



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) February 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: Cholinesterase Monitoring, chapter 296-307 WAC

This rulemaking is being adopted based on stakeholder recommendations and to address program changes occurring since original Cholinesterase Monitoring rule was adopted. These changes are to modify the licensed health care professional's written recommendation to address all employee blood tests, to clarify some requirements, and to make some minor housekeeping changes. See attachment (1)

Citation of existing rules affected by this order:

Repealed: none
 Amended: See attachment (2)
 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 05-19-087 on September 20, 2005.
 Describe any changes other than editing from proposed to adopted version: See attachment (3)
 There are no costs to assess on the changes from proposed to adopted.

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: December 20, 2005

NAME (TYPE OR PRINT)
Gary K. Weeks

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

WSR# 06-01-074

**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	_____	Amended	6	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	6	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	_____	Amended	6	Repealed	_____

(1) Purpose:

AMENDED SECTIONS:

WAC 296-307-14805, Maintain handling records for covered pesticides.

- Deleted the reference to the table and added the reference to the applicable WAC section.
- There is a current requirement in RCW 49.17.285 which requires employers to provide handling hours to the medical provider/laboratory; we are adding this for clarity.

WAC 296-307-14810, Implement a medical monitoring program.

- Deleted the table and the reference to this table in this section.
- Added two notes to this section for clarity.

WAC 296-307-14815, Identify a physician or licensed health care professional.

- Added a requirement for the employer to obtain a written recommendation from the health care provider for all blood testing and to make sure the employee receives a copy of the written recommendation. This will provide employees with ready access to health care provider recommendations.
- Added a note relating to testing being done by the same laboratory whenever possible.
- Added a note relating to obtaining employee's written consent to obtain blood test results.
- Clarified language.

WAC 296-307-14820, Make cholinesterase testing available.

- Deleted the reference to the table and add the reference to the applicable WAC section.
- Added a note relating to a "working baseline".
- Moved two notes to WAC 296-307-14810 for better organization.
- Added language relating to the employee receiving a copy of the signed declination statement within five business days after receipt from the LHCP.
- Clarified language.

WAC 296-307-14825, Respond to depressed cholinesterase levels.

- Changed the table to "Table 1".
- Added language in the table for clarity.

WAC 296-307-14830, Provide medical removal protection benefits.

- Added a clarifying note relating to benefits being paid while on medical removal.

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

AMENDED SECTIONS:

- WAC 296-307-14805, Maintain handling records for covered pesticides.
- WAC 296-307-14810, Implement a medical monitoring program.
- WAC 296-307-14815, Identify a physician or licensed health care professional.
- WAC 296-307-14820, Make cholinesterase testing available.
- WAC 296-307-14825, Respond to depressed cholinesterase levels.
- WAC 296-307-14830, Provide medical removal protection benefits.

Changes other than editing from proposed to adopted version

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

As a result of written and oral comments received, the following sections are being changed as indicated below: (modify as necessary)

Chapter 296-307 WAC, Cholinesterase Monitoring

WAC 296-307-14805, Maintain handling records for covered pesticides.

- Deleted the reference to the table and added the reference to the applicable WAC section.
- There is a current requirement in RCW 49.17.285 which requires employers to provide handling hours to the medical provider/laboratory; we are adding this for clarity.

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

- Added the word “other” in the second bullet.
- Merged a primary bullet and sub-bullet for clarity.

WAC 296-307-14810, Implement a medical monitoring program.

- Delete the table and the reference to this table in this section.
- Add two notes to this section for clarity.

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

- In the note, moved the phrase “Closed cabs are not “closed systems”” for clarity.

WAC 296-307-14815, Identify a physician or other licensed health care professional.

- Added a requirement for the employer to obtain a written opinion from the health care provider for all blood testing and to make the opinion available to the employee. This will provide employees with ready access to test results and health care provider recommendations.
- Added a note relating to testing being done by the same laboratory whenever possible.
- Added a note relating to obtaining employee’s written consent to obtain blood test results.
- Clarified language.

Changes other than editing from proposed to adopted version

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

- Added the word “other” to the title of this section.
- Changed the language in the first bullet, first sub-bullet to read, “Provide baseline and periodic cholinesterase testing through the department of health public health laboratory or a laboratory approved by the department of labor and industries”.
- Added the word “cholinesterase” in the second sub-bullet for clarity.
- Added clarifying language after the second sub-bullet that reads, “Provide you with a written recommendation for each employee’s blood test and evaluation”.
- In the second bullet, changed the word “opinion” to “recommendation” for consistency.
- In the second bullet, clarified the language to read, “Obtain the LHCP’s written recommendation for each employee’s blood test and evaluation (including baseline tests) and make sure that the employee receives a copy of the LHCP’s written recommendation, either through you or directly through the LHCP, within five business days after you receive the recommendation”.
- In the third bullet, clarified the language to read, “Make sure the LHCP’s written recommendation for each employee’s blood test and evaluation is limited to the following information:
 - The employee’s cholinesterase status based on the LHCP’s evaluation
 - Identification of changes in cholinesterase levels requiring a work practice evaluation for the employee
 - Identification of changes in cholinesterase levels requiring the employee to be removed from handling and other exposure to organophosphate and N-methyl-carbamate pesticides”.
- Clarified the note to read, “All testing for an employee should be conducted through the same laboratory. This will allow for accurate comparison between baseline and periodic tests”.
- In the fourth bullet, clarified the language to read, “Instruct the LHCP to not reveal in writing or in any other communication with you any other personally identifiable medical information”.
- Added a note for clarity that reads, “If the LHCP written recommendation contains specific findings or diagnoses unrelated to occupational exposure, you should send it back and obtain a revised version without the additional information”.
- Added the words “You must” after the note.
- In the fifth bullet, deleted the words “physician or” for consistency.
- In the sixth bullet, deleted the words “medical provider” for consistency.
- In the seventh bullet, deleted the words “physician or” for consistency.
- Clarified the note to read, “You may only obtain the employee’s actual test results if the employee provides the LHCP with written consent to share these results with you”.

Changes other than editing from proposed to adopted version

WAC 296-307-14820, Make cholinesterase testing available.

- Deleted the reference to the table and added the reference to the applicable WAC section.
- Added a note relating to a “working baseline”.
- Moved two notes to WAC 296-307-14810 for better organization.
- Added language relating to the employee receiving a copy of the signed declination statement within five business days after receipt from the LHCP.
- Clarified language.

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

- In the first bullet, clarified the language to read, “Make medical monitoring available to employees who will meet the handling hour threshold of thirty or more hours in any consecutive thirty-day period (WAC 296-307-14810) at no cost and at a reasonable time and place as follows:”
- In the first and second sub-bullets replaced the word “plasma” with “serum”.
- In the first and second tertiary bullets replaced the words “levels in” with “hour threshold in”.
- Inserted a third sub-bullet, that was located in another place in this section, that reads, “Follow the recommendations of the LHCP regarding continued employee pesticide handling or removal from handling until a thirty-day exposure free baseline can be established”.
- Deleted the second bullet.
- In the note, deleted the words “medical provider” for consistency.
- In the second bullet, deleted the words “physician or” for consistency.
- In the first sub-bullet, deleted the words “physician or” for consistency.
- In the third bullet, clarified the language to read, “Make sure the employee receives a copy of the signed declination statement, either through you or directly through the LHCP, within five business days after you receive the declination statement”.

WAC 296-307-14825, Respond to depressed cholinesterase levels.

- Changed the table to “Table 1”.
- Added language in the table for clarity.

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

- In the second sub-bullet, deleted the words “physician or” for consistency.
- In table, replaced the “plasma” with “serum” in two places.
- In the table deleted the words “physician or” for consistency.

Changes other than editing from proposed to adopted version

WAC 296-307-14830, Provide medical removal protection benefits.

- Added a clarifying note relating to benefits being paid while on medical removal.

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

- Clarified the note to read, “The following are examples of how a worker’s pay could be maintained while medically removed from exposure to cholinesterase-inhibiting pesticides:”
- In the note, replaced the words “the additional two dollars per hour” with “this premium” for clarity.