



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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FILED

DATE: April 20, 2021

TIME: 8:23 AM

WSR 21-09-067

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) June 1, 2021 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

- Yes
 - No
- If Yes, explain:

Purpose: The Division of Occupational Safety and Health (DOSH) updated the requirements in chapter 296-155 WAC, Safety Standards for Construction Work, Part S, Demolition. This rulemaking removed confusing and unnecessary language, added clarification where necessary throughout the rule to improve the safety of employees working in the demolition industry, as well as improve public safety. Other updates and housekeeping changes were made throughout this chapter where needed.

Following an investigation of demolition violations related to the Highway 410 overpass collapse and a subsequent review of the citation history for the demolition requirements under chapter 296-155 WAC, Part S, L&I determined that rule changes were needed to ensure that demolition plans were developed and implemented.

The current rule requires an engineering survey to be conducted prior to starting demolition to determine structural integrity and the possibility of unplanned collapse of any portion of the structure. However, the current rule does not require that a demolition plan be developed based upon engineering survey.

The department determined that rule changes were needed to ensure demolition plans were developed based upon the engineering survey and the demolition plan must incorporate conditions of the framing, floors, and walls, and potential of unplanned collapse and any portion of the structure(s).

Hazards such as unplanned collapses and flying or dropping debris, can injure both workers and the public. These hazards can be mitigated with an engineering survey and a demolition plan.

The adopted language requires that prior to permitting employees to start demolition operations, a competent person must make an engineering survey of the structure to determine the structural integrity and the possibility of unplanned collapse of any portion of the structure; and, must similarly check adjacent structures where employees may be exposed.

The adopted language requires employers to develop and implement a written demolition plan tailored to the operation and to the types of hazards involved, which must be kept on the jobsite.

In addition, on June 2, 2020, the Department of Labor & Industries (L&I) adopted new fall protection standards. L&I updated its fall protection rules after receiving notification from the Federal Occupational Safety and Health Administration (OSHA) advising L&I to update the requirements in chapter 296-155 WAC, Safety standards for construction work, Part C-1 Fall Protection Requirements for Construction in order for them to be at least as effective as those administered by OSHA. As such, the adopted changes in chapter 296-155 WAC, Safety standards for construction work, Part S, Demolition, were made to align with the fall protection standards in chapter 296-880 WAC, Unified safety standards for fall protection.

New Section

WAC 296-155-774 Definitions and Applicability

Specifically, the adopted rule:

- Included a scope of the rule.

- Added the following new definitions to this subpart: Competent Person and Demolition. Definition of “competent person” duplicated from chapter 296-155 WAC, Safety standards for construction work, Part A, so employers/workers can more easily locate.
- Added the following references related to the use of equipment: Ladder Use requirements found in chapter 296-876 WAC; Scaffolds Use found in chapter 296-874 WAC; Crane and Derricks Use found in chapter 296-155 WAC, Part L; Elevated Work Platforms found in chapter 296-869 WAC; and use of Hoists found in chapter 296-155 WAC, Part R.

Amended Sections

WAC 296-155-775 Preparatory operations

- Renumbered subsection (1) to become subsection (1)(a) and added clarifying language. Adopted language clarifies that the determination of structural integrity includes the condition and structural integrity of framing, floors, and walls under subsection (1)(a). This language is also consistent with OSHA’s requirement under 29 CFR 1926.850(a).
- Renumbered subsection (2) to become subsection (1)(b) and added clarifying language that a copy of engineering survey is to be kept on the job site for the duration of the demolition operation.
- Renumbered subsection (3) to become (2)(a) and requires the development and implementation of a written demolition plan to incorporate conditions identified in the engineering survey.
- Renumbered subsection (3)(b) to become (2)(b) and requires that the written demolition plan be available on site for inspection. Deleted some content in previous subsection (3), and renumbered the following items.
- Renumbered subsection (4) to become subsection (3) and changes made for clarity.
- Renumbered subsection (5) to become subsection (4) and clarified the language.
- Renumbered subsection (6) to become subsection (5).
- Renumbered subsection (7) to become subsection (6).
- Renumbered subsection (8) to become subsection (7).
- Renumbered subsection (9) to become subsection (8). In addition, subsection (8) divided into three new subsections (a), (b), and (c) to provide clarification.
- Subsection (8)(a) added reference to adjacent structures. The adopted language in WAC 296-155-775(8)(a) clarifies rule language by adding language that adjacent structures that could be affected by the demolition operations must be checked and are included in the scope of the demolition activities. This is not an increase in requirement but clarifies the requirements under the current rules with what is required in an engineering survey and considered part of the “demolition worksite.”
- Subsection (8)(b) clarified testing must be performed and hazards eliminated before demolition is started.
- Subsection (8)(c) added reference to other federal, state, or local regulations, laws, or rules.
- Updated title of subsection (9) to address removal of material that may cause dust to be formed.
- Added subsection (9)(a) to address the removal of material exposing employees to airborne hazards by following requirements in chapter 296-841 WAC, Airborne Contaminants.
- Added subsection (9)(b) to address the removal of material exposing employees to respirable crystalline silica by following requirements in chapter 296-840 WAC, Respirable Crystalline Silica.
- Added language to subsection (10) to state hazards must be removed prior to starting demolition activities.
- Updated language in subsection (11) whereby workers will be protected by the use of a guardrail system, safety net system, personal fall arrest system, or personal fall restraint system. Added language to clarify that a wall opening can include those with chutes attached. Added language to clarify when a hazard exists from wall openings. The adopted language in WAC 296-155-775(11) adds language to clarify when a hazard exists from wall openings by aligning with existing requirements when wall openings must be guarded. Changes are to align with and be as effective as OSHA requirements. The adopted language will align with the guarding requirements for openings in the Unified Fall Protection standard under WAC 296-880-20005(4), previously under chapter 296-155 WAC, Safety standards for construction work, Part C-1, Fall protection requirements for construction, in WAC 296-155-24609. The adopted language adds additional options for fall protection other than guardrails. These are additional options that an employer can choose to use as an alternative to the requirement for guardrails. As these are options available to the employer, there is no cost for compliance. It is expected that employers will choose to use when it is a more feasible option.
- Added title in subsection (13) “Cover requirement-holes.”
- Updated language in subsection (13)(a) regarding load weight for hole covers. The adopted language in WAC 296-155-775(13)(a) adds language to clarify the strength requirements for hole covers to be consistent with the requirements under OSHA’s construction fall protection rule under 29 CFR 1926.502(i)(2), and OSHA’s 29 CFR 1910.29(e)(1) General Industry Standard; and under DOSH’s Unified Safety Standards for Fall Protection. The requirement to cover holes is addressed in WAC 296-880-20005(3). Cover specifications (strength) are addressed in WAC 296-880-40015.
- Added subsection (13)(b) to address signage to increase hazard warnings: “You must mark each cover with the word “hole” or “cover” to provide warning of the hazard.” The current demolition rule does not include requirements for the marking of hole covers which is inconsistent with OSHA 29 CFR 1926.502(i)(2) and DOSH’s Unified Fall Protection rule under WAC 296-880-40015(3). The adopted language aligns with OSHA and DOSH fall protection standards.

- Updated language in subsection (13)(c) regarding covers to read: “You must secure all covers to prevent accidental displacement by wind, equipment, or employees.” The adopted language in WAC 296-155-775(13)(c) clarifies to the requirements to secure hole covers to prevent accidental displacement by wind, equipment, or employees. The adopted language aligns with the securing of hole covers under OSHA fall protection rule under 29 CFR 1926.502(i)(3) and DOSH’s Unified Fall Protection rule under WAC 296-880-40015(2).
- Deleted the term “completely” from subsection (16). The word “completely” is not defined in the standard, and is not necessary for implementation of the subsection. Completely is implied in the need to protect employees.
- Updated language in subsection (17) for clarity to read: “You must withdraw, drive in, or bend over nails protruding from boards, planks or timber as soon as the same is removed from the structure being demolished.” Adopted changes clarify the rule language using plain talk standards to make the rule more understandable.
- Deleted subsection (18) as addressed under new language under WAC 296-155-775(9).

WAC 296-155-780 Stairs, passageways, and ladders

- Replaced the word “covered” with “cover” for clarity.

WAC 296-155-785 Chutes

- Added language to update subsection (1) to be in accordance with WAC 296-155-775(12).
- Deleted the word “substantial” from subsection (3), as it is not defined in chapter 296-155 WAC, Safety standards for construction work. Adopted changes clarify the rule language using plain talk standards to make the rule more understandable.
- Updated language in subsection (5) to delete the word “substantial” and replace with the word “standard.” The adopted language in WAC 296-155-785, Chutes, is updated to align with OSHA in order to be as effective as OSHA requirements. Currently, WAC 296-155-785 requires a “substantial guardrail between 36 and 42 inches above the floor or other surface” is less effective than OSHA. While OSHA’s demolition rule requires guarding to a height of 42 inches, OSHA’s fall protection rule under 29 CFR 1926.502(b)(1) requires a top guard rails of 42 inches plus or minus 3 inches above the walking/working level (a minimum of 39 inches and a maximum of 45 inches). As such, requiring the height to be at least 39 inches is as effective as OSHA. This change also aligns with the guardrail height requirements under DOSH’s Unified Fall Protection Rule in WAC 296-880-40005(1).

WAC 296-155-790 Removal of materials through floor openings

- Deleted the word “safely,” as it is not defined in chapter 296-155 WAC, Safety standards for construction work. Adopted change is to clarify rule language using plain talk standards to make the rule more understandable. The term “safely” is implied.

WAC 296-155-795 Removal of walls, masonry sections, and chimneys

- Updated subsection (9) for clarity and deleted the word “safely,” as it is not defined in chapter 296-155 WAC, Safety standards for construction work. Adopted change is to clarify rule language using plain talk standards to make the rule more understandable. The term “safely” is implied.

WAC 296-155-810 Catch Platforms

- Updated language in subsection (4) to state “Catch platforms must meet the strength requirements of supported scaffolds in chapter 296-874 WAC.” The adopted language in WAC 296-155-810, Catch Platforms, to “meet the strength and stability requirements of supported scaffolds in chapter 296-874 WAC” is based upon OSHA “Not At Least as Effective As” determination letter to DOSH regarding catch platforms. OSHA considers catch platforms to be scaffolds and as such have to meet the strength and stability requirements of scaffolds.

Citation of rules affected by this order:

New: WAC 296-155-774

Repealed:

Amended: WAC 296-155-775, 296-155-780, 296-155-785, 296-155-790, 296-155-795, 296-155-810

Suspended:

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

Other authority: Chapter 49.17 RCW

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-04-133 on February 2, 2021. (date).

Describe any changes other than editing from proposed to adopted version: No changes were made to the language; it is being adopted as proposed.

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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 Other:

**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	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	5	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	<u>1</u>	Amended	<u>6</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: April 20, 2021

Name: Joel Sacks

Title: Director

Signature:

