



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 08-15-143 ; 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:

Outdoor Heat Exposure Amendments to Chapter 296-307 WAC, Safety Standards for Agriculture

Hearing location(s):

See Attachment 2.

Submit written comments to:

Name: Jamie Scibelli
 Address: PO Box 44620
 Olympia, WA 98504-4620
 e-mail Scij235@lni.wa.gov
 fax (360) 902-5619 by January 16, 2008

Assistance for persons with disabilities:

Contact Beverly Clark by December 23, 2008
 (360) 902-5516 or clah235@lni.wa.gov

Date of intended adoption: March 18, 2009
 (Note: This is NOT the effective date)

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

See Attachment 1.

Reasons supporting proposal:

See Attachment 1.

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

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

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: November 18, 2008
 TIME: 1:27 PM

WSR 08-23-084

DATE
 November 18, 2008

NAME
 Judy Schurke

SIGNATURE

TITLE
 Director

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

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, Washington	(360) 902-5530
Implementation	Stephen M. Cant	Tumwater, Washington	(360) 902-5495
Enforcement	Stephen M. Cant	Tumwater, Washington	(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.

WAC 296-62-095 currently applies to agriculture employers. This identical language from WAC 296-62-095 is being adopted into chapter 296-307 WAC, Safety Standards for Agriculture. As a result, no new or additional requirements or costs will be created for agriculture employers.

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:

WAC 296-62-095 currently applies to agriculture employers. This identical language from WAC 296-62-095 is being adopted into chapter 296-307 WAC, Safety Standards for Agriculture. As a result, no new or additional requirements or costs will be created for agriculture employers.

AMENDED SECTIONS:

- WAC 296-307-030, What are the required elements of an accident prevention program?
- WAC 296-307-09512, What potable water sources must an employer provide?
- WAC 296-307-11015, Violations of this part -- Worker protection standards -- 40 CFR, § 170.9.
- WAC 296-307-12020, Entry restrictions -- Standards for workers -- 40 CFR, § 170.112.
- WAC 296-307-13045, Personal protective equipment -- Standards for pesticide handlers -- 40 CFR, § 170.240.

NEW SECTIONS:

- WAC 296-307-097, Outdoor heat exposure.
- WAC 296-307-09710, Scope and purpose.
- WAC 296-307-09720, Definitions.
- WAC 296-307-09730, Employer and employee responsibility.
- WAC 296-307-09740, Drinking water.
- WAC 296-307-09750, Responding to signs and symptoms of heat-related illness.
- WAC 296-307-09760, Information and training.

The purpose of this project is to include the adopted Outdoor Heat Exposure rule in Chapter 296-307 WAC, Safety Standards for Agriculture.

During the public comment period for the Outdoor Heat Exposure rule, the Department received comments from stakeholders who believed that Chapter 296-62 WAC, General Occupational Health Standards does not apply currently to Chapter 296-307 WAC, Safety Standards for Agriculture.

Although it was determined that the Department is permitted by RCW 49.17.041 to specifically reference the general industry safety rules, the Department agreed to initiate rulemaking to incorporate Outdoor Heat Exposure requirements into chapter 296-307 WAC.

RCW 49.17.041 requires the Department to establish an agricultural safety rule that includes two parts: 1) agricultural-specific rules for agricultural employers; and 2) specific references to the general industry safety rule adopted under chapter 49.17 RCW.¹ Furthermore, agricultural employers are to be exempt from the general industry safety rule adopted under chapter 49.17 RCW for all rules *not specifically referenced* in the agricultural safety rule.²

Currently, the agricultural safety rule, Chapter 296-307 WAC, specifically states agricultural employers are covered by the requirements of Chapter 296-62 WAC, General Occupational Health Standards. WAC 296-307-006 (3) states, "All agricultural operations are also covered by the requirements of chapter 296-62 WAC, general occupational health rules."

¹RCW 49.17.041(2)(a)

² RCW 49.17.041(2)(b) (emphasis added).

CR 102 RULE-MAKING ORDER (RCW 34.05.320)

Department of Labor and Industries

Division of Occupational Safety and Health

CR-102 Filing Date: November 18, 2008

Hearing Date: See Attachment 2.

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Attachment (1)

(Purpose Statement)

While the Department has determined that the requirements in Chapter 296-62 WAC apply to agricultural employers, the Department has decided to add the language from WAC 296-62-095 to Chapter 296-307 WAC per stakeholder requests.

CR 102 RULE-MAKING ORDER (RCW 34.05.320)

Department of Labor and Industries
Division of Occupational Safety and Health
CR-102 Filing Date: November 18, 2008
Hearing Date: See below.
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Attachment (2)
(Hearing)

Hearing Locations:

January 6, 2009

Comfort Inn & Conference Center
1620 74th Avenue
Tumwater, WA 98501
1:00 p.m.

January 8, 2009

Hilton Garden Inn Seattle North/Everett
8401 Paine Field Blvd
Mukilteo, WA 98275
1:00 p.m.

January 13, 2009

Clarion Hotel & Conference Center
1507 N. First Street
Yakima, WA 98901
1:00 p.m.

January 14, 2009

Courtyard by Marriott Richland
480 Columbia Pt. Drive
Richland, WA 99352
1:00 p.m.

January 15, 2009

Doubletree Hotel Spokane City Center
322 N Spokane Falls Court
Spokane, WA 99201
1:00 p.m.

Submit written comments to:

Jamie Scibelli, Project Manager
Division of Occupational Safety and Health
P.O. Box 44620
Olympia, Washington 98507-4620

By 5:00 p.m. on January 16, 2009

In addition to written comments, the Department will accept comments submitted to the following fax number: (360) 902-5619.

Comments submitted by fax must be 10 pages or less.