



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Labor and Industries

- Permanent Rule
- Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) January 1, 2006 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

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

- Yes
 - No
- If Yes, explain:

Purpose: Ethylene Oxide Chapter 296-62 WAC, General Occupational Health Standards, chapter 296-855 WAC, Ethylene Oxide and chapter 296-841 WAC, Respiratory Hazards

The department has rewritten and clarified requirements relating to ethylene oxide. The department has amended the rule in chapter 296-62 WAC to only apply to agriculture and adopted ethylene oxide as a new chapter for all other industries, chapter 296-855 WAC. This rulemaking was part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. The department has eliminated unnecessary requirements and outdated terminology.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 296-62-07355, Ethylene oxide, and WAC 296-841-100, Scope
 Suspended: None

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060

Other authority : None.

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-10-076 on May 3, 2005.
 Describe any changes other than editing from proposed to adopted version: See Attachment

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: _____ phone _____
 Address: _____ fax _____
 e-mail _____

EMERGENCY RULE ONLY

- Under RCW 34.05.350 the agency for good cause finds:
- 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.
 - 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:

Date adopted: August 23, 2005

NAME (TYPE OR PRINT)
Gary K. Weeks

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

WSR #05-17-168

**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

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

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>19</u>	Amended	<u>2</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>19</u>	Amended	<u>2</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>19</u>	Amended	<u>2</u>	Repealed	<u>0</u>

Changes other than editing from proposed to adopted version

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

CHANGES TO THE RULES (Proposed rule versus rule actually adopted):

Chapter 296-855 WAC, Ethylene Oxide

WAC 296-855-100, Scope.

- Changed the reference in Step three to reflect the correct number. Step three now reads: “You need only follow Exposure Records, WAC 296-855-20080.”
- Clarified the language in Table 1, Sections That Apply to Your Workplace. The third row now reads: “Employee exposure monitoring results are above the AL and below the STEL.”

WAC 296-855-20020, Exposure control areas.

- Clarified the language in this section. The fourth primary bullet now reads: “Make sure employees entering exposure control areas have appropriate respirators available for use.”

WAC 296-855-20050, Employee protective measures.

- Deleted the language in this section.
- Changed the heading of this section to “Exposure evaluations”.
- Moved the language from WAC 296-855-20060 into this section.
- Changed the reference number for exposure records in the first note, it now reads: “You can use Steps three through six of this process to create a written description of the procedure used for obtaining representative employee exposure monitoring results, which is a requirement in Exposure records, WAC 296-855-20080 in this chapter.”

WAC 296-855-20060, Exposure evaluations.

- Moved the language from this section into WAC 296-855-20050.
- Changed the heading of this section to “Notification”.
- Moved the language from WAC 296-855-20070 into this section.

WAC 296-855-20070, Notification.

- Moved the language from this section into WAC 296-855-20060.
- Changed the heading of this section to “Exposure records”.
- Moved the language from WAC 296-855-20080 into this section.

Changes other than editing from proposed to adopted version

WAC 296-855-20080, Exposure records.

- Added language under the first primary bullet for clarity. It now reads:
“The operation being monitored for employee exposure to EtO.”
- Moved the language from this section into WAC 296-855-20070.
- Changed the heading of this section to “Documentation records.”
- Added language to this section for clarity, it reads:
“**You must:**
 - Keep documentation you develop, of the processing, use, or handling of products made from or containing EtO that conclusively demonstrates that the action level or STEL for EtO cannot be exceeded under any foreseeable conditions of use.
 - Include the following in the documentation record:
 - The product that is the subject of the documentation;
 - The source of the data;
 - Any testing protocol, results of testing, and/or analysis of the product for the release of EtO;
 - A description of the operation where the product is used and how the data support your conclusion; and
 - Other data relevant to the operations, materials, processing, or employee exposures covered by your conclusion.
 - Maintain the documentation record for as long as you rely on your conclusion that the action level and STEL cannot be exceeded.”

WAC 296-855-20090, Training.

- Added language under the third primary bullet for clarity. It now reads:
“The location and availability of this chapter.”

WAC 296-855-30030, Medical evaluations.

- Changed the number of business days in step four from twenty to five to reflect the correct amount of days.