# WSR 26-19-113
# PROPOSED RULES
# DEPARTMENT OF
# LABOR AND INDUSTRIES

[Order 25-17—Filed September 22, 2026, 8:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-14-100.

Title of Rule and Other Identifying Information: Chapter 296-71 WAC, Refinery worker training and certification in high hazard facilities.

Hearing Location(s): On October 29, 2026, at 1:30 p.m., via Teams at https://teams.microsoft.com/meet/226483453048215?p=yTyuccmUjCJOJ9d5hk; or by phone (audio only) 833-322-1218 (Toll-free), Meeting ID 498 138 876#. A prehearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received.

Date of Intended Adoption: December 1, 2026.

Submit Written Comments to: Kristin Murphy, Administrative Regulations Analyst, Department of Labor and Industries (L&I), Division of Labor Standards, P.O. Box 44510, Olympia, WA 98504-4510, email Kristin.Murphy@Lni.wa.gov, beginning September 23, 2026, 8:00 a.m., by October 30, 2026, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Kristin Murphy, administrative regulations analyst, phone 564-999-0975, TTY 1-800-833-6388, email Kristin.Murphy@Lni.wa.gov, by October 15, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The division of labor standards and the division of occupational safety and health are proposing to amend chapter 296-71 WAC, Refinery worker training and certification in high hazard facilities, in order to implement the requirements of EHB 1173, chapter 210, Laws of 2025.

EHB 1173 amended chapter 49.80 RCW by adding a definition for "applicable occupation," amending the definition for who is considered a "registered apprentice," and adding language regarding the wage payment requirement for a worker in an apprenticeable occupation performing work under this chapter when they don't meet the definition of either a registered apprentice or a skilled journeyperson.

Proposed rule amendments include:

- Amend the title of chapter 296-71 WAC to "Skilled and trained workforce in high hazard facilities."
- Add a definition for applicable occupation.
- Add a definition for prevailing rate of wage.
- Amend the definition for registered apprentice to meet the requirements of EHB 1173.
- Amend the definition for skilled journeyperson to meet the requirements of EHB 1173.
- Add a definition for worker.
- Numerate all definitions for ease in cross-referencing.
- Amend the requirements for a skilled and trained workforce to meet the requirements of EHB 1173.
- Add a new section related to "determining applicable occupations" under this chapter as required under EHB 1173.
- Add a new section related to "notice of apprentice" as required under EHB 1173.

Reasons Supporting Proposal: L&I is required to implement and enforce the requirements of EHB 1173.

Statutory Authority for Adoption: Chapter 43.22 RCW; RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 48.80.060.

Statute Being Implemented: Chapter 49.80 RCW.

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: Ellen Ware, Tumwater, Washington, 360-902-4475; Implementation and Enforcement: Bryan Templeton, Tumwater, Washington, 360-902-5310.

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. The proposed language is consistent with the requirements established in EHB 1173 (2025).

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 relate only to internal governmental operations that are not subject to violation by a nongovernment party; 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.

Explanation of exemptions: The proposed language is limited to interpretive, procedural, incorporation by reference, or housekeeping updates and mirrors the requirements established in EHB 1173 (2025).

Scope of exemption for rule proposal:

Is fully exempt.

September 22, 2026
Joel Sacks
Director

**RDS-7358.1**

## Chapter 296-71 WAC
## ((~~REFINERY WORKER TRAINING AND CERTIFICATION~~)) SKILLED AND TRAINED WORKFORCE IN HIGH HAZARD FACILITIES

AMENDATORY SECTION (Amending WSR 22-19-101, filed 9/21/22, effective 10/22/22)

**WAC 296-71-001 Purpose and scope.** This standard contains requirements under chapter 49.80 RCW for:

(1) Owners and operators of petroleum refining or petrochemical manufacturing facilities to use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair, or maintenance work at the stationary source.

(2) Training and certification of the skilled and trained workforce, including training course approval, and the issuance of worker certification.

(3) Criteria for a skilled and trained workforce.

AMENDATORY SECTION (Amending WSR 22-19-101, filed 9/21/22, effective 10/22/22)

**WAC 296-71-003 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) **Applicable occupation.** The specific trade or occupation for the work performed under this chapter as defined by the scope of work description under chapter 39.12 RCW and associated rules, or defined by the standard occupational classification description.

(2) **Apprenticeable occupation.** An occupation for which an apprenticeship program has been approved by the Washington state apprenticeship and training council pursuant to chapter 49.04 RCW.

(3) **Approved.** Approved by the department.

(4) **Competent instructor.** An instructor who has demonstrated satisfactory performance in the occupation for a minimum of three years beyond the customary learning period for that occupation and who:

(a) Meets the requirements of the state board for community and technical colleges for a vocational-technical instructor; or

(b) Is recognized within an industry as having expertise in a specific occupation and is a subject matter expert; and

(c) Has training in teaching techniques and adult learning styles. The training may be acquired before, or within one year after, the competent instructor begins to provide related supplemental instruction.

(5) **Department.** The department of labor and industries.

(6) **Director.** The director of the department of labor and industries or the director's designee.

(7) **High hazard facility.** A stationary source that is engaged in activities described in code 324110 or 325110 of the North American Industry Classification System (NAICS).

(8) **On-site work.** Does not include ship and rail car support activities; environmental inspection and testing; security guard services; work which is performed by an original equipment manufacturer for warranty, repair, or maintenance on the vendor's equipment if required by the original equipment manufacturer's warranty agreement between the original equipment manufacturer and the owner; industrial cleaning not related to construction; safety services requiring professional safety certification; nonconstruction catalyst loading, regeneration, and removal; chemical purging and cleaning; refinery by-product separation and recovery; inspection services not related to

construction; and work performed that is not in an apprenticeable occupation.

(9) **Owner/operator.** The owner or operator of a stationary source that is engaged in activities described in code 324110 or 325110 of the North American Industry Classification System (NAICS).

(10) **Person.** One or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(11) **Prevailing rate of wage.** Has the same meaning as provided under RCW 39.12.010.

(12) **Registered apprentice.** An apprentice in a high hazard facility who meets all the following criteria:

(a) Is registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW and applicable rules;

(b) Has received written notification from the employer identifying their applicable occupation and wage rates prior to performing work, a copy of which must be maintained in the employee's personnel file by the employer; and

(c) Is only performing work within the applicable occupation of the apprenticeship program in which the apprentice is registered.

(13) **Revocation.** A withdrawal of a certification issued by the department or by department approval.

(14) **Skilled journeyperson.** Means a worker who meets all of the following criteria:

(a) The worker either graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW((~~, and who is paid a wage meeting the requirements of chapter 49.80 RCW.~~)); and

(b) The worker's wage payment requirement is at least a rate commensurate with the wages typically paid for the occupation in the applicable geographic area, subject to the following provisions:

(i) The prevailing wage rate paid for a worker in the applicable occupation and geographic area on public works projects may be used to determine the appropriate rate of pay. However, this subsection (b) does not require a contractor to pay prevailing wage rates; and

(ii) In no case may the worker be paid at a rate less than an hourly rate consistent with the 75th percentile in the applicable occupation and geographic area in the most recent occupational employment statistics published by the employment security department.

(15) **Skilled and trained workforce.** A workforce that meets both of the following criteria:

(a) All the workers are either registered apprentices or skilled journeypersons; and

(b) The workforce meets the approved advanced safety training requirements established in this chapter, and the apprenticeship graduation established in RCW 49.80.030.

(16) **Suspension.** A temporary withdrawal of department course approval. No suspension may be less than six months or longer than one year.

(17) **Worker.** A worker performing on-site work within an apprenticeable occupation in the building and construction trades for a con-

tractor required to meet the skilled and trained workforce requirements under this chapter.

AMENDATORY SECTION (Amending WSR 22-19-101, filed 9/21/22, effective 10/22/22)

**WAC 296-71-010 Skilled and trained workforce requirements.** (1) Owners and operators, when contracting for the performance of construction, alteration, demolition, installation, repair or maintenance work at the stationary source, must require that its contractors and any subcontractors use a skilled and trained workforce to perform all on-site work within an apprenticeable occupation in the building and construction trades, and that work is done within the worker's specific occupation or craft. This includes:

(a) ((~~The percentages~~)) Sixty percent of the skilled journeypersons ((~~who are~~)) must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW ((~~meet the requirements under RCW 49.80.030~~));

(b) ((~~Six months after the effective date of this chapter,~~)) All workers in the skilled and trained workforce must have completed at least 20 hours of approved advanced safety training for workers at high hazard facilities within the past three calendar years.

(c) The skilled and trained workforce requirements under this section apply to each individual contractor's and subcontractor's on-site workforce.

(2) The owner/operator must have documentation showing that the skilled and trained workforce requirements are met. This documentation must be provided to the department upon request.

(3) This section does not apply to:

(a) The employees of the owner or operator of the stationary source, nor does it prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working;

(b) A contractor who has requested qualified workers from the local hiring halls or apprenticeship programs that dispatch workers in the apprenticeable occupation and who, due to workforce shortages, is unable to obtain sufficient qualified workers within two working days of the request; and

(c) Emergencies that make compliance impracticable because they require immediate action to prevent harm to public health, safety, or the environment. This section applies as soon as the emergency is over, or it becomes practicable for contractors to obtain a qualified workforce.

((~~Note: This section does not prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working.~~))

NEW SECTION

**WAC 296-71-500 Determining applicable occupation.** (1) A worker's applicable occupation is the specific trade or occupation classification as defined by the scope of work descriptions in chapter

296-127 WAC or the standard occupational classification (SOC) descriptions and is based on an individual worker's job duties, not their job titles or designation.

(2) If a worker's job duties meet a scope of work description under chapter 296-127 WAC, the applicable scope of work most closely matching the majority of the work performed must be utilized to determine the worker's applicable occupation. If a worker's job duties do not meet a scope of work description under chapter 296-127 WAC, the standard occupational classification (SOC) description most closely matching the majority of the work performed must be utilized to determine the worker's applicable occupation.

NEW SECTION

**WAC 296-71-510 Notice to apprentice.** Every employer must provide a written notice to apprentices concerning the following details:

(1) The notice must be provided to the apprentice prior to performing work in the high hazard facility and must be updated in the event any of the notice elements change.

(2) The written notice to apprentice must include the following elements:

(a) Apprentice's name and apprentice identification number;

(b) Apprenticeship program name;

(c) The applicable occupation, as defined under this chapter, for the apprenticeship program in which the apprentice is registered;

(d) The wage rates the apprentice will be paid while performing work as a registered apprentice in the high hazard facility.

(3) The notice must be signed and dated by the employer, apprentice, and apprenticeship program representative.

(4) Records retention.

(a) The program sponsor must retain a copy of the signed notices for a minimum of five years, consistent with WAC 296-05-100. Program sponsors must provide access to records when requested by the Washington state apprenticeship and training council or the apprenticeship supervisor.

(b) Except for the longer retention requirements of (a) of this subsection, the notice is subject to the personnel file requirements of RCW 49.12.240, 49.12.250, and 49.12.260.