

**WSR 25-04-097**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed February 4, 2025, 8:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-24-088.

Title of Rule and Other Identifying Information: Amusement rides or structure rules; WAC 296-403A-100 Definitions.

Hearing Location(s): On March 13, 2025, at 10:00 a.m., at the Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Tumwater, WA 98501; or join electronically (Zoom) at <https://lni-wa.gov.zoom.us/j/86892327477?pwd=aUICCXs6mHzVNYjFRdISw5bHozDYhI.1>, Passcode DtU\$4#Kp; or join by phone (audio only) 253-215-8782, Meeting ID 868 9232 7477, Passcode 52973583. The in-person and virtual/telephonic hearing starts at 10:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: May 6, 2025.

Submit Written Comments to: Meagan Edwards, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email [Meagan.Edwards@lni.wa.gov](mailto:Meagan.Edwards@lni.wa.gov), fax 360-704-1980, beginning February 5, 2025, at 8:00 a.m., by March 13, 2025, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Meagan Edwards, phone 360-522-0125, fax 360-704-1980, email [Meagan.Edwards@lni.wa.gov](mailto:Meagan.Edwards@lni.wa.gov), by February 27, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to propose amendments to the definitions for amusement rides or structures under WAC 296-403A-100. L&I accepted a rule-making petition to amend the definition of "Amusement structures" to exclude fixed artificial climbing surfaces built for the sport of rock climbing, including equipment used for climber education and safety, when not located on the same premises as amusement rides. This rule making proposes amendments from the petitioner's request. Additional amendments to WAC 296-403A-100 are also being proposed to bring the rule up-to-date.

Proposed amendments: WAC 296-403A-100 Definitions.

- Clarifies the definition of "amusement structures" to exclude fixed artificial climbing surfaces built for the sport of rock climbing, including equipment used for climber education and safety, when not located on the same premises as amusement rides.
- Amends the definition of "NEC." This includes:
  - o Removing the outdated reference to the 2002 edition of the National Electrical Code (NEC) and referencing to the NEC edition adopted in the electrical rules under chapter 296-46B WAC; and
  - o Removing the physical location for obtaining hard copies of the NEC and adding how copies can now be obtained.
- Amends the definitions of "RCW" and "WAC" to clarify that copies of the electrical laws and rules are only available electronically.
- Amends the definition of "amusement rides" to update a reference.

Reasons Supporting Proposal: This rule making is in response to a petition for rule making. The amendments are necessary to ensure the definitions are up-to-date and clearly define the types of structures that are regulated as amusement rides.

Statutory Authority for Adoption: Chapter 67.42 RCW, Amusement rides.

Statute Being Implemented: Chapter 67.42 RCW, Amusement rides.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Wayne Moleworth, Program Manager, Tumwater, Washington, 360-480-5673; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule proposal is exempt from the cost-benefit analysis requirement under the Administrative Procedure Act. Specifically, RCW 34.05.328 (5)(b)(iv) exempts rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect. RCW 34.05.328 (5)(b)(iii) exempts rules adopting or incorporating by reference without material change of national consensus codes that generally establish industry standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: All parts of the rule except as discussed below.

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. WAC 296-403A-100(3) clarifies the definition of "amusement structures" to exclude fixed artificial climbing surfaces built for the sport of rock climbing, including equipment used for climber education and safety, when not located on the same premises as amusement rides and is based on the interpretation of the definition of "amusement structures" under RCW 67.42.010(1). There are no costs associated with this change.

February 4, 2025

Joel Sacks

Director

**RDS-6106.2**

AMENDATORY SECTION (Amending WSR 02-21-103, filed 10/22/02, effective 11/22/02)

**WAC 296-403A-100 Definitions.** Definitions as found in ASTM F 747-97 Standard Terminology Related to Amusement Rides and Devices are adopted in addition to the following:

(1) **"Air supported"** structure or device means an amusement device that incorporates a structural and mechanical system and employs a high-strength fabric or film that achieves its strength, shape and stability by pretensioning with internal air pressure (inflation).

(2) **"Amusement ride"** means any vehicle, boat, or other mechanical or air supported device moving upon or within a structure, along cables or rails, through the air by centrifugal force or otherwise, or across water, that is used to convey one or more individuals for amusement, entertainment, diversion, or recreation. For purposes of this chapter, "boats" does not refer to personal watercraft or vessels operated on the waters of this state according to chapter 79A.60 RCW. Examples of an amusement ride include, but are not limited to, devices commonly known as skyrides, ferris wheels, carousels, parachute towers, tunnels of love, roller coasters, mechanical bulls, gyrotron, space balls, bungee operated, simulators and similar devices.

Conveyances for persons in recreational winter sports activities such as: Ski lifts, ski tows, j-bars, t-bars, and similar devices subject to regulation under chapter ((70.88)) 79A.40 RCW are not amusement rides. Any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location that does not normally require the supervision or services of an operator is not an amusement ride. Nonmechanized playground equipment including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices are not amusement rides. Permanent water slides are not amusement rides. Animal rides such as: Pony rides, riding stables, hay rides and elephant rides are not amusement rides.

(a) **"Portable amusement ride"** means an amusement ride which is relocated at least once per year with or without disassembly.

(b) **"Permanent amusement ride"** means an amusement ride which is erected to remain a lasting part of the premises.

(3) **"Amusement structure"** means any electrical, mechanical, non-mechanical, or air-supported device or any combinations thereof operated for revenue and to provide amusement or entertainment to viewers or audiences at carnivals, fairs, or amusement parks. Artificial climbing surfaces built for the sport of rock climbing, including equipment attached for climber education and safety, are not amusement structures when permanently fixed and not located on the same premises as amusement rides or amusement structures regulated under this chapter.

A game or concession where a member of the public performs an act or makes a purchase is not an amusement structure. Examples of an amusement structure include, but are not limited to, structures commonly known as permanent steel or wooden roller coasters, a permanent dark ride or fun house, a permanent drop tower, or a permanent building enclosing a portable amusement device.

(4) **"ASTM"** means the American Society for Testing and Materials (F-24 committee) as it relates to amusement rides and devices. Copies of the ASTM are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

(5) **"Authority having jurisdiction"** means the department.

(6) **"Carnival"** means a mobile enterprise principally devoted to offering amusement or entertainment to patrons in, upon, or by means of portable amusement rides or structures.

(7) **"Certificate of inspection"** means a document given under oath or affirmation from an insurer or a person with whom the insurer has contracted to make a safety inspection of the amusement ride or structure. The certificate must contain: The name, address and signature of the inspector, the complete description of the amusement ride or structure and the name and address of the owner or operator.

(8) **"Certificate of insurance"** means a document certifying that the insurance required by chapter 67.42 RCW is in effect. Copies of this document/form are available from the department upon request.

(9) **"Department"** means the department of labor and industries.

(10) **"Insurance policy"** means an insurance policy written by an insurer authorized to do business in this state under Title 48 RCW.

(11) **"Major modification"** means any change to the original configuration or layout of components or replacement of components that are not like-for-like.

(12) **"NEC"** means the ((2002)) edition of the National Electrical Code ((NFPA 70-2002) including Annex A, B, and C, but excluding Article 80. Copies of the NEC, NFPA 70-2002 are available from the NFPA (National Fire Protection Association), 1 Batterymarch Park, Quincy, Massachusetts 02169-7471)) (NFPA 70) adopted pursuant to chapter 296-46B WAC. Copies of the NEC, NFPA 70 are available from the NFPA (National Fire Protection Association).

(13) **"Operating permit"** means a permit that is issued by the department.

(14) **"Operating permit decal"** is a decal issued by the department that must be affixed on or adjacent to the control panel of the amusement ride or structure in a location visible to the patrons of the ride or structure.

(15) **"RCW"** means the *Revised Code of Washington*. Electronic copies of RCWs are available from the department and the office of the code reviser.

(16) **"Safety inspection"** means a procedure to be conducted by a safety inspector to determine whether an amusement ride or device is assembled, maintained, tested, operated, and inspected in accordance with the current ASTM standards, the manufacturer's or insurer's standards, and this chapter, whichever is the most stringent, and that determines the current operational safety of the ride or device.

(17) **"Safety inspector"** and **"amusement ride inspector"** both mean a third-party inspector authorized by the department to conduct safety inspections of amusement rides or devices in compliance with this chapter. The inspector must be an independent, third party with no organizational, managerial, financial, design, or promotional affiliation with the amusement ride or amusement structure being inspected. The inspector must not be a principal, owner, or employee of any amusement company or manufacturer doing business in the state of Washington, unless authorized by the department to conduct specific inspections on a case-by-case basis.

Inspectors who have installed, modified or repaired an amusement ride or structure may not perform the initial inspection on the equipment they have installed, modified, or repaired. The inspector must have an adequate diversity of clients or activity so that the loss or award of a specific contract regarding amusement ride or amusement

structure safety certification would not be a deciding factor in the financial well being of the inspector.

(18) "**WAC**" means the *Washington Administrative Code*. Electronic copies of WACs are available from the department and the office of the code reviser.