



PROPOSED RULE MAKING

CR-102 (June 2012)

(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 15-01-161 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: Chapter 296-27 WAC, Recordkeeping and reporting, Chapter 296-37 WAC, Standards for commercial diving operations, Chapter 296-78 WAC, Safety standards for sawmills and woodworking operations, Chapter 296-115 WAC, Safety requirements for charter boats, Chapter 296-307 WAC, Safety standards for agriculture, and Chapter 296-800 WAC, Safety and health core rules.

Hearing location(s):
Department of Labor and Industries
Room S117
7273 Linderson Way SW
Tumwater, WA 98501

Date: March 27, 2015 Time: 9:00am

Submit written comments to:

Name: Tari Enos
Address: 7273 Linderson Way SW
Tumwater, WA 98501
e-mail tari.enos@lni.wa.gov
fax (360)902-5619 by (date) April 3, 2015

Assistance for persons with disabilities: Contact

Tari Enos by March 13, 2015 at (360) 902-5541

Date of intended adoption: May 5, 2015
(Note: This is **NOT** the **effective** date)

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

The purpose of this proposal is to update our rules to be at least as effective as the Occupational Safety and Health Administration's (OSHA) rules, but also maintaining the current state reporting requirement of eight hours for any in-patient hospitalization of any employee.

OSHA revised the Occupational Injury and Illness Recording and Reporting Requirements in 29 C.F.R. Part 1904 to use the North American Industry Classification System (NAICS) rather than the previously used Standard Industrial Classification (SIC) system. The NAICS codes will now be used to determine which employers classified as low-hazard industries are partially exempt from recordkeeping requirements.

In addition, OSHA revised the reporting requirements for any work-related fatality, in-patient hospitalization, amputation, and the loss of an eye. Employers are now required to report to OSHA any work-related fatality within eight hours, and any work-related incident that results in an in-patient hospitalization, amputation, or loss of an eye for one or more employees within 24 hours. Also, references, formatting and minor housekeeping changes may be made throughout the chapters specified above.

Reasons supporting proposal:

The reasons supporting the proposal of updating the current recordkeeping and reporting rules is so L&I is at least as effective as OSHA.

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

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:
29 CFR Part 1904

DATE
February 17, 2015

NAME (type or print)
Joel Sacks

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

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

**DATE: February 17, 2015
TIME: 9:28 AM**

WSR 15-05-063

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

N/A

Name of proponent: Department of Labor and Industries

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Lena Wang	Tumwater, WA	(360) 902-5516
Implementation.... Anne Soiza	Tumwater, WA	(360) 902-5090
Enforcement..... Anne Soiza	Tumwater, WA	(360) 902-5090

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal 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.

No small business economic impact statement was prepared due to L&I not making any changes that made us more stringent than OSHA.

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:

No cost benefit analysis was prepared due to L&I not making any changes costing employers more money.

AMENDED SECTIONS

WAC 296-27-00101 Purpose and Scope.

- Added language to reflect OSHA's new reporting requirement for amputations and losses of an eye.
- Removed duplicative language that is stated in other sections of the chapter.

WAC 296-27-00103 Partial exemption for employers with ten or fewer employees.

- Updated language to reflect OSHA's new reporting requirements for amputations and losses of an eye.
- Streamlined to avoid duplicative language.
- Reordered requirements for better flow.

WAC 296-27-00105 Partial exemption for establishments in certain industries.

- Updated language from the Standard Industrial Classifications (SIC) to the North American Industrial Classification System (NAICS) to be consistent with OSHA's changes.
- Reformatted guidance/information language into a note as it was not a requirement.
- Moved the NAICS table to this section.
- Deleted outdated SIC information.
- Reformatted to remove the question and answer format.

WAC 296-27-00107 Keeping records for more than one agency.

- Changed "WISHA" to the "department".

WAC 296-27-011 Recordkeeping forms and recording criteria.

- Updated language to plain talk by changing "the employer" to "you".

WAC 296-27-01101 Recording criteria.

- Updated and streamlined language to eliminate repetitive language.
- Reformatted to remove the question and answer format.
- Changed bullets into numbering.
- Removed unnecessary language that was not an actual requirement for clarity.

WAC 296-27-01103 Determination of work-relatedness.

- Reformatted to remove question and answer format.
- Updated reference.
- Moved the definitions of "work environment" and "preexisting conditions" to the definition section.
- Combined the notes into one note box.
- Combined (c) and (d) because they were closely related requirements.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Updated "his or her" language to gender-neutral pronouns.

WAC 296-27-01105 Determination of new cases.

- Reformatted to remove question and answer format.

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- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.

WAC 296-27-01107 General recording criteria.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Moved the definitions of “routine functions,” “medical treatment,” and “first aid” to the definition section.
- Reformatted guidance/information language into a note as it was not a requirement.
- Grouped notes.
- Updated “his or her” language into gender-neutral pronouns.

WAC 296-27-01109 Recording criteria for needlestick and sharps injuries.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Moved definition of “other potentially infectious materials” to definition section.

WAC 296-27-01111 Recording criteria for medical removal cases.

- Reformatted language to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Changed previous requirements that were not requirements, but guidance, into a note.

WAC 296-27-01113 Recording criteria for occupational hearing loss cases.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Reformatted guidance/information language into a note as it was not a requirement.
- Merged (f) into WAC 296-27-01113(1) due to similarity.

WAC 296-27-01115 Recording criteria for work-related tuberculosis cases.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Merged similar requirements.

WAC 296-27-01119 Forms.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Moved the definition of “equivalent form” to the definition section.
- Reformatted guidance/information language into a note as it was not a requirement.

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- Removed repetitive language and merged requirement in (h) to WAC 296-27-01119(3)(c).

WAC 296-27-02101 Multiple business establishments.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Added correct reference to (3)(b).
- Changed language to reflect second person point of view (from the employer's point of view).

WAC 296-27-02103 Covered employees.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Reformatted guidance/information language into a note as it was not a requirement.

WAC 296-27-02105 Annual summary.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Removed duplicative language.
- Changed bullets to lowercase letters.

WAC 296-27-02107 Retention and updating.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Combined (2)(b) and (c) into a note as they were both guidance.

WAC 296-27-02111 Employee involvement.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Merged (2)(a) into (1) as they were similar requirements.
- Moved the definitions of "authorized employee representative" and "personal representative" to the definition section.
- Added clarifying language as to what constituted a reasonable charge for printing copies.
- Changed bullets into numbers.

WAC 296-27-02113 Prohibition against discrimination.

- Changed "WISHA" to "the department".
- Added clarifying language about the type of variance.

WAC 296-27-02117 Variances from the recordkeeping rule.

- Reformatted to remove question and answer format.
- Added clarifying language about the type of variance and that "the Act" mentioned is the federal Occupational Safety and Health Act.

- Changed bullets to lowercase letters.

WAC 296-27-031 Reporting fatalities, inpatient hospitalizations, amputations, and losses of an eye as the result of work-related incidents.

- Moved all reporting requirements from WAC 296-800-32005 into this section for consistency.
- Updated requirements to include a 24-hour reporting requirement for outpatient amputations and the loss of an eye per OSHA's mandated changes.
- Added clarifying language that amputations or losses of an eye that require inpatient hospitalization need to be reported within eight hours.
- Added language via OSHA about how to report fatalities, inpatient hospitalizations, amputations, or losses of an eye during normal business hours and when the offices are closed.
- Added language about what needs to be included in a report.
- Added language from OSHA about what to do if a reportable incident occurs due to a motor vehicle accident, on a public transportation system, or due to a heart attack.
- Added language from OSHA about how to respond if an employer does not find out about an incident right away or does not find out until later than a reportable incident was work-related.
- Added clarifying language that an inpatient hospitalization that is only for observation or diagnostic testing is not reportable.
- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.

WAC 296-27-03101 Providing records to government representatives.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Moved the definition of "government representative" to the definition section.

WAC 296-27-03103 Annual OSHA injury and illness survey.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Changed bullets into lowercase letters.
- Updated and corrected section references.
- Changed "WISHA" to "the department".

WAC 296-27-03105 Requests from the Bureau of Labor Statistics (BLS) for data.

- Reformatted to remove question and answer format.
- Streamlined requirements by removing unnecessary, filler language to address plain talk principals and improve clarity.
- Updated and corrected section references.

WAC 296-27-05101 Definitions.

- Reformatted definitions to be bolded with a period after the word and to begin immediately with a sentence.

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- Added OSHA's definition for amputation and added a note after the definition.
 - Clarified that the department means the Washington State Department of Labor and Industries.
 - Removed a definition for enucleation
 - Added a definition for work environment for clarity.
 - Removed the question and answer format in the definition of establishment and changed bullets to lowercase letters.
 - Moved the definition of hospitalization from chapter 296-800 WAC and updated it to reflect inpatient hospitalization to fit OSHA's requirements.
 - Moved the following definitions into the definition section from other areas of the chapter for consistency: authorized employee representative, authorized government representative, first aid, medical treatment, other potentially infectious materials, personal representative, pre-existing condition, and routine functions.
 - Removed the outdated SIC Industry description code table from the end of the section.

WAC 296-27-061 Non-mandatory appendix A-age adjustments for comparing audiograms for recording hearing loss.

- Reformatted to match rest of chapter.

WAC 296-37-575 Recordkeeping requirements.

- Removed the specific recordkeeping requirements from this section and added/updated a reference to chapter 296-27 WAC for consistency and to keep all reporting and recordkeeping requirements in one location.

WAC 296-78-515 Management's responsibility.

- Removed the specific reporting requirements from this section and added a reference to chapter 296-27 WAC for consistency purposes and to keep all reporting and recordkeeping requirements in one location.

WAC 296-115-060 Operations.

- Removed specific reporting requirements from this section and added a reference to chapter 296-27 WAC for consistency purposes and to keep all reporting and recordkeeping requirements in one location.

WAC 296-307-018 What are the employer's responsibilities?

- Removed specific reporting requirements from the section and added a reference to chapter 296-27 WAC for consistency purposes and to keep all reporting and recordkeeping requirements in one location.

WAC 296-800-320 Summary.

- Removed WAC 296-800-32005 from the table of contents.
- Added clarifying language and removed the word reporting as it is no longer applicable.

WAC 296-800-32010 Make sure that any equipment involved in an accident is not moved.

- Updated the section title and language to reflect the new reporting requirements for inpatient hospitalizations, amputations, or losses of an eye.

WAC 296-800-32015 Assign people to assist the department of labor and industries.

- Updated language to reflect the new reporting requirements for inpatient hospitalizations, amputations, or losses of an eye.

WAC 296-800-370 Definitions.

- Removed the definition for “hospitalization” and added in “inpatient hospitalization”.

REPEALED SECTIONS

WAC 296-27-00109 Nonmandatory appendix to this section partially exempt industries.

WAC 296-27-041 Transition from the former rule.

WAC 296-27-04101 Summary and posting of the 2001 data.

WAC 296-27-04103 Retention and updating of old forms.

WAC 296-307-015 What must an employer do if a serious injury occurs?

WAC 296-800-32005 Report the death, probable death of any employee, or the inpatient hospitalization of any employee within 8 hours.

Note: WAC 296-27-051 Definitions was included in the attachment filed with the Office of the Code Reviser but it was not included in the proposal language. WAC 296-27-051 is not being repealed.