



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

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

MEMORANDUM

January 27, 2017

TO: Kerry Radcliff, Editor
Washington State Office of the Code Reviser

FROM: Maggie Leland, Rules Coordinator *ML*
Department of Labor and Industries

SUBJECT: L&I's Semi-Annual Rules Development Agenda
Jan 1, 2017 – June 30, 2017

Pursuant to RCW 34.05.314, attached is the Department of Labor and Industries' Semi-Annual Rules Development Agenda for Jan 1, 2017 through June 30, 2017.

There may be additional rule-making activities not on the agenda as conditions warrant.

Please contact me at (360) 902-4504 or maggie.leland@lni.wa.gov if you have any questions.

Thank you.

Attachment

cc: Joint Administrative Rules Review Committee
Roselyn Marcus, Rules Coordinator
Office of Financial Management
Henri Gonzales, Rules Coordinator
Department of Agriculture
Jaime Rossman, Rules Coordinator
Department of Commerce
Maria Puccio, Rules Coordinator
Department of Corrections
Bari Schreiner, Rules Coordinator
Department of Ecology
Tami Thompson, Rules Coordinator
Department of Health
Grant Heap, Rules Coordinator
Department of Transportation

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

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Washington State Department of
Labor & Industries

**Semi-Annual Rules Development Agenda
January 1, 2017 – June 30, 2017**

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Division: Division of Occupational Safety and Health (DOSH)						
296-54	Logging Operations	Chris Miller DOSH Standards Program 360-902-5516	11/16/10	2/28/17	TBD	Resuming rulemaking efforts initiated in 2010 based on a petition from the logging industry. That effort was temporarily suspended, in part, for the Logger Safety Initiative program development.
296-36, 296-155 Part Q	Compressed Air (Tunnels)	Chris Miller DOSH Standards Program 360-902-5516	9/18/12	TBD	TBD	Rulemaking in response to petitions and other requests from labor and business industry stakeholders to update the compressed air work requirements in Chapters 296-36 WAC and 296-155 WAC Part Q.
296-32	Telecommunications	Chris Miller DOSH Standards Program 360-902-5516	8/6/13	3/7/17	7/18/17	Updating current telecommunications standards and bringing it up to date with industry standards.
296-32, 296-36, 296-37, 296-52, 296-59, 296-63, 296-67, 296-78, 296-79, 296-99, 296-115	eRules Reformatting, Phase 7	Chris Miller DOSH Standards Program 360-902-5516	12/1/15	TBD	TBD	Seventh of ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.



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296-809	Construction Confined Spaces	Chris Miller DOSH Standards Program 360-902-5516	1/5/16	3/21/17	7/5/17	Rulemaking in response to OSHA adopting its final rule for confined space in construction on August 4, 2015. This final rule imposes additional or more stringent requirements on employers than current OSHA standards, and DOSH is required to adopt a standard or amend current standard to be “at-least-as-effective.”
296-155	Fall Protection	Chris Miller DOSH Standards Program 360-902-5516	3/22/16	TBD	TBD	Correct Part C-1 in construction rule as well as becoming at least as effective with recent OSHA changes.
296-155	Trolley Lines	Chris Miller DOSH Standards Program 360-902-5516	3/22/16	TBD	TBD	Rulemaking in response to a petition to amend the requirements in WAC 296-155-428 relating to the minimum clearance distance of vehicular and mechanical equipment when working around energized trolley lines. Last stakeholder meeting was April 13, 2016.



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296-62, 296-155	Lead	Chris Miller DOSH Standards Program 360-902-5516	4/19/16	TBD	TBD	In response to a petition and after a series of stakeholder meetings, this rulemaking was initiated to update existing lead standards in both general industry and construction in light of increasing evidence of the hazards associated with occupational lead exposure.
296-65, 296-301, 296-303, 296-304, 296-803, 296-811, 296-816, 296-818, 296-824, 296-835, 296-841, 296-842, 296-863, 296-900	eRules Reformatting, Phase 8	Chris Miller DOSH Standards Program 360-902-5516	5/17/16	TBD	TBD	Eighth of ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.



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296-841, 196-307-62625	Exposure to Crystalline Silica	Chris Miller DOSH Standards Program 360-902-5516	6/21/16	3/21/17	TBD	Necessary to meet recently increased OSHA requirements in the final rule on respirable crystalline silica for general industry/maritime and construction. Respirable crystalline silica is currently included in the Department's air contaminant standard under chapter 296-841 WAC and WAC 296-307-62625 (and other standards that reference these requirements). As part of this rulemaking, the Department is considering adding a new chapter specific to silica.
296-62	eRules Reformatting, Phase 9	Chris Miller DOSH Standards Program 360-902-5516	7/19/16	TBD	TBD	Ninth of ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.
296-27	Record Keeping and Reporting, Phase 3	Chris Miller DOSH Standards Program 360-902-5516	8/2/16	TBD	TBD	Updating Chapter 296-27 WAC in response to OSHA recently publishing changes to section CFR 1904.35, Employee Involvement, leaving some of our rules not as effective. Other housekeeping amendments may also be proposed in this chapter.



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296-305, 296-800, 296-802, 296-833, 296-843, 296-848, 296-849, 296-855, 296-856	eRules Reformatting, Phase 6	Chris Miller DOSH Standards Program 360-902-5516	9/6/16	TBD	TBD	Sixth of ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.
296-24, 296-62, 296-305, 296-307, 296-800, 296-816, 296-828, 296-835, 296-839	Globally Harmonized System (GHS) for Hazard Communication for Agriculture Phase 2	Chris Miller DOSH Standards Program 360-902-5516	10/4/16 (CR-105)	N/A	1/3/17	Repealing older hazard communication standards that were replaced by the updated 296-901 WAC and housekeeping updates such as the reference of MSDS to SDS to maintain with the globally harmonized OSHA standards.
296-307	Worker Protection Standard	Chris Miller DOSH Standards Program 360-902-5516	11/22/16	2/28/17	TBD	Worker protection safety rule changes to federal agriculture, standards that require the Washington State Department of Agriculture to meet or exceed their rules. Our rules on this subject are in comparison for worker safety. Department of Agriculture has the lead for this rulemaking effort.
296-45, 296-307	eRules Reformatting, Phase 10	Chris Miller DOSH Standards Program 360-902-5516	1/3/17	TBD	TBD	Tenth of ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.



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Division: Field Services and Public Safety						
296-46B	Electrical Rules	Alicia Curry Field Services & Public Safety 360-902-6244	9/20/16	2/28/17	5/23/17	The Department is proposing amendments to new safety code requirements from the 2017 edition of the National Electrical Code (NEC) and to the existing electrical rules. The electrical rules are systematically reviewed each code cycle for consistency with national electrical safety standards and industry practice, for rule clarity, housekeeping changes, etc.
296-46B	Temporary Electrician Permits	Alicia Curry Field Services & Public Safety 360-902-6244	11/21/16	2/14/17	4/4/17	The Electrical Program is proposing permanent rules for the issuance of temporary permits in lieu of certificates of competency for electricians coming from another state as authorized by RCW 19.28.231 and the eligibility of Canadian Red Seal endorsed journey person construction electricians to qualify for the Washington journey level electrician competency examination.



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296-104-700	Boiler Fee Increase	Alicia Curry Field Services & Public Safety 360-902-6244	2/14/17	4/18/17	6/20/17	The Board of Boiler Rules is considering amending WAC 296-104-700 What are the inspection fees – Examination fees – Certificate fees – Expenses?, to increase fees by the fiscal-growth factor of 4.16% for fiscal year 2018 (OFM’s maximum allowable fiscal growth rate). The Boiler Program’s budget and projected revenue indicate a fee increase is necessary to cover the program’s operating expenses.
296-104	Board of Boiler Rules	Alicia Curry Field Services & Public Safety 360-902-6244	5/23/17	7/18/17	9/19/17	The Board of Boiler Rules is planning amendments to sections of Chapter 296-104 WAC, Board of Boiler Rules Substantive to clarify the rules and make technical changes. The boiler rules are reviewed on a regular basis to ensure the rules are consistent with national boiler and unfired pressure vessel safety standards and industry practice, for rule clarity, housekeeping, etc.



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296-150V	Factory Assembled Structures Rules – Conversion Vending Units and Medical Units	Alicia Curry Field Services & Public Safety 360-902-6244	TBD	TBD	TBD	The Factory Assembled Structures program is considering amending the rules in Chapter 296-150V WAC for Conversion Vendor Units and Medical Units, based upon a review of the rules. The proposed rules will adopt the latest safety code requirements and industry standards, update the existing rules, clarify the rules, and formulate housekeeping changes.
296-150I	Factory Assembled Structures Rules – Manufactured Home Installer Training and Certification Program	Alicia Curry Field Services & Public Safety 360-902-6244	TBD	TBD	TBD	The Factory Assembled Structures program is considering amending the rules in Chapter 296-150I WAC for Manufactured Home Installer Training and Certification Program, based upon a review of the rules. The program reviews the rules on a regular basis to ensure consistency with federal and national safety code requirements and industry standards, to clarify the existing rules, perform housekeeping, etc.



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296-150F	Factory Assembled Structures Rules – Factory Built Housing and Commercial Structures	Alicia Curry Field Services & Public Safety 360-902-6244	TBD	TBD	TBD	The Factory Assembled Structures program is considering amending the rules in Chapter 296-150F WAC, based upon a review of the rules. Rulemaking is necessary to ensure the rules are up-to-date, consistent with industry practice, for rule clarity, to simplify the rules, and for possible housekeeping changes.
296-150R	Factory Assembled Structures Rules – Recreational Vehicles	Alicia Curry Field Services & Public Safety 360-902-6244	TBD	TBD	TBD	The Factory Assembled Structures program is considering amending the rules in Chapter 296-150R WAC, based upon a review of the rules. Rulemaking is necessary to ensure the rules are up-to-date, consistent with industry practice, for rule clarity, to simplify the rules, and for possible housekeeping changes.



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Division: Fraud Prevention and Labor Standards						
296-126, 296-128, 296-131	Rules related to the Minimum Wage Act and implementation of Initiative 1433	Jo Anne Attwood Fraud Prevention & Labor Standards 360-902-4777	1/4/17	TBD	TBD	The purpose of this rulemaking is to consider rules related to the Minimum Wage Act, Chapter 49.46 RCW, and the implementation of Initiative 1433, An Act Related to Fair Labor Standards. Initiative 1433 passed on November 8, 2016 and requires, in part, employers provide paid sick leave to employees starting in 2018. Initiative 1433 directs the Department to adopt and implement rules to carry out and enforce the act.
Division: Insurance Services						
296-14	Pension Discount Rate 2017	Suzy Campbell Claims Specialty Services 360-902-5003	11/1/16	12/20/16	2/14/17	This rulemaking will reduce the current pension discount rate of 6.3 percent to 6.2 percent for 2017.
296-17A	Stores	Dick Bredeson Employer Services 360-902-4985	5/17/16	8/23/16	2/14/17	Classification changes supported by insurance principals ensuring fair and equitable classification system. Rulemaking improves homogeneity of store classifications.



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296-17A	Tutoring; Fraternities/Sororities; Nursing home/Residential care	Dick Bredeson Employer Services 360-902-4985	7/19/16	12/6/16	5/2/17	<ul style="list-style-type: none"> Amend classification rules to include tutoring firms (currently are not identified in classification scopes) to classification 5301 Management consulting, NOC. Amend classification rule to move fraternities and sororities from classification 6509 with assisted living facilities to the club classification 6205. Distinguish nursing homes in classification 6108 from other care facilities, such assisted living and group homes in classification 6509, by how the facility is licensed by DSHS.
296-17A	Paver Stone Installation	Karen Chamberlain Employer Services 360-902-4772	8/23/16	10/18/16	1/17/17	Classification changes to ensure a fair and equitable classification system. <ul style="list-style-type: none"> 296-17A-0217, Classification 0217 (Concrete flatwork). 296-17A-0301, Classification 0301 (Landscape construction). 296-17A-0302, Classification 0302 (Masonry).



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296-17 296-17A	2017 Miscellaneous Rules	Jo Anne Attwood Employer Services 360-902-4777	1/17/17	3/21/17	5/23/17	<ul style="list-style-type: none"> • Correct typographical and other errors (such as invalid telephone numbers and out-of-date references). • Revise wording and formatting to make the rules easier to understand and apply. • Incorporate and formalize existing agency practices (such as expressly including in a risk classification employment that the Department currently includes by interpretation or analogy).
296-17A	Stores II	Dick Bredeson Employer Services 360-902-4985	5/2/17	10/3/17	2/20/18	Classification changes to improve homogeneity of store classification and for more equitable rates: <ul style="list-style-type: none"> • Repeal Department stores, class 6304. • Move general and antique variety stores to class 6309. • Move thrift stores to class 6504.
296-17 296-17B	2018 Workers' Compensation Premium Rates	Jo Anne Attwood Employer Services 360-902-4777	6/20/17	9/19/17	11/30/17	Set rates for 2018 workers' compensation insurance.



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296-20 296-23	Medical Aid Rules	Emily Stinson Health Services Analysis 360-902-5974	12/20/16	2/14/17	5/2/17	Rule changes will update our payment rates for health care services which are published annually in the Medical Aid Rules and Fee Schedules. We determine if a cost of living allowance (COLA) should be made based on the statewide average wage, other factors, and the impact it would have on the medical aid fund. The conversion factors are used with statewide relative value units published by the Centers for Medicare and Medicaid Services (CMS) to determine professional and anesthesia fees. Increases in the COLA would also affect the daily caps that are placed on physical and occupational therapy services.



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296-20	Prescription Drug Program & Interchangeable Biologics	Jami Lifka Office of the Medical Director 360-902-4941 Jaymie Mai Office of the Medical Director 360-902-6792	1/31/17	3/21/17	6/20/17	<ul style="list-style-type: none"> • Definitions in WAC 296-20-01002 need to be amended to be consistent with recently amended definitions of the Washington State Health Care Authority (HCA) regarding Washington State’s Prescription Drug Program (PDP). • Language in WAC 296-20-03011 also should incorporate by reference HCA’s rules for therapeutic alternatives and the therapeutic interchange. This will allow L&I’s rules on this program to be consistent with HCA language now and for future amendments. <ul style="list-style-type: none"> • Further WAC 296-20-03011 will be amended to include new content regarding “interchangeable biologics” that is explicitly and specifically dictated by statute (RCW 69.41.110).



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296-20	Neurogenic Thoracic Outlet Syndrome (nTOS) Surgery	Jami Lifka Office of the Medical Director 360-902-4941	TBD	TBD	TBD	Putting diagnostic and surgical criteria in rule will lead to more timely decisions regarding surgery, reduced time loss duration, and better clinical outcomes for workers.
296-17B	Retrospective Rating Rules Update	Diane Doherty Retrospective Rating 360-902-5903	8/19/14	2/14/17	5/23/17	Modifications to the 2011 rules, including tables, hazard group assignments, and some of the factors and values used in retro calculations.
296-19A	Vocational Rehabilitation (Option 2)	Laurinda Grytness Return to Work Partnerships 360-902-6362	4/5/16	TBD	TBD	Further rulemaking is needed to implement Chapter 137, Laws of 2015 (SHB 1496), such as providing clarification about Option 2 vocational counseling and job placement services.

The following are open rulemakings with no anticipated activates prior to July 1, 2017.

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Division: Insurance Services						
296-17B	Retrospective Rating	Tim Smolen Retrospective Rating 360-902-4835	11/5/13	TBD	TBD	Address extending requirements for businesses that enroll in individual retro plans and revising enrollment requirements for businesses under common majority ownership.



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296-17B	Retrospective Rating for Workers' Compensation Insurance – Common Ownership (Pilot)	Julie Osterberg Retrospective Rating 360-902-5819 Tim Smolen Retrospective Rating 360-902-4835	8/5/2015	TBD	TBD	Pilot rulemaking to consider/allow exceptions to the Retroactive Rating Program's current common ownership rule (WAC 296-17B-770) as written.
296-15	Medical Bill Electronic Data Interchange	James Nylander Self-Insurance 360-902-6907	4/19/16	TBD	TBD	The Department and the self-insured employer community have agreed to partner in the development of a Self- Insurance Risk Analysis System. One component of this system will feature the collection of medical bill data using an Electronic Data Interchange. Existing rules must be modified, and a new rule adopted, in order to make reporting requirements clear and to ensure a uniform standard of reporting is established.