



RULE-MAKING ORDER

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

Agency: Department of Labor and Industries

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) November 1, 2009 (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: See Attachment 1.

Citation of existing rules affected by this order:

Repealed: 0
 Amended: 5
 Suspended: 0

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 09-09-115 on April 21, 2009.
 Describe any changes other than editing from proposed to adopted version: None.

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

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted:

August 4, 2009

NAME

Judy Schurke

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: August 04, 2009

TIME: 12:29 PM

WSR 09-16-108

(COMPLETE REVERSE SIDE)

**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:

Federal statute:	New	<u>0</u>	Amended	<u>5</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>5</u>	Repealed	<u>0</u>
Recently enacted state statutes:	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	Repealed	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	Repealed	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>0</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	Repealed	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>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

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	Repealed	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	Repealed	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	Repealed	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

Purpose:

The Federal Occupational Safety and Health Administration (OSHA) advised the department of a few areas in the lockout/tagout standard where we are not as effective as the federal rule. The proposed changes will make Washington State's rule as effective as the Federal equivalent. These changes are outlined below.

WAC 296-803-30005, Make sure new or modified machines and equipment can accept lockout devices.

OSHA Determination

“OSHA’s standard requires that when a machine or equipment undergoes major repair, renovation or modification after January 2, 1990, energy isolating devices must be designed to accept a lockout device. An effective date was not included in the State standard. An effective date is necessary to enable compliance officers to determine which machines and equipment are required to be so designed.”

Division of Occupational Safety and Health (DOSH) Response

Language in this section will be updated to include the January 2, 1990 effective date.

WAC 296-803-40005, Provide appropriate means to control energy.

OSHA Determination

“WAC 296-803-40005 includes “Blind Flanges” as an example of means to control energy. In order to be consistent with OSHA and other WISHA standards, the term ‘Blind Flanges’ should be changed to ‘blank flanges and bolted slip blinds.’”

Division of Occupational Safety and Health (DOSH) Response

The term “blind flanges” will be changed to “blank flanges.”

WAC 296-803-50010, Meet these requirements when applying lockout or tagout devices.

OSHA Determination

“Paragraph 1910.147(d)(2) requires orderly shutdown of machines or equipment to avoid any additional or increased hazard(s) to employees as a result of the machine or equipment stoppage. The requirement is consistent with Section 5.3.2.3 of ANSI/ASME Z244.1-2003 which requires the employer to follow a sequence of shutdown to ensure employee safety. The term ‘orderly shutdown’ was changed to ‘established procedures’ in the state standard without providing a rationale.”

Division of Occupational Safety and Health (DOSH) Response

Language will be added in this section to clarify that an orderly shutdown is necessary.

WAC 296-803-60015, Retrain employees when necessary.

OSHA Determination

“Paragraph 1910.147(c)(6)(i) requires the employer to conduct a *periodic inspection* of the energy control procedures. WAC 296-803-70005 requires the employer to perform and document *periodic reviews* to verify employees know and follow the energy control procedures. However, on page 11 of the comparison document, WAC 296-803-60015 requires retraining of employees when *periodic inspection* shows the employee deviates from, or has inadequate knowledge of, the energy control procedures. The state standard should be consistent when using the terms ‘*periodic review*’ or ‘*periodic inspection*.’”

Division of Occupational Safety and Health (DOSH) Response

The term “inspection” will be changed to “review.”

WAC 296-803-800, Definitions.

Energy-isolating device.

OSHA Determination

“OSHA’s definition of “Energy Isolating Device” includes the statement that push buttons, selector switches and other control circuit type devices are not energy isolating devices. This information is consistent with the American National Standard Institute (ANSI) Z244.1-2003 Annex B (1). The aforementioned information, which is necessary to clarify the intent of the standard, was not included in the state’s definitions.”

Division of Occupational Safety and Health (DOSH) Response

Language will be added to this section to clarify that that push buttons, selector switched and other control circuit type devices are not energy isolating devices.

Service and maintenance.

OSHA Determination

“OSHA’s definition of ‘service and/or maintenance’ includes ‘inspecting’ as a covered activity. The state’s definition of the term ‘service and/or maintenance’ does not.”

Division of Occupational Safety and Health (DOSH) Response

The term “inspecting” will be included in this definition.

CR 103 RULE-MAKING ORDER (RCW 34.05.360)

Department of Labor and Industries
Division of Occupational Safety and Health
CR-103 Filing Date: August 4, 2009
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Attachment 2
(Citation of Rules)

Citation of existing rules affected by this order:

AMENDED SECTIONS:

WAC 296-803-30005, Make sure new or modified machines and equipment can accept lockout devices.
WAC 296-803-40004, Provide appropriate means to control energy.
WAC 296-803-50010, Meet these requirements when applying lockout or tagout devices.
WAC 296-803-60015, Retrain employees when necessary.
WAC 296-803-800, Definitions.

REPEALED SECTIONS:

None.