



STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES

Government Affairs and Policy Division • Office PO Box 44001 • Olympia, Washington 98504-4001

Via Email

April 11, 2014

Ms. Karen R. Bowman, MN, RN, COHN-S  
Mr. Alex Truchot, MM, HEM  
Chairpersons  
Hazardous Drug Advisory Committee

Dear Ms. Bowman and Mr. Truchot:

On behalf of the Department of Labor and Industries (L&I), I am responding to your petition for rulemaking which we received on February 18, 2014 (attached). The petition asks that L&I adopt rules to modify the Hazardous Drugs rules in WAC 296-62-500, Part R. After careful review and as described below, we have decided to **partially accept** and **partially deny** your petition.

Your petition highlights 16 concerns and includes an attachment of comments. We will initiate rulemaking on five of the items in your petition and we will address seven through compliance directives. There are three items that asked for changes to statute that we lack the authority to change and two items that we feel already match best practices. Each item in your petition and our response is listed below:

**Accepted**

Request Number	Petition Request	Response
5	Update MSDS to SDS	We will initiate rulemaking to consider amending WAC 296-62-500 to conform to the federal Global Harmonization rule requirements.
9	Ventilated cabinets (comment numbers 1, 18, and 3)	We will initiate rulemaking to consider amending WAC 296-62-50025(2) for increased clarity.

11	Regarding significant risk and changing gloves	We will initiate rulemaking to consider amending WAC 296-62-50030 for increased clarity.
14	Referencing the rule for spill control	We will initiate rulemaking to consider amending WAC 296-62-50045 for streamlining purposes.
15	Specifying training requirements	We will initiate rulemaking to consider amending WAC 296-62-50050 for increased clarity.

**Denied but will address concerns through compliance directives**

Request Number	Petition Request	Response
3	Defining chemotherapy drugs	We agree that chemotherapy drugs need to be defined; however, we believe it would be best to do this through compliance direction because this classification of drugs is likely to change over time as research and medical uses change.
6	Defining engineering controls	We agree that “engineering controls” need to be defined; however, we believe it would be best to do this through compliance direction which will allow us to more readily update in order to keep pace with changes outside of L&I’s control.
7	Defining “clean”	We agree that “clean” needs to be defined for WAC 296-62-50025(2)(a)(i); however, we believe it would be best to do this through compliance direction.
8	Clarifying WAC 296-62-50025 (2XaXii)	We agree that this regulation should be clarified; however, we believe it would be best to do this through compliance direction.
12	Defining “splash” and “spill”	We believe that experience with these terms will be gained following implementation of the rule itself. As such, we feel it would be best to do this through compliance direction.
16	See comment # 2	We believe it would be best to do this through compliance direction.

17	See comments 1-6	We believe it would be best to do this through compliance direction.
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**Denied**

Request Number	Petition Request	Response
1	Limiting rules to chemotherapy drugs	L&I lacks the authority to initiate rulemaking. This change requires amendments to the underlying statutes by the Legislature prior to modifying rules.
2	Define “mimic”	L&I lacks the authority to initiate rulemaking. This change requires amendments to the underlying statutes by the Legislature prior to modifying rules.
4	Using the NIOSH list of drugs	L&I lacks the authority to initiate rulemaking. This change requires amendments to the underlying statutes by the Legislature prior to modifying rules.
10	Relating to decontaminating and bagging	We believe the current rule requirements in WAC 296-62-50025(g)(vii) provides best practices for worker protection.
13	Removing requirement to wash hands after removing gloves	We believe the current rule requirements in WAC 296-62-50035(4)(b) provides best practices for worker protection.

By law, we are required to follow the rulemaking procedures in the Administrative Procedure Act, Chapter 34.05 RCW. We anticipate filing a pre-proposal statement of inquiry (CR-101) in the near future, and will work with your committee and industry stakeholders to develop any proposed rule language.

While we are denying your petition for some of your concerns at this time, we want to assure you that we are committed to ensuring worker safety and will continue to review our hazardous drugs rules for impact on Washington’s workers. Going forward, we want to continue to have an open dialogue with the committee and other stakeholders to explore appropriate, necessary and feasible changes to our rules.

If you have additional questions or concerns about our Hazardous Drugs rules please contact Pam Cant at (360) 902-6457 or [Pam.Cant@lni.wa.gov](mailto:Pam.Cant@lni.wa.gov).

You have the right to appeal this decision. Under RCW 34.05.330, you may appeal to the Governor within 30 days of this letter. You may also seek judicial review under RCW 34.05.570(4)(c) by petitioning to the Thurston County Superior Court.

Sincerely,



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Suchi Sharma  
Senior Policy Advisor and Rules Coordinator

Attachment

cc: Joel Sacks, Director  
Tammy Fellin, Assistant Director, Legislative and Government Affairs  
Anne F. Soiza, Assistant Director, Division of Occupational Safety and Health  
Dave Puente, Deputy Assistant Director, Division of Occupational Safety and Health  
Alan Lundeen, Sr. Program Manager, DOSH Standards, Technical, and Laboratory Services