



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

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FILED

DATE: August 21, 2018

TIME: 10:25 AM

WSR 18-17-152

Agency: Department of Labor and Industries

Subject of possible rule making: Substitute House Bill 1953 – Maximum Penalties under the Washington Industrial Safety and Health Act. Chapter 296-900 WAC, Administrative Rules. WAC's 296-900-140 through 296-900-14020.

Statutes authorizing the agency to adopt rules on this subject:
RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060 and 49.17.180

Reasons why rules on this subject may be needed and what they might accomplish: This rulemaking is a result of the recent amendment to RCW 49.17.180 during the 2018 legislative session under Chapter 128, Laws of 2018 (Substitute House Bill 1953). The rulemaking under consideration will adopt the recent amendment to RCW 49.17.180 which sets up an annual adjustment system retaining the current penalty maximums for all violations and the minimum for willful violations in statute unless required to be higher by the Federal Occupational Safety and Health Act (OSHA).

In 2015, Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act requiring several federal agencies, including OSHA, adjust their maximum and minimum penalties for inflation on an annual basis. OSHA is required to publish the annual penalty adjustments in rule no later than January 15th of each year and the adjustments are effective upon publication of the rules.

States that operate their own Occupational Safety and Health Plans are required to adopt maximum penalty levels that are at least as effective as Federal OSHA's. Therefore, it will not require the department to adjust the current formula used to determine actual civil penalty amounts assessed.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: Washington is a State Plan state under OSHA. As such, 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. The department administers WISHA. States that operate their own plans are required to adopt maximum penalty levels that are at least as effective as the federal OSHA's.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

(If necessary)

Name: Cynthia Ireland, Administrative Regulations Analyst

Name:

Address: Department of Labor and Industries
Division of Occupational Safety and Health
Post Office Box 44620-4620
Olympia, Washington 98504-4620

Address:

Phone: (360) 902-5522

Phone:

Fax: (360) 902-5619

Fax:

TTY:
Email: cynthia.ireland@lni.wa.gov
Web site: www.lni.wa.gov
Other: N/A

TTY:
Email:
Web site:
Other:

Additional comments: N/A

Date: August 21, 2018

Name: Joel Sacks

Title: Director

Signature:

