



# RULE-MAKING ORDER

## CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Labor and Industries

- Permanent Rule
- Emergency Rule

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:**

After the department adopted rules protecting flaggers in construction sites in January 2001, WISHA received requests from stakeholders to review the rules regulating protection of construction workers on the construction sites. There have been 6 fatalities since 1999 that could have been prevented with rules that are more protective of construction workers. The rule is intended to reduce or eliminate the number of serious injuries and fatalities by increasing worker protection from vehicular traffic on construction sites. In May and September of 2004, the Department filed emergency rules to address the six preventable fatalities since 1999.

**Citation of existing rules affected by this order:**

Repealed: See Attachment B.  
Amended: See Attachment B.  
Suspended: None.

**Statutory authority for adoption:** RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060

**Other authority:** None.

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 04-14-083 on July 6, 2004.

Describe any changes other than editing from proposed to adopted version: See Attachment A

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:** December 1, 2004

**NAME (TYPE OR PRINT)**  
Paul Trause

**SIGNATURE**

**TITLE**  
Director

**CODE REVISER USE ONLY**

WSR#04-24-089

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in the agency's own initiative:**

	New	<u>0</u>	Amended	<u>7</u>	Repealed	<u>0</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>0</u>	Amended	<u>7</u>	Repealed	<u>0</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>7</u>	Repealed	<u>0</u>

**Describe any changes other than editing from proposed to adopted version:****CHANGES TO THE RULES** (Proposed rule versus adopted rule):**Chapter 296-155 WAC, Safety Standards for Construction Work****WAC 296-155-200, General requirements for personal protective equipment (PPE)**

- Removed the PPE tables in this section to provide consistency with the presentation of these requirements in WAC 296-155-305, Signaling and Flaggers.
- Reformatted the PPE requirements and information from the removed tables into subsection (5), High visibility garments.
- Moved the definition of “Hours of darkness” to WAC 296-155-200(5)(a).

**WAC 296-155-300, Accident prevention signs and tags**

- This section was repealed on August 31, 2004 with rulemaking on chapter 296-24 WAC, Safety Standards for General Safety and Health.

**WAC 296-155-305, Signaling and flaggers**

- Clarified the definition of “MUTCD” to state, “For purposes of this chapter, MUTCD means the Federal Highway Administration’s Manual on Uniform Traffic Control as currently modified and adopted by the Washington State Department of Transportation.”
- Updated references to the MUTCD throughout the section allowing the definition at the beginning of the section to apply to all other references.
- Added an additional link to the MUTCD page of the Department of Transportation’s website.
- Removed the example, “Use a motion detector with an audible warning” from the note in subsection (4), Adequate warning of approaching vehicles.
- Updated the title of Table 1 to read, “Advanced Warning Sign Spacing.”
- Reformatted the exemption in subsection (8), Advance warning signs. This clarifies that the statement “If terrain does not allow a motorist to see the flagger...” applies to the exemption for mobile operations.
- Updated the language in the exemption in subsection (8), Advance warning signs, to read, “If terrain does not allow a motorist to see the flagger from the ‘flagger ahead’ sign, the distance between the flagger and the sign must be shortened to allow visual contact, but in no case can the distance be less than the distance specified in Table 1, Advance Warning Sign Spacing.”
- Updated the title of Table 2 to read, “Distance of Flagger Station in Advance of the Work Space.”
- Added a note to Table 2 in subsection (9), Providing a safe job site for flaggers, to read, “This spacing may be reduced to fit roadway and worksite conditions. Distances greater than those listed in the table are acceptable.”

**WAC 296-155-310, Barricades**

- Updated references to the MUTCD throughout the section allowing the definition in WAC 296-155-305 to apply to all references.

**WAC 296-155-610, Motor vehicles on construction sites**

- The illustration in subsection (f), Operating dump trucks in reverse, was updated. The distance directly to the rear of a backing dump truck requiring an observer was rounded down from 35.9 feet to 35 feet.

**WAC 296-155-655, General protection requirements**

- Clarified the intent of the requirement by deleting the word “public” in subsection (4), Exposure to vehicular traffic. This provides consistency with the requirements in WAC 296-155-200, General requirements for personal protective equipment (PPE).

**AMENDED SECTIONS:**

**WAC 296-155-165, Lighting and illumination**

**WAC 296-155-200, General requirements for personal protective equipment**

**WAC 296-155-305, Signaling and flaggers**

**WAC 296-155-310, Barricades**

**WAC 296-155-610, Motor Vehicles**

**WAC 296-155-615, Material handling equipment**

**WAC 296-155-655, General protection requirements**