



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Labor & Industries

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 08-09-153 ; 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: Chapter 296-115 WAC, Safety Requirements for Charter Boats

Hearing location(s):

Department of Labor & Industries
12806 Gateway Drive, Training Room 1
Tukwila, WA 98168-1050

Date: Tukwila: August 7, 2008 Time: 10:00 a.m.

Campbell's
104 West Woodin, Ballroom I
Chelan, WA 98816

Date: Chelan: August 8, 2008 Time: 1:00 p.m.

Submit written comments to:

Name: Jill Saibel, Project Manager
Address: Department of Labor and Industries
PO Box 44620
Olympia, WA 98507-4620
e-mail saij235@lni.wa.gov
fax (360)902-5619 by August 15, 2008

Date of intended adoption: October 1, 2008
(Note: This is NOT the effective date)

Assistance for persons with disabilities: Contact
Beverly Clark by July 23, 2008
(360) 902-5516 or clah235@lni.wa.gov

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposal would update the appeal process to more accurately reflect the intent of ch. 88.04 RCW, the Charter Boat Safety Act and ch. 49.17 RCW. The penalty language is being changed to align the charter boat penalty structure with other DOSH penalties. A few requirements are being updated to make them consistent with current U.S. Coast Guard requirements under 46 CFR. Typographical errors in a couple of references are being corrected.

See Attachment 1.

Reasons supporting proposal: See purpose statement.

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

Statute being implemented: Chapter 49.17 RCW, Chapter 88.04 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:

DATE
July 1, 2008

NAME
Judy Schurke

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 01, 2008

TIME: 10:58 AM

WSR 08-14-132

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

None.

Name of proponent: 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.... Steve Cant	Tumwater	(360) 902-5495
Enforcement.....Steve Cant	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.

The department considered whether these proposed rules are subject to the Regulatory Fairness Act and determined that they do not require a small business economic impact statement. The rule is being updated to more accurately reflect the intent of ch. 49.17 RCW and ch. 88.04 RCW, the Charter Boat Safety Act, and to be consistent with Coast Guard regulations in 46 CRF as required in ch. 88.04 RCW. Since the rule is incorporating without material change statutory mandates and federal rules, a small business economic impact statement is not required.

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 changes incorporate, without material change, federal and Washington State statutes, correct typographical errors, and clarify language, so a preliminary cost-benefit analysis is not required.

NEW SECTIONS:

WAC 296-115-110, Appeal of Decisions

- The requirements in this section were previously under WAC 296-115-010, which has been repealed. These requirements were moved to a different location in the rule with a new section number to create a more logical organization for the rule.
- Changed the request for a hearing from the Director to the Assistant Director and clarified the steps involved.
- Changed the appeal venue to the BIIA to be consistent with RCW 88.04.055 for all citations **except** those regarding denial of a certificate of inspection or license, or a decision on the maximum passengers, crew or total capacity of a charter boat.
- Applied clear rule writing principles.

AMENDED SECTIONS:

WAC 296-115-005, Scope and Purpose

- Changed name from “Scope and Application” to “Scope and Purpose” to be consistent with current rule design.
- Applied clear rule writing principles.

WAC 296-115-015, Definitions

- Deleted definitions that are no longer in the rule.
- Added new terms (Assistant Director, employee, keel laid, master)
- Applied clear rule writing principles.

WAC 296-115-025, Vessel Inspection and Certification

- Changed the title from “Vessel Inspection and Licensing” for consistency within the rule and with Coast Guard regulations.
- Applied clear rule writing principles.

WAC 296-115-030, Master’s Examination and Licensing

- Removed penalty language and placed it in the penalty section (WAC 296-115-100).
- Applied clear rule writing principles.

WAC 296-115-035, Specific Inspection Requirements

- Applied clear rule writing principles.

WAC 296-115-040, Vessel Construction and Arrangement

- Applied clear rule writing principles.

WAC 296-115-050, General Requirements

- Made life preserver requirements consistent with U.S. Coast Guard regulations under 46 CFR 180.71 by adding requirement to provide an appropriate life jacket for each child-sized person on board.
- Made ring life buoy requirements consistent with U.S. Coast Guard regulations under 46 CFR 180.70(d) by adding requirement for a floating water light when operating at night.
- Applied clear rule writing principles.
- Updated fixed fire extinguishing system requirements to be consistent with U.S. Coast Guard regulations under 46 CFR 181.115 by including vessels with wood and fiber-reinforced hulls among those needed a fixed fire extinguishing system
- Deleted requirement for use of carbon dioxide in the fixed fire extinguishing systems since it is no longer commonly used.
- Updated fixed fire extinguishing system requirements to be consistent with U.S. Coast Guard regulations under 46 CFR 181.410(10) by adding a requirement for an automatic shut-down device for power ventilation.
- Added Table 1, Portable Fire Extinguishers to assist in determining the correct type of fire extinguisher needed.
- Made deck railing requirements consistent with 46 CFR 116.900(c) and (g) by changing the spacing for rails from 12 inches to 4 inches, and clarifying that hand grabs in lieu of railings are only allowed for areas designed for crew. A typographical error in a reference was also corrected.
- Made emergency portable battery light requirements consistent with 46 CFR 183.430 by clarifying minimum requirements.
- Applied clear rule writing principles.

WAC 296-115-060, Operations

- Made injury or casualty reporting requirements consistent with 46 CFR 185.202(a)(6) by clarifying types of injuries that require reporting, and adding fire on board the vessel.
- Made emergency drill requirements consistent with 46 CFR 185.520(f) by adding requirement for documentation.
- Applied clear rule writing principles

WAC 296-115-070, Rules of Navigation

- Corrected a typographical error and updated the reference number for the navigation rules.
- Updated to correct term for testing compass readings.
- Applied clear rule writing principles.

CR 102 RULE-MAKING ORDER (RCW 34.05.320)

Department of Labor and Industries

Division of Occupational Safety and Health

CR-102 Filing Date: July 1, 2008

Hearing Dates: Tukwila: August 7, 2008, Chelan: August 8, 2008

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Attachment 1

(Purpose Statement)

WAC 296-115-100, Penalties for Certificate of Inspection and Operator's License

- Changed title for clarity.
- Changed penalty for owners of vessels who violate the certification and inspection provisions from \$200 to penalties provided under WISHA to be consistent with RCW 88.04.320(3).
- Applied clear rule writing principles.

WAC 296-115-120, Annual Fee Schedule

- Changed the term "license" to "certification" to use consistent terminology within the rules and to be consistent with U.S. Coast Guard requirements under 46 CFR.
- Applied clear rule writing principles.

REPEALED SECTIONS:

WAC 296-115-001, Forward

- This section was incorporated into WAC 296-115-005, Scope and Purpose, to be more consistent with the structure of our other rules.

WAC 296-115-010, Appeal of Decisions

- This section was re-numbered as WAC 296-115-110 for better organizational flow. See New Sections above.