



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: August 20, 2024

TIME: 8:46 AM

WSR 24-17-125

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) October 1, 2024 (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 Department of Labor and Industries (L&I) is adopting permanent sections in rule to allow the voluntary use of personal protective equipment (PPE) when workers feel the need to protect themselves from noise, dust, or possible infectious or contagious diseases. The voluntary use of PPE must not introduce hazards to the work environment and any PPE, including facial coverings, must not interfere with an employer's security requirements.

The adopted sections in rule model RCW 49.17.485, Personal protective devices and equipment – Public health emergency, but is not limited to declared public health emergencies. In the event a public health emergency is declared, the adopted sections in rule would already be effective and no material change would be needed to comply with RCW 49.17.485.

The adopted rule establishes the following safety standards:

- Employers must allow workers to voluntarily use appropriate and safe personal protective equipment when it is not otherwise required for the job.
- The voluntary use of personal protective equipment must not introduce hazards to the work environment.
- The voluntary use of personal protective equipment should not interfere with an employer's security requirements.
- An employer may verify that voluntary use of personal protective equipment meets all regulatory requirements for workplace health and safety.
- Employers do not have to purchase, store, maintain, or otherwise provide protective equipment for voluntary use by employees.

Citation of rules affected by this order:

New: WAC 296-155-249, 296-307-10030, and 296-800-16080.

Repealed:

Amended:

Suspended:

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

Other authority: Chapter 49.17 RCW

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 24-06-069 on March 5, 2024 (date).

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

- Added face masks and filtering-piece respirators to list of PPE example and removed protective shields and barriers from the list of PPE examples to provide clarity of PPE options.
- Updated the references to the current respiratory protection requirements under the new section added to chapter 296-307 WAC.
- Updated the language regarding the voluntary use under this rule to the voluntary use of respirators other than considered filtering-facepiece respirators, such as elastomeric respirators, for clarity. The rule as adopted states that employers are not required to allow the voluntary use of respirators other than considered filtering-facepiece respirators, such as elastomeric respirators, under this rule and that the existing voluntary respiratory requirements under WAC 296-842-11005 and 296-842-11010/WAC 296-307-59805 and 296-307-59810 apply.

- Added a new subsection to clarify that the voluntary use of PPE under this rule does not apply to situations under existing PPE rules where an employer allows employee provided personal protective equipment to be used rather than the personal protective equipment the employer provides.

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	___	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>3</u>	Amended	___	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: August 20, 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