



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 09-16-112 ; 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 296-65 WAC, Asbestos Removal and Encapsulation

Hearing location(s):
 Department of Labor and Industries
 7273 Linderson Way SW
 Tumwater, WA 98501-5414
 Auditorium

Date: Wednesday October 28, 2009 Time: 1:00 pm

Date of intended adoption: December 22, 2009
 (Note: This is **NOT** the **effective** date)

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 November 6, 2009

Assistance for persons with disabilities: Contact

Beverly Clark by October 14, 2009
 (360) 902-5516 or clah235@lni.wa.gov

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

As approved by the 2009 Legislature, the purpose of this rulemaking is to adjust the fees set forth in WAC 296-65-025, Fees, for the Division of Occupational Safety and Health's Asbestos Program. If these fees are increased, this will be the first fee increase since the program began in 1985. This fee increase will ensure the Department's ability to continue the asbestos program. The estimated budget and projected revenue show that the program is going to be underfunded by the end of 2009-2011 biennial fiscal years and in great deficit by the end of 2011-2013 fiscal years, provided that no fee increase occurs during these periods. In order for the program to function smoothly and keep providing speedy and quality service for asbestos-related business, this fee increase rule is proposed and considered as a necessary means to help cover the cost of ongoing services of the asbestos program.

The purpose of the Asbestos Program within the Division of Occupational Safety and Health is to oversee the certification of asbestos abatement work. These certification requirements are set forth in chapter 296-65 WAC, Asbestos. This program reviews, approves, and audits asbestos abatement courses and asbestos abatement course providers. Asbestos abatement workers and supervisors are reviewed to ensure they have obtained an adequate level of training from an approved training course provider. Additionally, asbestos abatement supervisors must demonstrate a minimum level of experience to obtain certification. Asbestos abatement contractors are reviewed to ensure they are a registered contractor with the Department of Labor and Industries and they have at least one certified asbestos supervisor on staff.

WAC 296-65-025, Fees.

The proposed language in this section has been amended to increase the fees as follows:

- Increase fees for asbestos worker certificate from \$25 to \$45;
- Increase fees for asbestos supervisor certificate from \$35 to \$65;
- Increase fees for asbestos contractor certificate from \$1000 to \$1050; and
- Increase fees for asbestos training course approval from \$1000 to \$1250.

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and Chapter 564, Laws of 2009 (Section 218)

Statute being implemented: RCW 49.26.130

Is rule necessary because of a:

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

DATE
 September 22, 2009

NAME
 Judy Schurke

SIGNATURE

TITLE
 Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: September 22, 2009
TIME: 12:23 PM

WSR 09-19-120

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, 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.

Likewise, RCW 19.85.025(3) says that chapter 19.85 RCW does not apply to a rule described in RCW 34.05.310(4), and that subsection exempts rules that “set or adjust fees pursuant to legislative standards.” As such, the department is exempt from conducting a Small Business Economic Impact Statement for this proposed rule.

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: RCW 34.05.328 (5) (b) (vi) states the exemption from its requirements rules “that set or adjust fees or rates pursuant to legislative standards.” This proposal is to adjust fees with regard to asbestos-related trade and the program has received legislative approval, described in Engrossed Substitute House Bill (ESHB) 1244, for the fee increase. As such, the department is exempt from conducting Cost-Benefit Analysis for this proposed rule.

