



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 09-13-078 ; 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: Chapter 296-126 WAC, Standards of labor for the protection of the safety, health, and welfare of employees for all occupations subject to chapter 49.12 RCW

Hearing location(s):

Department of Labor and Industries
7273 Linderson Way SW, Room S119
Tumwater, Washington

Date: December 14, 2009 Time: 9:00 am

Submit written comments to:

Name: Sally Elliott
Address: Post Office Box 44400
Olympia, Washington 98504-4400
e-mail yous235@lni.wa.gov
fax (360) 902-5292 by December 14, 2009

Assistance for persons with disabilities: Contact

Sally Elliott by November 30, 2009 at
yous235@lni.wa.gov or (360) 902-6411.

Date of intended adoption: January 19, 2010
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rulemaking is proposed in response to the need of updating the current industrial welfare rules, which were adopted in 1974 and have not been reviewed by the department. The proposed rule will repeal and delete outdated requirements; remove duplicative provisions; establish rules consistent with current statutory requirements; specify the information for certain requirements; create cross references and update definitions and terms for consistency and clarity. See Attachment 1 for a list of proposed changes.

Reasons supporting proposal: See purpose statement.

Statutory authority for adoption: Chapter 49.12 RCW

Statute being implemented: Chapter 49.12 RCW

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE
November 4, 2009

NAME (type or print)
Judy Schurke

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

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

DATE: November 04, 2009

TIME: 11:01 AM

WSR 09-22-099

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

NA

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..... Rich Ervin	Tumwater, Washington	(360) 902-5310
Implementation.... Steve McLain	Tumwater, Washington	(360) 902-6348
Enforcement..... Steve McLain	Tumwater, Washington	(360) 902-6348

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.

This rule is specifically exempt from the SBEIS requirement because its intent is to clarify rule language without changing its effect [see RCW 19.85.025 referencing 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: Sally Elliott
Address: Post Office Box 44400
Olympia, Washington 98504-4400
phone (360) 902-6411
fax (360) 902-5292
e-mail yous235@lni.wa.gov

No: Please explain:

Attachment (1)
Purpose Statement

The following are changes that are being made with this rulemaking:

- WAC 296-126-001 is being updated to clarify the language, deleting reference to the industrial welfare committee and adding notes referring public employers to RCW 49.12.005(3) and referring employers to the variance rule in WAC 296-126-130.
- WAC 296-126-002 is updating definitions for:
 - Employer to reflect the amended definition in chapter 49.12 RCW;
 - Employee for clarity by restating the exemptions from the definition;
 - Adult by deleting “of either sex”;
 - Minor by deleting “of either sex”;
 - Delete the definition of committee since the industrial welfare committee no longer exists; and
 - Add the definition for department and director to be consistent with chapter 49.12 RCW.
- WAC 296-126-010 is deleting old language that refers to the adult minimum wage as \$1.80 an hour. Language is being added for employers who pay a wage rate under a special certificate issued by the department that is less than the minimum wage.
- WAC 296-126-015 is a new section that explains how to calculate the wage rate under special certificates.
- WAC 296-126-030(8) replacing the term “deductions” with “adjustments” to be consistent with other rules.
- WAC 296-126-040 is being updated to clarify the information required on the pay statement, that the pay statement is to be issued separately from the paycheck, that pay statements may be transmitted electronically provided that employees have access to receive it by such transmittal on the payday.
- WAC 296-126-050 is being updated to add clarity to the requirement for the employer to furnish a written reason for discharge within 10 days of a former employee’s request and to add a note that additional recordkeeping requirements are stated in WAC 296-128-010 through 296-128-030.
- WAC 296-126-060 is being repealed to eliminate duplicate language requiring an employer employing minors to obtain a work permit that also is stated in WAC 296-125.
- WAC 296-126-080 is adding the title of the poster employers are required to keep.
- WAC 296-126-090 replacing the term “industrial welfare committee” with “department” to be consistent with RCW 43.22.280 and .282 and RCW 49.12.
- WAC 296-126-096 is being repealed because it contains requirements that the employer must inform employees that manual lifting will be part of the job and educating employees on techniques for lifting more than 20 pounds. The L&I Division of Safety and Health has educational materials on lifting techniques.
- WAC 296-126-130 is being updated to provide clarity on the process for the issuance of variances.