



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Department of Labor and Industries

Title of rule and other identifying information:

Chapter 296-803 WAC, Lockout/Tagout (Control of Hazardous Energy)

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY June 22, 2009

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

See Attachment 1.

Reasons supporting proposal:

The proposed amendments to Chapter 296-803 WAC will make Washington State's rule as effective as the Federal equivalent.

Statutory authority for adoption: RCW 49.17.050

Statute being implemented: Chapter 49.17 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input 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:
29 CFR Subpart E

DATE
April 21, 2009

NAME
Judy Schurke

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

**DATE: April 21, 2009
TIME: 1:38 PM**

WSR 09-09-115

Name of proponent: Department of Labor and Industries, Division of Occupational Safety and Health

- Private
- Public
- Governmental

Name of agency personnel responsible for:

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

N/A

The Federal Occupational Safety and Health Administration (OSHA) advised the department of a few areas in the lockout/tagout standard where we are not as effective as the federal rule. The proposed changes will make Washington State's rule as effective as the Federal equivalent. These changes are outlined below.

WAC 296-803-30005, Make sure new or modified machines and equipment can accept lockout devices.

OSHA Determination

"OSHA's standard requires that when a machine or equipment undergoes major repair, renovation or modification after January 2, 1990, energy isolating devices must be designed to accept a lockout device. An effective date was not included in the State standard. An effective date is necessary to enable compliance officers to determine which machines and equipment are required to be so designed."

Division of Occupational Safety and Health (DOSH) Response

Language in this section will be updated to include the January 2, 1990 effective date.

WAC 296-803-40005, Provide appropriate means to control energy.

OSHA Determination

"WAC 296-803-40005 includes "Blind Flanges" as an example of means to control energy. In order to be consistent with OSHA and other WISHA standards, the term 'Blind Flanges' should be changed to 'blank flanges and bolted slip blinds.'"

Division of Occupational Safety and Health (DOSH) Response

The term "blind flanges" will be changed to "blank flanges."

WAC 296-803-50010, Meet these requirements when applying lockout or tagout devices.

OSHA Determination

"Paragraph 1910.147(d)(2) requires orderly shutdown of machines or equipment to avoid any additional or increased hazard(s) to employees as a result of the machine or equipment stoppage. The requirement is consistent with Section 5.3.2.3 of ANSI/ASME Z244.1-2003 which requires the employer to follow a sequence of shutdown to ensure employee safety. The term 'orderly shutdown' was changed to 'established procedures' in the state standard without providing a rationale."

Division of Occupational Safety and Health (DOSH) Response

Language will be added in this section to clarify that an orderly shutdown is necessary.

WAC 296-803-60015, Retrain employees when necessary.

OSHA Determination

“Paragraph 1910.147(c)(6)(i) requires the employer to conduct a *periodic inspection* of the energy control procedures. WAC 296-803-70005 requires the employer to perform and document *periodic reviews* to verify employees know and follow the energy control procedures. However, on page 11 of the comparison document, WAC 296-803-60015 requires retraining of employees when *periodic inspection* shows the employee deviates from, or has inadequate knowledge of, the energy control procedures. The state standard should be consistent when using the terms ‘*periodic review*’ or ‘*periodic inspection*.’”

Division of Occupational Safety and Health (DOSH) Response

The term “inspection” will be changed to “review.”

WAC 296-803-800, Definitions.

Energy-isolating device.

OSHA Determination

“OSHA’s definition of “Energy Isolating Device” includes the statement that push buttons, selector switches and other control circuit type devices are not energy isolating devices. This information is consistent with the American National Standard Institute (ANSI) Z244.1-2003 Annex B (1). The aforementioned information, which is necessary to clarify the intent of the standard, was not included in the state’s definitions.”

Division of Occupational Safety and Health (DOSH) Response

Language will be added to this section to clarify that that push buttons, selector switched and other control circuit type devices are not energy isolating devices.

Service and maintenance.

OSHA Determination

“OSHA’s definition of ‘service and/or maintenance’ includes ‘inspecting’ as a covered activity. The state’s definition of the term ‘service and/or maintenance’ does not.”

Division of Occupational Safety and Health (DOSH) Response

The term “inspecting” will be included in this definition.