



# PROPOSED RULE MAKING

**CR-102 (June 2024)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: January 06, 2026  
TIME: 8:29 AM

WSR 26-02-054

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

- Original Notice**
- Supplemental Notice to WSR**
- Continuance of WSR** \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 21-13-140 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) Trenching and Excavation Work Plan – Chapter 296-155 WAC, Safety standards for construction work.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
February 10, 2026	1:30 p.m.	Dept. of Labor & Industries 12806 Gateway Drive S Tukwila, WA 98168	A pre-hearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received.
February 11, 2026	1:30 p.m.	CenterPlace Event Center 2426 N Discovery Place Spokane Valley, WA 99216	A pre-hearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received.
February 12, 2026	1:30 p.m.	Virtual and telephonic hearing <b>To join electronically:</b> <a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGY0NTI3NDItY2IxZi00OTU2LTk5MjYtNTUzYjU4NGU2MmZm%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%226b7fa266-e3f1-4839-be3b-aca564a9e50e%22%7d">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGY0NTI3NDItY2IxZi00OTU2LTk5MjYtNTUzYjU4NGU2MmZm%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%226b7fa266-e3f1-4839-be3b-aca564a9e50e%22%7d</a> <b>To join by phone (audio only):</b> 253-372-2181 Meeting ID: 272 615 521 313 3 Passcode: Z7ez7dU2	A pre-hearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received.

**Date of intended adoption:** March 17, 2026 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name Carmyn Shute, Administrative Regulations Analyst  
 Address Department of Labor & Industries  
 Division of Occupational Safety and Health  
 PO Box 44620  
 Olympia, WA 98504-4620  
 Email [Carmyn.Shute@Lni.wa.gov](mailto:Carmyn.Shute@Lni.wa.gov)  
 Fax 360-902-5619  
 Other

**Assistance for persons with disabilities:**

Contact Carmyn Shute, Administrative Regulations Analyst  
 Phone 360-870-6081  
 Fax 360-902-5619  
 TTY  
 Email [Carmyn.Shute@Lni.wa.gov](mailto:Carmyn.Shute@Lni.wa.gov)

Beginning (date and time) January 7, 2026, 8:00 a.m.

Other

By (date and time) February 20, 2026, 5:00 p.m.

By (date) February 3, 2026

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Division of Occupational Safety and Health (DOSH) is proposing to amend 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 complete a written work plan detailing appropriate risk analysis and prior to beginning any work that requires a protective system. Definitions applicable to the chapter were moved from WAC 296-155-650 to a new section, WAC 296-155-652.

Despite the existing requirement for employers to “ensure prompt and safe removal of injured employees from elevated work locations, trenches and excavations prior to commencement of work”, inspection data revealed multiple fatalities and numerous injuries related to excavation and trenching work in Washington. The conclusions of fatality investigations in recent years suggest that a better approach to risk analysis could serve greatly to reduce the likelihood of similar fatalities in the future.

Proposed amendments:

- Add “Work Plan” to definitions.
- Require a competent person to remain onsite any time trenching and excavation work is being performed.
- Require completion of a written work plan (provided on the L&I website) for any trench excavation that requires a protective system under WAC 296-154-657(1)(a). Employers may also create their own work plan that meets the criteria outlined in the rule.
- Address recordkeeping and training requirements of the work plan.

**Reasons supporting proposal:** The proposed rulemaking will provide increased safety awareness and protections for workers in the trenching and excavation industry.

**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?  Yes  No
- Federal Court Decision?  Yes  No
- State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None.

**Name of proponent:** (person or organization) Dept. of Labor and Industries (L&I)

**Type of proponent:**  Private.  Public.  Governmental.

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting	Thomas West	Tumwater, WA	509-237-2372
Implementation	Craig Blackwood	Tumwater, WA	360-902-5828
Enforcement	Craig Blackwood	Tumwater, WA	360-902-5828

**Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

**Is a cost-benefit analysis required under [RCW 34.05.328](#)?**

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:
  - Name Carmyn Shute, Administrative Regulations Analyst
  - Address Department of Labor & Industries

Division of Occupational Safety and Health  
 PO Box 44620  
 Olympia, WA 98504-4620  
 Phone 360-870-4525  
 Fax 360-902-5619  
 TTY  
 Email [Carmyn.Shute@Lni.wa.gov](mailto:Carmyn.Shute@Lni.wa.gov)  
 Other

No: Please explain:

**Regulatory Fairness Act and Small Business Economic Impact Statement**

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

- |   |   |
|---|---|
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations)         | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)             | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)   |
| <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of how the above exemption(s) applies to the proposed rule: see explanation in Section 2 below.

**(2) Scope of exemptions: Check one.**

The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.

The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

	Proposed WAC Sections and Title	This proposed rule section is <u>not exempt</u> . Analysis is required	This proposed rule section <u>is exempt</u> . Provide RCW to support this exemption.
1	WAC 296-155-650 Scope, and application, and definitions applicable to of this part.	<input type="checkbox"/>	RCW 34.05.310(4)(d); the proposed language is fully exempt, changes in this section are housekeeping or interpretive that clarifying without changing the intent of the rule and establish a definition that does not subject a person to a violation or penalty.
2	WAC 296-155-652 Definitions applicable to this part.	<input type="checkbox"/>	RCW 34.05.310(4)(d); the proposed language is fully exempt, changes in this section are housekeeping or interpretive that clarifying without changing the intent of the rule and establish a definition that does not subject a person to a violation or penalty.
3	WAC 296-155-655 General protection requirements.	<input checked="" type="checkbox"/>	

	Subsections (13)(a)through (c).		
4	WAC 296-155-655 General protection requirements. Subsection (13)(d).	<input type="checkbox"/>	RCW 34.05.310(4)(c); the proposed language in subsection (13)(d) of this section would adopt requirements for employees as required under 29 CFR 1926.21(b)(2).

The rule proposal: Is not exempt. (Complete section 3.) No exemptions were identified above.

**(3) Small business economic impact statement:** Complete this section if any portion is not exempt.


If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. The proposed rule reiterates the requirement for a competent person to be available on-site when trenching and excavation activities are taking place, and requires written documentation of analysis required under WAC 296-155-655 regarding protecting workers engaged in trenching and excavation activities. Employers are allowed to use a work plan developed by the department or may create their own work plan that meets the criteria outlined in the rule. There is minimal to no cost of compliance with the rule, and any cost of compliance would be administrative in nature.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

<b>Date:</b> January 6, 2026	<b>Signature:</b>  
<b>Name:</b> Joel Sacks	
<b>Title:</b> Director	