

WSR 21-13-140
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 22, 2021, 11:02 a.m.]

Subject of Possible Rule Making: Trenching rescue and excavation plan, WAC 296-155-012 Definitions applicable to all sections of this chapter, 296-155-035 General requirements, 296-155-655 General protection requirements, and 296-155-657 Requirements for protective systems.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Employers are currently required to "ensure prompt and safe removal of injured employees from elevated work locations, trenches and excavations prior to commencement of work" under WAC 296-155-035(9) but the conclusions of fatality investigations in recent years suggest that a better approach to risk analysis and rescue planning could serve to greatly reduce the likelihood of similar fatalities in the future. Accordingly, the division of occupational safety and health (DOSH) is considering amending WAC 296-155-655 General protection requirements, under chapter 296-155 WAC, Safety standards for construction work, Part N excavation, trenching, and shoring, to require employers to develop and implement a written excavation plan detailing appropriate risk analysis and rescue planning prior to beginning any work that requires a protective system (generally defined as any excavation four feet or deeper that is not in stable, solid rock).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: In order to maintain state plan status, DOSH rules must be "as-effective-as" federal Occupational Safety and Health Administration (OSHA) regulations. Any changes will be submitted to OSHA for approval upon adoption.

Process for Developing New Rule: Stakeholder meetings will be held to allow those affected by the rule to provide input prior to the rule proposal being filed. Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by providing written comments on any proposed amendments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kevin Walder, Department of Labor and Industries, DOSH, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-6681, fax 360-902-5619, email kevin.walder@Lni.wa.gov, website <https://Lni.wa.gov/rulemaking-activity>; or Chris Miller, phone 360-902-5516, fax 360-902-5619, email chris.miller@Lni.wa.gov.

June 22, 2021
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