



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

July 29, 2016

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

FROM: Maggie Leland, Rules Coordinator/Senior Policy Advisor
Department of Labor and Industries

SUBJECT: L&I's Semi-Annual Rules Development Agenda
July 1, 2016 – December 31, 2016

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Pursuant to RCW 34.05.314, attached is the Department of Labor and Industries' Semi-Annual Rules Development Agenda for July 1, 2016 through December 31, 2016.

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
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Department of Commerce
John Nispel, Rules Coordinator
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OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED
DATE: July 29, 2016 TIME: 4:02 PM
WSR 16-16-089



Washington State Department of
Labor & Industries

Semi-Annual Rules Development Agenda

July 1, 2016 – December 31, 2016

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						
296-809	Construction Confined Spaces	Chris Miller DOSH Standards Program 360-902-5516	1/5/16	9/20/16	TBD (April 2017)	Changing rule to align with OSHA’s recent changes to their 29 CFR 1926, Subpart AA, which covers confined space issues in construction.
296-32	Telecommunications	Chris Miller DOSH Standards Program 360-902-5516	8/6/13	12/7/16	TBD (February 2017)	Updating current telecommunications standard and bringing it up to date with industry standards. DOSH has been working with a stakeholder group to develop draft language.
296-841, 296-307-62625	Exposure to Crystalline Silica	Chris Miller DOSH Standards Program 360-902-5516	6/21/16	TBD (November 2016)	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 chapter 296-307-62625 WAC (and other standards that reference these requirements). As part of this rulemaking, the Department is considering adding a new chapter specific to silica.

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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.
296-54	Logging Operations	Chris Miller DOSH Standards Program 360-902-5516	11/16/10	TBD	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.
296-155	Fall Protection	Chris Miller DOSH Standards Program 360-902-5516	3/22/16	10/4/16	TBD	Correct Part C-1 in construction rule as well as becoming at least as effective with recent OSHA changes.
296-155	Demolitions Standards	Chris Miller DOSH Standards Program 360-902-5516	TBD (November 2016)	TBD	TBD	Update based on non-worker fatality.
296-823, 296-27-031	Record Keeping and Reporting, Phase 2	Chris Miller DOSH Standards Program 360-902-5516	4/19/16	8/2/16	TBD	Rulemaking necessary to revise Chapters 296-27 WAC and 296-800 WAC to comply with changes in OSHA 29 CFR Part 1904. Phase 2 will be to add Bloodborne Pathogens as well as recent OSHA changes to reporting requirements.

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296-62-07521, 296-155-176	Lead	Chris Miller DOSH Standards Program 360-902-5516	4/19/16	TBD	TBD	DOSH is currently holding stakeholder meetings in response to a public petition received that requested we update our lead rule to provide better protection for workers.
296-307, 296-800, 296-839, 296-901	Globally Harmonized System (GHS) for Hazard Communication for Agriculture Phase 2	Chris Miller DOSH Standards Program 360-902-5516	CR 105 9/20/16	TBD	TBD	Correcting minor sections that were not modified during the original rule making.
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.
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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296-65, 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.
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.
296-45, 296-307	eRules Reformatting, Phase 10	Chris Miller DOSH Standards Program 360-902-5516	TBD	TBD	TBD	Tenth of ten staged filing packages to reformat all DOSH rules for easier use, clearer understanding, and greater stakeholder access.
Various	Change Log Phase 1	Chris Miller DOSH Standards Program 360-902-5516	CR 105 8/23/16	TBD	TBD	Housekeeping to rules that have corrections listed in the change log that are not currently open in eRules. One or more additional packages may be filed in the future.
296-27	Record Keeping and Reporting, Phase 3	Chris Miller DOSH Standards Program 360-902-5516	8/2/16	9/20/16	TBD	Rulemaking needed to align with changed made by OSHA in May 2016.

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Division: Field Services and Public Safety						
296-150V	Conversion Vendor Units and Medical Units	Sally Elliott Field Services & Public Safety 360-902-6411	TBD	TBD	TBD	The Factory Assembled Structures (FAS) program is considering rule amendments to 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.
296-104	Boiler Fee Increase	Sally Elliott Field Services & Public Safety 360-902-6411	5/17/16	7/5/16	8/25/16	The Board of Boiler Rules and Boiler program is considering a fiscal-growth fee increase of 4.32% (rounded down to the nearest tenth of a dollar) to WAC296-104-700. The fee increase is the Office of Financial Management's (OFM) maximum allowable fiscal-growth rate factor for fiscal year (FY) 2017 and is necessary to cover operating expenses for the programs.

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296-46B	Electrical Fee Increase	Sally Elliott Field Services & Public Safety 360-902-6411	7/5/16	8/23/16	11/22/16	The Electrical program is considering a fiscal-growth fee increase of 4.32% (rounded down to the nearest tenth of a dollar) to Chapter 296-46B WAC. The fee increase is the Office of Financial Management's (OFM) maximum allowable fiscal-growth rate factor for fiscal year (FY) 2017 and is necessary to cover operating expenses for the programs.
296-46B	Electrical Rules	Sally Elliott Field Services & Public Safety 360-902-6411	9/20/16	TBD	TBD	The Electrical Program reviews the electrical rules for additions and revisions on an annual basis to ensure the rules are consistent with the national consensus standards and industry practice. The rulemaking will adopt the 2017 national electrical code.
Division: Fraud Prevention and Labor Standards						
296-14	Claim Suppression	Beverly Clark Fraud Prevention & Labor Standards 360-902-6272	TBD	TBD	TBD	The Department must adopt rules defining first aid, rules defining bona fide workplace safety and accident prevention programs, and rules to implement SSB 5543.

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296-127	Prevailing Wage	Beverly Clark Fraud Prevention & Labor Standards 360-902-6272	TBD	TBD	TBD	Review prevailing wage rules, which have not gone through a comprehensive review since the early 90s. Amendments will: <ul style="list-style-type: none"> • Reflect court decisions; • Integrate administrative policies; • Streamline current processes; • Create consistency with the statute; and • Make housekeeping changes.
296-127	Prevailing Wage: Scope of Work Descriptions for Motor Shop Electricians, Truck Drivers, and Ready Mix Truck Drivers	Beverly Clark Fraud Prevention & Labor Standards 360-902-6272	1/5/16	7/5/16	9/20/16	Adopt scope of work descriptions for dredge workers, truck drivers, and ready mix drivers.
296-127	Prevailing Wage: Scope of Work Description for Fabricated Precast Concrete Products	Beverly Clark Fraud Prevention & Labor Standards 360-902-6272	TBD	TBD	TBD	The Department is currently working with the Prevailing Wage Advisory Committee on the scope of work definition for fabricated precast concrete products.
296-127	Prevailing Wage: Scope of Work Descriptions for Utilities Construction and Laborers in Utilities Construction	Beverly Clark Fraud Prevention & Labor Standards 360-902-6272	8/16/10	TBD	TBD	Repeal scope of work definitions for utilities construction and laborers in utilities construction.
296-150M	Manufactured Homes	Beverly Clark Fraud Prevention & Labor Standards 360-902-6272	TBD	TBD	TBD	Make housekeeping changes and update language for clarity and consistency.

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296-200A	Contractor Certificate of Registration Renewals – Security - Insurance	Beverly Clark Fraud Prevention & Labor Standards 360-902-6272	TBD	TBD	TBD	Make housekeeping changes and update language for clarity and consistency with industry practices. Clarify definitions.
Division: Insurance Services						
296-14	Pension Discount Rate	Suzy Campbell Claims Specialty Services 360-902-5003	11/2/16	TBD	TBD	Consider whether to reduce the current pension discount rate of 6.3 percent lower for 2017.
296-17 296-17B	2017 Workers' Compensation Premium Rates	Jo Anne Attwood Employer Services 360-902-4777	6/21/16	9/20/16	11/29/16	Set rates for 2017 workers' compensation insurance.
296-17A	Retail Stores	Dick Bredeson Employer Services 360-902-4985	5/17/16	8/23/16	March 2017	Consider classification changes if supported by insurance principles.
296-17 296-17A	Volunteers	Jo Anne Attwood Employer Services 360-902-4777	4/19/16	6/21/16	9/6/16	Implement requirements of ESSB 6293.

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296-17A	Tutoring, Fraternities/sororities, Nursing home/assisted living	Dick Bredeson Employer Services 360-902-4985	7/19/16	12/6/16	May 2017	<ul style="list-style-type: none"> Amend classification rules to include tutoring firms (currently 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	2016 Classifications	Annie Peeples Employer Services 360-902-4723	10/20/15	1/15/16	7/5/16	Minor non-controversial classification and reporting rule updates for greater clarity and more equitable rating.
296-17A	Pavers	Karen Chamberlain Employer Services 360-902-4772	TBD	TBD	TBD	<p>Consider amending language to clarify classification of paver installation in:</p> <ul style="list-style-type: none"> 0217 Concrete flatwork 0301 Landscape construction 0302 Masonry

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296-17A 296-17	Classification rulemaking 2017	Annie Peeples Employer Services 360-902-4723	December 2016	TBD	TBD	Bundle a growing list of minor non-controversial classification updates for greater clarity and more equitable rating. To date the list includes classifications: <ul style="list-style-type: none"> • 1102 and 2002 • 6402 and 6403 • 3902 and 3906 • Definition of “interchange of labor”
296-17A 296-17	2017 Miscellaneous Reporting and Classification Changes	Jo Anne Attwood Employer Services 360-902-4777	December 2016	TBD	TBD	Updating various rules to clarify or correct misleading or obsolete language, and to implement analogy classification decisions already in practice.
296-23-245	ARNP Reimbursement Rate (Licensed nursing billing instructions)	Bob Mayer Health Services Analysis 360-902-5021	5/31/16	7/5/16	9/20/16	Rule change will allow an update to our payment policies to eliminate the existing differential payment for Advanced Registered Nurse Practitioners (ARNPs).

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296-20	Lumbar fusion for Uncomplicated Degenerative Disc Disease (UDDD) within Structured Intensive Multidisciplinary Program (SIMP) rules	Jami Lifka Office of the Medical Director 360-902-4941	5/3/16	7/19/16	10/18/16	The purpose of this rulemaking is to repeal the Department's rules that are in conflict with a recent coverage determination by the Washington State Health Technology Clinical Committee (HTCC) that lumbar fusion for UDDD is no longer a covered procedure. SIMP program requirements are currently also contained within the Department's fee schedules' payment policies and, other than removing the lumbar fusion for UDDD requirement, will remain in effect when the SIMP rules are repealed.
296-20	Interchangeable biological products	Jaymie Mai Office of the Medical Director 360-902-6792 Jami Lifka Office of the Medical Director 360-902-4941	TBD	TBD	TBD	ESB 5935 "Concerning biological products" passed during the 2015 legislative session. This bill authorizes pharmacists to substitute FDA-approved "interchangeable biological products," similar to generics, for brand biologicals. WAC 296-20-03011 will need to be amended to reflect this change. We may make this change using the expedited rulemaking process.

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296-15	Vocational Option 2 Benefits	James Nylander Self-Insurance 360-902-6907	10/6/15	8/2/16	10/18/16	This rulemaking changes an existing rule, to allow a longer period of time for workers who are eligible for vocational retraining to decline further vocational services and instead select vocational Option 2 benefits. This will align the rule with recent statutory changes.
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.
296-15	Certified claims administrators and continuing education requirements	James Nylander Self-Insurance 360-902-6907	TBD	TBD	TBD	The Department is considering changes to these rules to make them more effective in meeting the goals of the self-insurance continuing education program.
296-15	Self-insurance second injury fund	James Nylander Self-Insurance 360-902-6907	TBD	TBD	TBD	This rulemaking will provide a definition of fund balance, establish a reserve set-aside factor, and clarify the method for calculating over-collection or under-collection.