



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 05, 2019

TIME: 11:33 AM

WSR 19-06-067

Agency: Department of Labor and Industries

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 17-13-104 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

Chapter 296-45 WAC, Electric Power Generation, Transmission, and Distribution.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 9, 2019	1:00 pm	Department of Labor and Industries 7273 Linderson Way SW, Room S119 Tumwater, WA	
April 11, 2019	9:00 am	Department of Labor and Industries 3001 West Broadway Avenue Moses Lake, WA	

Date of intended adoption: June 18, 2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Cynthia Ireland

Address: Post Office Box 44620, Olympia, WA 98504

Email: cynthia.ireland@lni.wa.gov

Fax: (360) 902-5619

Other:

By (date) April 18, 2019

Assistance for persons with disabilities:

Contact Cynthia Ireland

Phone: (360) 902-5522

Fax: (360) 902-5619

TTY: N/A

Email: cynthia.ireland@lni.wa.gov

Other:

By (date) March 26, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposed rulemaking is being done to comply with the DOSH eRules initiative in addition to making necessary corrections to the rule that have been identified since the updated rule was adopted on May 3, 2016. The eRules portion of this rulemaking will provide a format consistent with all the other DOSH rules, and allow ease of access using the DOSH website. Washington is a state plan state under the Occupational Safety and Health Administration (OSHA). As a state plan state, Washington assumes responsibility for occupational safety and health in the state under the Washington Industrial Safety and Health Act (WISHA). To maintain its status, Washington's safety and health standards must be at least as effective as those standards adopted or recognized by OSHA. Additional amendments include: correct an error relating to hard hats; include a reference in the scope of this rule to chapter 296-32 WAC; include language in the scope of this chapter identifying a WAC that applies to line clearance tree trimmers to align with and be at least as effective as the Federal Occupational Safety and Health Administration (OSHA); include language relating to doing work with voltages over 72.5 kilovolts to align with and be at least as effective as OSHA. Additional housekeeping changes are also being made. Below are the proposed amendments:

DOSH eRules proposed amendments throughout the chapter:

- Change "shall" to "must" or "will".
- Change "may not" to "cannot" or "must not".
- Remove "shall" from the definitions.
- Change "he/she" and "his/her" to "they" or "their".
- Reformat definitions to eRule format.

Additional corrections include:

WAC 296-45-015 Scope and application.

- In subsection (1)(e)(ii) – add WAC 296-45-067 (Information Transfer) to the list WAC's that apply to line-clearance tree-trimming operations to align with and be at least as effective OSHA.
- In subsection (4) – add a reference to Chapter 296-32 WAC, Safety Standards for Telecommunications.

WAC 296-45-045 NESC applicable.

- Update the National Electrical Safety Code (NESC) to the 2017 edition.

WAC 296-45-075 Employer's safety program.

- In subsection (7) – add the words "and communicated to employees" to this sentence. It now reads, "Existing conditions related to the safety of the work to be performed must be determined and communicated to employees before work on or near electric lines or equipment is started". This change is for clarity.

WAC 296-45-105 Work required of leadworkers.

- In subsection (1) – remove the words "look out for" in this sentence. It now reads, "A leadworker cannot properly supervise the work and the safety of employees under their direction if required to work as a leadworker and a qualified electrical employee at the same time". This change is for clarity.

WAC 296-45-17505 Lockout/tagout (hazardous control) program.

- In subsection (1) – replace the word "inoperative" with "inoperable". OSHA changed "inoperative" wherever it appeared in their existing standard to "inoperable" as it is a more precise term.

WAC 296-45-25505 Personal protective equipment.

- In subsection (2) – remove the words "Type II" from this sentence. This change is to correct an error made in the 2016 rulemaking.

WAC 296-45-325 Working on or near exposed energized parts.

- In subsection (4)(c) – add a reference to Appendix A for additional information relating to working on exposed energized parts. This change is for clarity.
- In subsection (4)(d) – add language relating to doing work with voltages over 72.5 kilovolts to align with and be at least as effective as OSHA. Also, add a new Table 4, Assumed Maximum Per-Unit Transient Overvoltage, this table is identical to OSHA's Table R-9.
- Modify Table 2, AC Live Work Minimum Approach Distance, to match OSHA's tables of minimum approach distances.
- Reformat the notes in Table 2, AC Live Work Minimum Approach Distance.
- In subsection(5)(a) - add the words "and communicated to employees" to this sentence. It now reads, "Before any work is performed, the location of energized lines and their condition, the location and condition of energized equipment, the condition of the poles, the location of circuits and equipment including power communication lines, CATV and fire alarm circuits, must be determined and communicated to employees as will any other particular hazard of a particular worksite".
- In subsection (12)(b) – replace the word "workers" with the word "employees" for consistency.

WAC 296-45-355 Underground grounding.

- In subsection (3) – replace the word “worker” with the word “employee” for consistency.

WAC 296-45-375 Mechanical equipment, including aerial manlift equipment.

- In subsection (18) – replace the word “inoperative” with “inoperable”. OSHA changed “inoperative” wherever it appeared in their existing standard to “inoperable” as it is a more precise term.

WAC 296-45-385 Overhead lines.

- In subsection (2)(d) – replace the word “inoperative” with “inoperable”. OSHA changed “inoperative” wherever it appeared in their existing standard to “inoperable” as it is a more precise term.

WAC 296-45-465 Communication facilities.

- Add a note/reference to this section relating to additional information about radio frequency radiation exposure can be found in WAC 296-32-22572 and 296-32-22574.

WAC 296-45-475 Substations.

- Update the National Electrical Safety Code (NESC) to the 2017 edition.
- Reformat the notes by removing numbers and adding bullets.
- In subsection (2) – replace the word “inoperative” with “inoperable”. OSHA changed “inoperative” wherever it appeared in their existing standard to “inoperable” as it is a more precise term.

WAC 296-45-48515 Access and working space.

- Update the National Electrical Safety Code (NESC) to the 2017 edition.
- Reformat the notes by removing numbers and adding bullets.

WAC 296-45-48525 Guarding of energized parts.

- Update the National Electrical Safety Code (NESC) to the 2017 edition.
- Reformat the notes by removing numbers and adding bullets.

WAC 296-45-52540 Lasers.

- Add a note/reference to this section relating to additional information about lasers can be found in WAC 296-32-22576.

WAC 296-45-902 Appendix A – Working on exposed energized parts – Nonmandatory.

- Fix a grammatical error in the first note of this appendix.
- Remove an OSHA reference to live-line barehand work since that type of work is prohibited in Washington State.
- Delete Tables 6 through 13, they became obsolete on April 1, 2015.
- Add a note letting employers know that Tables 6 through 13 have been deleted, they became obsolete on April 1, 2015.
- Corrected Tables 14 through 21 relating to “phase-to-ground” vs. “phase-to-phase” terminology.

WAC 296-45-906 Appendix D – Protection from flames and electric arcs – Nonmandatory.

- Update the National Electrical Safety Code (NESC) to the 2017 edition.

WAC 296-45-910 Appendix H – Reference documents.

- Update the National Electrical Safety Code (NESC) to the 2017 edition.

Reasons supporting proposal:

When the agency updated its website, template DOSH rules in HTML were broken and DOSH began forwarding rule users to the Office of the Code Reviser website, causing more confusion among customers. This rule package will resolve stakeholder issues that have caused confusion for rule users by bringing one clear and consistent format to all of our rules. This proposal will also correct and clarify some areas of the rule since the May 2016 adoption.

Statutory authority for adoption: RCW 49.17.010, RCW 49.17.040, RCW 49.17.050, RCW 49.17.060

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 C.F.R. 1910.269

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

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:	Chris Miller	Tumwater, WA	(360) 902-5516
Implementation:	Anne Soiza	Tumwater, WA	(360) 902-5090
Enforcement:	Anne Soiza	Tumwater, WA	(360) 902-5090

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Cynthia Ireland
Address: Post Office Box 44620, Olympia, WA 98504-4620
Phone: (360) 902-5522
Fax: (360) 902-5619
TTY:
Email: cynthia.ireland@lni.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description: 29 C.F.R. 1910.269. Washington is a state plan state under the Occupational Safety and Health Administration (OSHA). As a state plan state, Washington assumes responsibility for occupational safety and health in the state under the Washington Industrial Safety and Health Act (WISHA). To maintain its status, Washington's safety and health standards must be at least as effective as those standards adopted or recognized by OSHA.

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.
Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: March 5, 2019

Name: Joel Sacks

Title: Director

Signature:

