WSR 26-19-115
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Order 26-11—Filed September 22, 2026, 8:51 a.m., effective October 23, 2026]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule making amends chapter 296-122 WAC, Agricultural employment of minors; and WAC 296-126-050 Personnel files. The adopted changes clarify requirements for employers and make technical corrections to the rules.

The adopted rules make several corrections to chapter 296-122 WAC. The rules clarify in WAC 296-122-130 that the department of labor and industries may grant variances for child labor requirements other than prohibited duties. The adopted rules also correct WAC 296-122-140 Special variances, to align the approach to school days with the framework used in the hours of work section, WAC 296-122-090. Other updates within the chapter correct typographical errors without material impact.

The adopted rule also amends the personnel file requirements found in WAC 296-126-050. The amendments align the rule with the statutory language found in RCW 49.12.250.

Citation of Rules Affected by this Order: Amending WAC 296-122-090, 296-122-130, 296-122-140, and 296-126-050.

Statutory Authority for Adoption: RCW 49.30.060 and 49.12.250.

Adopted under notice filed as WSR 26-15-110 on July 21, 2026.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 22, 2026.

Joel Sacks
Director

RDS-7289.1

AMENDATORY SECTION (Amending WSR 26-11-048, filed 5/19/26, effective 7/1/26)

WAC 296-122-090 Hours of work for minors in agriculture. (1) Minors legally required to attend school may not be employed during school hours except by special permission from school officials as provided in RCW 28A.225.010 and 28A.225.080.

(2)(a) Minors under the age of 16 may work the following hours during school weeks:

(i) A maximum of three hours per day on school days and otherwise a maximum of eight hours per day;

(ii) A maximum of 21 hours per week;

(iii) No earlier than 7:00 a.m. on school days and otherwise no earlier than 5:00 a.m. Minors employed in animal agriculture or whose employment in crop production requires daily attention to irrigation may be employed beginning at 6:00 a.m.; and

(iv) No later than 8:00 p.m. on days preceding a school day and otherwise no later than 9:00 p.m.

(b) Minors under the age of 16 may work the following hours during nonschool weeks:

(i) A maximum of eight hours per day;

(ii) A maximum of 40 hours per week;

(iii) No earlier than 5:00 a.m.; and

(iv) No later than 9:00 p.m.

(3)(a) Minors who are 16 and 17 years of age may work the following hours during school weeks:

(i) A maximum of four hours per day on school days and otherwise a maximum of eight hours per day;

(ii) A maximum of 28 hours per week;

(iii) No earlier than 5:00 a.m.; and

(iv) No later than 9:00 p.m. on more than two consecutive nights preceding a school day and otherwise no later than 10:00 p.m.

(b) Minors who are 16 and 17 years of age may work the following hours during nonschool weeks:

(i) A maximum of 10 hours per day;

(ii) A maximum of 50 hours per week. Minors who are 16 and 17 years of age may work up to 60 hours per week in the mechanical harvest of peas, wheat, and hay;

(iii) No earlier than 5:00 a.m.; and

(iv) No ((~~later than 9:00 p.m. on more than two consecutive nights preceding a school day and otherwise no~~)) later than 10:00 p.m.

(4) Except for minors employed in dairy or livestock production, in the harvest of hay, or whose employment in crop production requires daily attention to irrigation, no minor shall be employed more than six days in any one week.

(5) Sixteen- and 17-year-old minors who were issued a certificate of educational competence pursuant to RCW 28A.305.190, are enrolled in a bona fide college program, are enrolled in a career and technical education program and the work is performed for an employer approved by the program, or are shown as a parent on a valid certificate of birth may work as would be permitted during nonschool weeks. For the purpose of this section, "career and technical education program" refers to a work-based learning program approved by the office of the superintendent of public instruction or the minor's school district including, but not limited to, core plus programs.

(6) The provisions of this section shall not apply to minors 16 years of age and older emancipated by court order.

AMENDATORY SECTION (Amending WSR 26-11-048, filed 5/19/26, effective 7/1/26)

WAC 296-122-130 Variances. (1) Upon written application from an employer or an organization representing employers, a variance permitting employment of minors otherwise prohibited ((~~under WAC 296-122-110~~)) by this chapter may be granted for good cause shown. The application must specify the reasons why the variance request should be granted. The employer or the organization representing employers shall give written notice to the employees so that they may submit their views to the department on any variance request.

(2) The department may grant the variance request if the employer possesses a valid minor work permit endorsement and the department determines the employer demonstrates good cause. The department may request or receive additional information from the employer or other interested parties when reviewing a variance application.

(3) "Good cause" shall mean those situations in which the employer demonstrates:

(a) The granting of the variance would not have a harmful effect upon the health, safety, or welfare of the minor employees involved;

(b) The granting of the variance would not have a deleterious effect on school attendance or the academic performance of minors; and

(c) The variance is necessary to meet usual crop cultural or harvest requirements.

(4) Upon application from an employer or an organization representing employers a variance permitting employment of minors otherwise prohibited under these rules may be granted by the director or an authorized representative of the director in response to a weather emergency.

(5) The department may grant a variance request for the prohibited duties described in WAC 296-122-110 (1)(a) through (d) and (2)(d) through (i) for a minor employed as a vocational agriculture student-learner when each of the following requirements are met:

(a) The student-learner is enrolled in a vocational education training program in agriculture under a recognized state or local educational authority, or in a substantially similar program conducted by a private school;

(b) Such student-learner is employed under a written agreement which provides that the work of the student-learner is incidental to training; that such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person; that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and that a schedule of organized and progressive work processes to be performed on the job have been prepared;

(c) Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

(d) Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

(6)(a) Before granting a variance for a duty prohibited by WAC 296-122-110 under subsection (5) of this section, the department shall:

(i) Conduct a safety and health consultation at the worksite; and

(ii) Consult with the employer on the types of tools, equipment, and practices permitted under the variance.

(b) The department may consider the consultation requirement in (a) of this subsection complete if the employer is renewing a variance that expired within the same academic school year, or has an active variance, for the exact same prohibited tools, equipment, or occupation.

(7) The department may not grant variances for any occupation prohibited by the United States Department of Labor.

(8) Each variance will expire upon the expiration of the minor work permit endorsement that was in effect at the time the variance was issued unless the variance was issued with an earlier expiration date.

(9) The department may revoke, suspend, or modify an employer's variance if it finds:

(a) A condition related to its issuance has not been satisfied;

(b) The employer violated any requirement of this chapter; or

(c) An existing condition that is or could be detrimental to the health, safety, or welfare of a minor including an adverse impact upon their school attendance or performance.

AMENDATORY SECTION (Amending WSR 26-11-048, filed 5/19/26, effective 7/1/26)

WAC 296-122-140 Special variance. (1) Sixteen- and 17-year-old minors may work ((~~the following hours~~)) up to a maximum of six hours per day on any school day ((~~preceding another school day~~)), provided the minor has a complete special variance included on the parent/school authorization form.

(2) Sixteen- and 17-year-old minors must follow all other hours of work requirements specified in WAC 296-122-090.

(3) To be valid, a special variance must be signed on a parent/school authorization form completed in accordance with WAC ((~~296-122-090~~)) 296-122-060. The special variance must be signed by the minor's parent or guardian and the minor's authorized school official.

(4) In evaluating requests for special variances, a school must consider at least the following factors:

(a) Does the employer hold a current valid minor work permit endorsement?

(b) What is the student's attendance pattern?

(c) Is the student making satisfactory academic progress?

(d) Will the student still have opportunities to participate in extracurricular activities?

(e) How many school nights will the student work?

(f) How late in the evening will the student work?

(g) How long a shift will the student work?

(h) How sound is the student's rationale for requesting a variance from the work hour restrictions?

(5) Special variances expire at the termination of the school year. Employers must request a special variance at the beginning of each new school year.

(6) A parent, legal guardian, or school may revoke a special variance at any time by simply giving written notification to the other parties to the variance.

RDS-7290.1

AMENDATORY SECTION (Amending WSR 26-08-079, filed 3/31/26, effective 5/1/26)

WAC 296-126-050 Personnel files. (1) Every employer shall, at least annually, upon the request of an employee, permit that employee to inspect any or all of the employees' own personnel file(s) within the time required under subsections (3) and (4) of this section.

(2)(a) Every employer shall keep for at least three years a record of the name, address, and occupation of each employee, dates of employment, rate or rates of pay, amount paid each pay period to each such employee and the hours worked.

(b) ((~~For employers subject to the Minimum Wage Act, personnel files also includes records required by WAC 296-128-010 through 296-128-030.~~

~~(c)~~)) Personnel files also includes the following records, if the employer creates such records: Job application records, performance evaluations, nonactive or closed disciplinary records, leave and reasonable accommodation records, payroll records, and employment agreements.

((~~(2) Every employer shall make the record described in subsection (1) available to the employee, upon request, at any reasonable time.~~

~~(3) Every employer is required to allow employees to inspect all the employees' own personnel files within 21 calendar days upon receiving a request from the employee.~~

~~(4)~~)) (c) For the purposes of this section, "payroll records" includes records required by WAC 296-128-010 through 296-128-030 for employers subject to the Minimum Wage Act.

(3) For any employer other than those specified under subsection (4) of this section:

(a) The employer shall provide a copy of personnel file(s) within 21 calendar days after the employee, former employee, or their designee requests the file(s) at no cost to the employee, former employee, or their designee.

(b) Every employer shall, within 21 calendar days of receiving a written request by a former employee or their designee, furnish a signed written statement to the employee or their designee stating the effective date of discharge, whether the employer had a reason for the discharge, and if so, the reasons.

(4) Any employer subject to the requirements under chapter 42.56 RCW shall provide a copy of personnel file(s) when requested by the employee, former employee, or their designee in accordance with the procedures and requirements set forth in chapter 42.56 RCW. This subsection (4) does not limit or modify disclosure requirements under chapter 42.56 RCW.

(5)(a) An employee annually may petition that the employer under subsection (3) or (4) of this section review all information in the employee's personnel file(s) that are regularly maintained by the employer as a part of the employer's business records or are subject to reference for information given to persons outside of the company. The employer shall determine if there is any irrelevant or erroneous information in the file(s), and shall remove all such information from the file(s). If an employee does not agree with the employer's determination, the employee may at the employee's request have placed in

the employee's personnel file a statement containing the employee's rebuttal or correction. Nothing in this subsection prevents the employer from removing information more frequently.

(b) A former employee shall retain the right of rebuttal or correction for a period not to exceed two years.

(6) "Former employee" means a person who separated from the employer within three years of the date of the person's request.

((~~(6)~~)) (7) An employee or former employee may seek private cause of action ((~~for each violation for failure to provide the complete personnel file(s), provided that a violation has occurred and the employee or former employee has given notice of intent to sue~~)) under RCW 49.12.261.