

WSR 21-14-077
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed July 6, 2021, 8:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-01-200.

Title of Rule and Other Identifying Information: WAC

296-900-13015 Posting citation and notices.

Hearing Location(s): On August 11, 2021, at 1:00 p.m., join Zoom meeting <https://us02web.zoom.us/j/84837960300>, Meeting ID 848 3796 0300, Passcode hJd8R\$Q=. Dial by your location +1 253 215 8782 US (Tacoma), Meeting ID 848 3796 0300, Passcode 60002954. Find your local number <https://us02web.zoom.us/j/kcpPwPceZ6>. The hearing will continue until all oral comments are received.

Date of Intended Adoption: September 21, 2021.

Submit Written Comments to: Tari Enos, P.O. Box 44620, Olympia, WA 98504-4620, email tari.enos@lni.wa.gov, fax 360-902-5619, by August 18, 2021, by 5 p.m.

Assistance for Persons with Disabilities: Contact Tari Enos, phone 360-902-5541, email tari.enos@lni.wa.gov, by August 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to change the length of time that a citation and notice needs to be posted on an employee safety bulletin board; this includes any correspondence related to an employee complaint. The department of labor and industries (L&I) is proposing to change the amount of time a citation and notice is posted from three working days to seven working days, and add language clarifying that weekends and holidays are not included in the posting time period. L&I is also proposing to add language giving the employer the option to use electronic means to supplement the safety bulletin board for those employees that don't work where the physical board is located, such as those who telework. Please see below for the proposed amendments.

Amended Sections: WAC 296-900-13015 Posting citation and notices.

- In subsection (1), update "three" to "seven" working days, as well as add "excluding weekends and holidays" after "seven working days" to further clarify the length of time that the citation and notice should be posted to ensure being viewed by all employees.
- Add new sentence at the end of subsection (1) which gives the employer the option to use electronic means to supplement the safety bulletin board for employees that don't work in the office where the physical bulletin board is present, such as employees that telework.

Reasons Supporting Proposal: Employers are currently required to post a citation and notice for three working days for employees to see. There are employees who work nonstandard shifts that may not have access to this information due to the short amount of time the citation and notice is actually posted. L&I believes worker safety could be improved if all employees have access to corrective action information.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060 and 49.17.120.

Statute Being Implemented: Chapter 49.17 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, 360-902-5516; Implementation and Enforcement: Craig Blackwood, Acting Assistant Director, Tumwater, Washington, 360-902-5828.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tari Enos, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5541, email tari.enos@lni.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. It was determined that leaving the citation and notice on the bulletin board for the additional workdays does not create any new costs for employers. Employers must already post citations and notices and oftentimes notices are left up longer than three days already. The proposed language allows employers to use electronic means as an option of posting citations and notices for their employees. There are no mandated costs since using technology to give employees access to the citations and notices is voluntary.

July 6, 2021
Joel Sacks
Director

OTS-2690.3

AMENDATORY SECTION (Amending WSR 17-18-075, filed 9/5/17, effective 10/6/17)

WAC 296-900-13015 Posting citation and notices. (1) You must immediately notify employees of a citation and notice by posting it and any correspondence related to an employee complaint on the safety bulletin board for ~~((three))~~ seven working days, excluding weekends and holidays, or until all violations are corrected, whichever time period is longer. As an option, an employer may use electronic means to supplement the bulletin board, such as with telework employees.

(2) You must use any other appropriate means to notify employees who may receive notices posted on the safety bulletin board.

Examples of other appropriate means include sending a copy by mail or electronically to any of the following:

- (a) A designated employee representative.
- (b) Safety representatives.
- (c) The safety committee.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 17-18-075, § 296-900-13015, filed 9/5/17, effective

10/6/17; WSR 06-06-020, § 296-900-13015, filed 2/21/06, effective
6/1/06.]