



# 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

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 05-15-134 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

**Title of rule and other identifying information:** (Describe Subject)  
 Special equipment rental and purchase prosthetic and orthotics equipment, WAC 296-20-1102

**Hearing location(s):**  
 Department of Labor and Industries  
 7273 Linderson Way SW  
 Tumwater, WA 98501

Date: October 11, 2005 Time: 10:00 AM

**Submit written comments to:**  
 Name: John Elshaw  
 Address: PO Box 44322  
 Olympia, WA 98504-4322  
 e-mail [elsj235@wa.lni.wa.gov](mailto:elsj235@wa.lni.wa.gov)  
 fax (360)902-4249 by (date) October 4, 2005

**Assistance for persons with disabilities:** Contact  
John Elshaw by October 4, 2005  
 TTY (360) 902-5797 or fax (360) 902-4249

**Date of intended adoption:** November 22, 2005  
 (Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This change is being proposed as to not violate WAC 296-20-1102 when oxygen equipment is rented for an extended period of time and the total rental fees would exceed the purchase price of the equipment. Also the change will bring the Department of Labor and Industries in line with normal industry and CMS standards, specifically, providing oxygen equipment primarily on a rental basis.

**Reasons supporting proposal:** Under this proposal certain types of oxygen equipment would be exempt from the following requirement: *"In no case will the department or self-insurer pay for rental fees once the purchase price of the rented item has been reached."* If an injured worker is on long-term or lifetime oxygen therapy, eventually rental fees will equal or exceed the purchase price of the equipment. If the equipment is then owned by the patient, maintenance fees, accessories, oxygen refills, etc. will still be billed on a recurring basis. Additionally there is no guarantee that that the now owned equipment is a new item and not part of the supplier's "rental fleet." This proposed amendment will benefit the injured worker, especially those on long-term or lifetime oxygen therapy. One monthly rental charge will insure an uninterrupted supply of oxygen equipment, maintenance services and accessories in addition to the reduced administrative burden for providers and Labor and Industries. Liability for equipment breakdown and replacement is with the provider and not Labor and Industries. As technology is upgraded it is anticipated that the supplier will upgrade their rental fleet also insuring the injured worker has up-to-date equipment.

**Statutory authority for adoption:**  
 RCW 51.04.020 and RCW 51.04.030

**Statute being implemented:**  
 Chapter 51.36 RCW

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**CODE REVISER USE ONLY**

**WSR# 05-18-058**

**DATE**  
 September 6, 2005

**NAME** (type or print)  
 Gary K. Weeks

**SIGNATURE**

**TITLE**  
 Director

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

**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..... John Elshaw	Tumwater, WA	(360) 902-5131
Implementation.... Robert Malooly, Assistant Director	Tumwater, WA	(360) 902-4209
Enforcement..... Robert Malooly, Assistant Director	Tumwater, WA	(360) 902-4209

**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.

The proposed rule will not impose more than minor costs on business in an industry. RCW 19.85.030(1)(a). And the rule is exempt from conducting an SBEIS because it merely clarifies the language of the rule. RCW 34.05-310(4)(d)

**Is a cost-benefit analysis required under RCW 34.05.328?**

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

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No: Please explain:

The rule is exempt from conducting a CBA because it merely clarifies the language of the rule. RCW 34.05.328(5)(b)(iv)