



# 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

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 16-09-090; or | <input checked="" type="checkbox"/> Original Notice       |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or          | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).                 | <input type="checkbox"/> Continuance of WSR _____         |

Title of rule and other identifying information: Chapter 296-823 WAC, Occupational Exposure to Bloodborne Pathogens, and WAC 296-27-031, Reporting Fatalities, Inpatient Hospitalizations, Amputations, and Losses of an Eye as the Result of Work-Related Incidents.

Hearing location(s):  
Department of Labor and Industries  
7273 Linderson Way SW  
Room S129  
Tumwater, WA 98501

Date: September 8, 2016 Time: 1:30 pm

Date of intended adoption: November 1, 2016  
(Note: This is NOT the effective date)

**Submit written comments to:**

Name: Tari Enos  
Address: PO Box 44620  
Olympia, WA 98504  
e-mail [tari.enos@lni.wa.gov](mailto:tari.enos@lni.wa.gov)  
fax (360) 902-5619 by (date) September 15, 2016

Assistance for persons with disabilities: Contact  
Tari Enos by August 25, 2016 at (360) 902-5541

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

The proposed rulemaking in Chapter 296-823 WAC is to update the recordkeeping and reporting requirements to be in line with those in Chapter 296-27 WAC, Recordkeeping and Reporting, as well as being at least as effective as the Occupational Safety and Health Administration (OSHA). When WAC 296-27-031 was updated to be in line with OSHA in 2015, a requirement to report MVA's was inadvertently deleted and we are proposing to reinstate this requirement.

References, formatting and minor housekeeping changes may be made throughout the chapter and section listed above. Please see Attachment 1 (Purpose Statement) for a summary of the changes proposed.

**Reasons supporting proposal:**

The reasons supporting the proposal of updating the recordkeeping and reporting rules are so Chapter 296-823 WAC requirements match those of Chapter 296-27 WAC, as well as being at least as effective as the Occupational Safety and Health Administration (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?            | <input type="checkbox"/> Yes | <input checked="" 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:

DATE  
August 2, 2016

NAME (type or print)  
Joel Sacks

SIGNATURE

TITLE  
Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: **August 02, 2016**

TIME: **9:20 AM**

**WSR 16-16-105**

**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..... Chris Miller	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. The proposed rules are adopting or incorporating by reference without material change, federal statutes or regulations changes and are exempt under RCW 19.85.025(3) referencing RCW 34.05.310(4)(c).

**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. The proposed rules are adopting or incorporating by reference without material change, federal statutes or regulations changes and are exempt under RCW 34.05.328(5)(b)(iii).

**AMENDED SECTIONS**

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

- In subsection (9), remove “If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, inpatient hospitalization, amputation, or loss of an eye” due to this change removing the requirement to report MVA’s unless they weren’t in a construction zone.

**WAC 296-823-170 Records.**

- Update title from “Records” to “Medical records and recording needle stick and sharps injuries.”
- Update “Your Responsibility” section to read “To establish and maintain medical records, and record all occupational injuries resulting from contaminated needle sticks or cuts from contaminated sharps.”
- Update the table to read:

<b>You must <del>((meet the requirements))</del> ...</b>	<b>in <del>((this))</del> section:</b>
Establish and maintain medical records	WAC 296-823-17005
<del>((Maintain a sharps injury log))</del> Record needle stick and sharps injuries.	WAC 296-823-17010

**WAC 296-823-17010 Maintain a sharps injury log.**

- Update title of WAC to read “Recording needle stick and sharps injuries.”
- Update subsection (1) to read: “You must follow the requirements in Chapter 296-27 WAC, Recordkeeping and Reporting, for recording occupational injuries and illnesses including needle stick and sharps injuries, unless you meet one of the exemptions specified in WAC 296-27-00103 or WAC 296-27-00105.”
- Update subsection (2) to read: “If you are not exempt from the recordkeeping requirements in Chapter 296-27 WAC, then you must also record the type and brand of device involved in injuries resulting from a needle stick or cut with a sharps that is contaminated with another person’s blood or other potentially infectious material on the OSHA 300 log or equivalent form.”
- Remove subsection (3) and the note following it.