



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: February 06, 2024

TIME: 9:49 AM

WSR 24-04-090

Agency: Department of Labor & Industries (L&I)

Title of rule and other identifying information: (describe subject) Chapter 296-880 WAC, Unified safety standards for fall protection. Rule sections regarding warning lines and leading edge.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In May 2023, the Division of Occupational Safety and Health (DOSH) received notification from the Federal Occupational Safety and Health Administration (OSHA) relating to DOSH's fall protection standard. The notification advised L&I of needed amendments to the fall protection rule in chapter 296-880 WAC in order to be at least as effective as those administered by OSHA. This rulemaking will consider changes to sections of the current fall protection rule that address leading edge work, safety monitor system requirements and roofing activity on low pitched roofs to make them at least as effective as OSHA, as required by the Washington State Plan.

AMENDED SECTIONS

- **WAC 296-880-095 Definitions.**
 - Under fall restraint system removed “/prevent”, added “or” to clarify personal fall restraint systems and removed “warning line systems, or a warning line system and safety monitor.
 - Under safety monitoring system removed “restraint”, “including the leading edge” and “or other walking working surface”.
- **WAC 296-880-30005 Construction work.**
 - Added exemption stating “A safety monitoring system may be used when engaged in roofing work on a low pitched roof” for further clarification as to when this system is appropriate.
- **WAC 296-880-40040 Warning line system requirements.**
 - Removed “are not used, the employer must implement a safety monitor system as described in WAC 296-880-40045” and “who are working between the forward edge of the warning line and the leading edge” as this is no longer allowable under WAC 296-880-40045.
- **WAC 296-880-40045 Safety monitor system requirements.**
 - Removed “or leading edge work on low pitched surfaces”.

Reasons supporting proposal: The proposed rulemaking is needed in order to be at least as effective as OSHA under the Washington State Plan and to provide additional worker protections.

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050 and 49.17.060.

Statute being implemented: Chapter 49.17 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Name of proponent: (person or organization) Department of Labor & Industries (L&I)		<input type="checkbox"/> Private	
		<input type="checkbox"/> Public	
		<input checked="" type="checkbox"/> Governmental	
Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Tracy West	Tumwater, WA	509-237-2372
Implementation:	Craig Blackwood	Tumwater, WA	360-902-5828
Enforcement:	Craig Blackwood	Tumwater, WA	360-902-5828
Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:			
Expedited Adoption - Which of the following criteria was used by the agency to file this notice:			
<input type="checkbox"/> Relates only to internal governmental operations that are not subject to violation by a person;			
<input checked="" type="checkbox"/> Adopts or incorporates 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;			
<input type="checkbox"/> Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;			
<input type="checkbox"/> Content is explicitly and specifically dictated by statute;			
<input type="checkbox"/> Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or			
<input checked="" type="checkbox"/> Is being amended after a review under RCW 34.05.328.			
Expedited Repeal - Which of the following criteria was used by the agency to file notice:			
<input type="checkbox"/> The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;			
<input type="checkbox"/> The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;			
<input type="checkbox"/> The rule is no longer necessary because of changed circumstances; or			
<input type="checkbox"/> Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.			
Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): This rulemaking is limited to implementing federal law.			
NOTICE			
THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO			
Name: Carmyn Shute, Administrative Regulations Analyst			
Agency: Department of Labor & Industries Division of Occupational Safety and Health			
Address: PO Box 44620 Olympia, WA 98504-4620			
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Other:			
AND RECEIVED BY (date) 5:00 p.m. on April 8, 2024			

Date: February 6, 2024

Signature:

Name: Joel Sacks

A handwritten signature in black ink that reads "Joel Sacks". The signature is written in a cursive style with a large initial 'J' and 'S'.

Title: Director