

**WSR 09-03-094**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed January 20, 2009, 4:38 p.m.]

Title of Rule and Other Identifying Information: WAC 296-800-170 Employer chemical hazard communication.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Joshua Swanson, Department of Labor and Industries (L&I), P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY March 23, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The division of occupational safety and health (DOSH) is proposing to change existing language in WAC 296-800-170 Employer chemical hazard communication, to be as-effective-as the Federal Occupational Safety and Health Administration's (OSHA) rule.

The hazard communication section was reformatted in 2001 during the adoption of the core rules and put into a new format. During that process, some items were inadvertently left out, resulting in a rule less-effective-than OSHA.

The proposed language in WAC 296-800-170 will meet L&I's statutory mandate to be as-effective-as the federal equivalent. The language being adopted is identical to federal OSHA language.

Reasons Supporting Proposal: By law, L&I DOSH is required to have laws at-least-as-effective-as OSHA.

Statutory Authority for Adoption: RCW 49.17.050.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, 29 C.F.R. Subpart Z.

Name of Proponent: L&I, DOSH, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Steve Cant, Tumwater, (360) 902-5495.

January 20, 2009

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 03-18-090, filed 9/2/03, effective 11/1/03)

**WAC 296-800-170 Employer chemical hazard communication—Introduction.**

**IMPORTANT:**

Thousands of chemicals can be found in today's workplaces. These chemicals may have the capacity to cause health problems, from minor skin irritations to serious inju-

ries or diseases like cancer. You should review the type of chemicals you use and consider using less hazardous chemicals (such as less toxic and nonflammable chemicals).

The Employer Chemical Hazard Communication rule was developed to make sure employers and employees are informed about chemical hazards in the workplace.

This rule applies to:

- Employers engaged in businesses where chemicals are used, distributed, or produced for use or distribution.
- Contractors or subcontractors that work for employers engaged in businesses where chemicals are used, distributed, or produced for use or distribution.

**Exemptions:** ((\*) Certain products, chemicals, or items are exempt from this rule. Below is a summarized list of these exemptions. See WAC 296-800-17055 at the end of this rule to get complete information about these exemptions:

((—Any hazardous waste or substance))

• Any hazardous waste as defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that act by the Environmental Protection Agency.

• Any hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. 9601 et seq.) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the Environmental Protection Agency regulations.

- Tobacco or tobacco products
- Wood or wood products that are not chemically treated and will not be processed, for example, by sawing and sanding
- Food or alcoholic beverages
- Some drugs, such as retail or prescription medications
- Retail cosmetics
- Ionizing and nonionizing radiation
- Biological hazards
- Any consumer product or hazardous substance when workplace exposure is the same as that of a consumer

◆ Retail products used in offices in the same manner and frequency used by consumers can be termed "consumer products," and include things such as: Correction fluid, glass cleaner, and dishwashing liquid.

Example: If you use a household cleaner in your workplace in the same manner and frequency that a consumer would use it when cleaning their house, your exposure should be the same as the consumer's, you are exempt. A janitor using a household cleaner, such as bleach, throughout the day, is not considered to be a consumer, and is not exempt.

- Manufactured items that remain intact are exempt from this rule.
- Manufactured items that are fluids or in the form of particles are not exempt from this rule.

The following are examples:

Item	Covered by this rule	Not covered by this rule
Brick	Sawed or cut in half	Used whole or intact
Pipe	Cut by a torch	Bent with a tube bender
Nylon Rope	Burning the ends	Tying a knot

**Reference:** • If you produce, import, distribute and/or repackaging chemicals, or choose not to rely on labels or material safety data sheets provided by the manufacturer or importer, you must comply with chemical hazard

communication for manufacturers, importers and distributors, WAC 296-62-054.

- You may withhold trade secret information under certain circumstances. See trade secrets, WAC 296-62-053, to find out what information may be withheld as a trade secret and what information must be released.

**Your responsibility:**

To inform and train your employees about the hazards of chemicals they may be exposed to during normal working conditions, or in foreseeable emergencies by:

- Making a list of the hazardous chemicals present in your workplace
- Preparing a written Chemical Hazard Communication Program for your workplace
- Informing your employees about this rule and your program
- Providing training to your employees about working in the presence of hazardous chemicals
- Getting and keeping the material safety data sheets (MSDSs) for the hazardous chemicals
- Making sure that labels on containers of hazardous chemicals are in place and easy to read.

**You must:**

Develop, implement, maintain, and make available a written Chemical Hazard Communication Program.

*WAC 296-800-17005.*

Include multiemployer workplaces in your program if necessary.

*WAC 296-800-17007.*

Identify and list all the hazardous chemicals present in your workplace.

*WAC 296-800-17010.*

Obtain and maintain material safety data sheets (MSDS) for each hazardous chemical used.

*WAC 296-800-17015.*

Make sure that material safety data sheets (MSDS) are readily accessible to your employees and NIOSH.

*WAC 296-800-17020.*

Label containers holding hazardous chemicals.

*WAC 296-800-17025.*

Inform and train your employees about hazardous chemicals in your workplace.

*WAC 296-800-17030.*

Follow these rules for laboratories using hazardous chemicals.

*WAC 296-800-17035.*

Follow these rules for handling chemicals in factory sealed containers.

*WAC 296-800-17040.*

The department must:

Translate certain chemical hazard communication documents upon request.

*WAC 296-800-17045.*

Attempt to obtain a material safety data sheet (MSDS) upon request.

*WAC 296-800-17050.*

Exemption:

Items or chemicals exempt from the rule, and exemptions from labeling.

*WAC 296-800-17055.*

**WSR 09-03-107**

**EXPEDITED RULES**

**DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

(Division of Banks)

[Filed January 21, 2009, 9:01 a.m.]

Title of Rule and Other Identifying Information: Semi-annual assessments of state-chartered commercial banks (Title 30 RCW) and savings banks (Title 32 RCW).

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Gloria McVey, Program Manager, Division of Banks, Washington Department of Financial Institutions, 150 Israel Road S.W., Tumwater, WA 98501, P.O. Box 41200, Olympia, WA 98504-1200, AND RECEIVED BY March 23, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Technical amendment of WAC 208-544-039 (1)(d) to correct two typographical errors. In place of "8,373," the number should have been "8,732." In place of "165,562," the number should have been "165,560." The formula contained in the table at WAC 208-544-039 (1)(d) is correct and results in the correct number.

Reasons Supporting Proposal: To amend WAC 208-544-039 (1)(d) to correct two typographical errors inconsistent with the mathematical formula set forth in the table at WAC 208-544-039 (1)(d). The correct calculation reflects the fully allowable semi-annual assessment increase authorized by section 30, chapter 285, Laws of 2008.

Statutory Authority for Adoption: Section 30, chapter 285, Laws of 2008; RCW 30.04.030, 43.320.040, and 34.05.353 (1)(c).

Statute Being Implemented: Section 30, chapter 285, Laws of 2008.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington department of financial institutions, division of banks, governmental.

Name of Agency Personnel Responsible for Drafting: Joseph M. Vincent, General Counsel, 150 Israel Road S.W., Tumwater, WA 98501, P.O. Box 41200, Olympia, WA 98504-1200, (360) 902-0516; Implementation and Enforcement: Gloria McVey, Program Manager, Division of Banks, 150 Israel Road S.W., Tumwater, WA 98501, P.O. Box 41200, Olympia, WA 98504-1200, (360) 902-8704.

January 21, 2009

Brad Williamson

Director of Banks

AMENDATORY SECTION (Amending 08-18-079, filed 9/3/08, effective 10/6/08)

**WAC 208-544-039 Charges and fees effective October 6, 2008.** (1) Effective October 6, 2008, the rate of charges and fees under WAC 208-512-045, 208-544-020 and 208-544-030 shall be as follows:

- (a) WAC 208-512-045 (1)(c) and (d) - The fee shall be \$100.00 for the issuance and filing of certificates.
- (b) WAC 208-512-045 (1)(e) - The fee shall be 50 cents per page.
- (c) WAC 208-512-045(2) - The fee shall be \$111.64 per employee hour expended.
- (d) WAC 208-544-020(1) - The rates shall be the following:

If total assets are:		The assessment is:		
But not	This		Of Excess	
Over	Over	Amount	Plus	Over
Million	Million			Million
0	500	0	0.000017464	0
500	1,000	<del>((8,373))</del> <u>8,732</u>	0.000016746	500
1,000	10,000	17,105	0.000016495	1,000
10,000	—	<del>((165,562))</del> <u>165,560</u>	.000	10,000

- (e) WAC 208-544-020(2) - The rate shall be 0.04005.
- (f) WAC 208-544-030(1) - The fee shall be \$80.60 per hour.
- (g) WAC 208-544-030(2) - The fee shall be \$111.64 per hour.

(2) The director may waive any or all of the charges and/or fees imposed under this section, in whole or in part, when he or she determines that both of the following factors are present:

(a) The banking program fund exceeds the projected acceptable minimum fund balance level approved by the office of financial management (OFM); and

(b) That such course of action would be fiscally prudent.

(3)(a) If the charges and fees assessed under WAC 208-544-020(1) relating to a semiannual asset charge and WAC 208-544-030(1) relating to the hourly examination fee exceed ninety-five percent of the charges and fees applicable for a two-year period of the comparable federal chartering regulator (CFCR) or its successor then the charges and fees paid in excess of such amount shall be rebated to the institution pursuant to (d) of this subsection unless abated by the director as provided in (e) of this subsection.

(b) For purposes of determining rebate entitlement, the total of semiannual asset charges and examination fees will be determined by adding the monthly average semiannual asset charge and the monthly average examination fee for any twenty-four month period beginning on or after July 1, 2000. The monthly average semiannual asset charge is determined by dividing the semiannual asset charges by six and applying the monthly average to the previous six months. The monthly average examination fee is determined by dividing the examination fee for each examination during the averaging period

by the number of months between each such examination and the previous examination as determined by the date of the examinations and applying the monthly average to those months. The CFCR charge is determined in the same manner. Under no circumstances will an institution be permitted to calculate a rebate based on a period of time that was included, in whole or in part, in the calculation of another rebate under this section.

(c) The rebate is determined by the difference between the sum of the applicable monthly average state charges and fees for the twenty-four month period minus ninety-five percent of the sum of the applicable monthly average CFCR charges and fees for the same period, as each are determined in (b) of this subsection.

(d) Entitlement of the rebate will occur only upon petition and satisfactory proof to the director.

(e) Rebate abatement. At the discretion of the director, all or part of the rebate determined under (d) of this subsection may be denied if the director determines that:

(i) The institution required a substantially greater than average amount of supervisory time for reasons other than as a result of economic, legal, regulatory, or other conditions beyond the control of competent management;

(ii) The institution required a substantially greater than average amount of examination time for an institution of its size for reasons other than as a result of economic, legal, regulatory, or other conditions beyond the control of competent management;

(iii) Examinations or investigations were performed by third parties under personal services contracts;

(iv) The banking program fund does not exceed the projected acceptable minimum fund balance level approved by OFM or is insufficient to satisfy the rebates under this subsection and still maintain the operations of the department at a fiscally prudent level;

(v) The institution maintained a composite uniform financial institution rating (CAMELS) of 3, 4 or 5 during any time during the rebate period; or

(vi) Such other factors as the director may deem equitable or relevant.

(f) Institutions may become eligible to receive a rebate after June 30, 2002, for amounts paid on or after July 1, 2000.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.