

WAC 296-52-70025, Construction for class 2 magazine

- The proposal will update "class" to "type", in order to be consistent with the ATF and IME.
- The proposal is updating subsection (1), in order to be consistent with the ATF.

WAC 296-52-70030, Class 3 magazines: Indoor storage facilities

- The proposal will update "class" to "type", in order to be consistent with the ATF and IME.

WAC 296-52-70040, Construction for class 3 magazines

- The proposal will update “class” to “type”, in order to be consistent with the ATF and IME.

WAC 296-52-70045, Class 4 magazines: Blasting agent, low explosive, or electric detonator storage facilities

- The proposal will update “class” to “type”, in order to be consistent with the ATF and IME.

WAC 296-52-70050, Construction for class 4 magazines

- The proposal will update “class” to “type”, in order to be consistent with the ATF and IME.

WAC 296-52-70055, Class 5 magazines: Blasting agent storage facilities

- The proposal will update “class” to “type”, in order to be consistent with the ATF and IME.

WAC 296-52-70060, Construction for class 5 magazines

- The proposal will update “class” to “type”, in order to be consistent with the ATF and IME.

WAC 296-52-71020, Storage with Division 1.1, 1.2, or 1.3 explosives

- The proposal will delete “Unless the storage facility is adequate for Division 1.1, 1.2, or 1.3 storage, small arms ammunition cannot be stored there” because the sentence is redundant with the previous sentence.

WAC 296-52-725, Appendix B, Sample format for a blast record, non mandatory

- The proposal will update the Sample Format for a Blast Record to include the blasters license number and expiration date.

Changes made to the following rules correct typographical errors and clarify rule language. As such, they are exempt from the Small Businesses Economic Impact Statement (SBEIS) requirement of the RFA per RCW 19.85.025(3) that specifically states that rules described in RCW 34.05.310(4) are not subject to the provisions of the RFA. RCW 34.05.310(4)(d) exempts “rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.”

WAC 296-52-60130 Definitions

WAC 296-52-64005 Responsibility to Obtain a Blaster’s License

WAC 296-52-64050 Blaster License Applicant Information

WAC 296-52-64090 Blaster License Renewal

WAC 296-52-64095 List A & B Renewal Qualifications

WAC 296-52-65005 Responsibility to Obtain a Manufacturers License

WAC 296-52-65010 Manufacturer Applicant Information

WAC 296-52-66005 Responsibility to Obtain a Storage License

WAC 296-52-66010 Storage Applicant Information

WAC 296-52-67080 Drilling

WAC 296-52-67165 Fixed Location Mixing

WAC 296-52-69020 Storage Facilities

WAC 296-52-70005 Type 1 Magazines: Permanent Storage Facilities

WAC 296-52-70010 Building Construction for Type 1 Magazines

WAC 296-52-70015 Igloos, army –type structures, tunnels and dugouts

WAC 296-52-70020 Type 2 Magazines: Portable Field Storage

WAC 296-52-70030 Type 3 Magazines: Indoor Storage Facilities

WAC 296-52-70040 Construction for Type 3 Magazines

WAC 296-52-70045 Type 4 Magazines: Blasting Agent, Low Explosive, or Electric Detonator Storage Facilities

WAC 296-52-70050 Construction for Type 4 Magazines

WAC 296-52-70055 Type 5 Magazines: Blasting Agent Storage Facilities

WAC 296-52-70060 Construction for Type 5 Magazines

WAC 296-52-71020 Storage with Division 1.1, 1.2, 1.3 Explosives

WAC 296-52-71080 Storage

Changes made to the following rules are intended to bring their language in line with existing state and federal statutes. As such, they are exempt from the Small Businesses Economic Impact Statement (SBEIS) requirement of the RFA per RCW 19.85.025(3) which specifically states that rules described in RCW 34.05.310(4) are not subject to the provisions of the RFA. RCW 34.05.310(4)(c) exempts “rules adopting or incorporating by reference without material change federal statutes or regulations as well as Washington state statutes.”

WAC 296-52-70025 Construction for Type 2 Magazines

WAC 296-52-61020 License Fees

The following rules increase requirements on handlers of explosive equipment; however, the cost they impose is minor. Per RCW 19.85.030(1)(a), a rule must impose more than a minor cost on a business, businesses or an industry in order to require an SBEIS.

WAC 296-52-64040 List C Qualifications

WAC 296-52-64100 List C Renewal Qualifications