



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 13, 2020

TIME: 11:59 AM

WSR 20-11-025

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) May 18, 2020

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

- Yes
 - No
- If Yes, explain:

Purpose: Chapter 296-307 WAC, Temporary worker housing. The Department of Labor & Industries (L&I) in conjunction with the Department of Health (DOH) are responding to the coronavirus disease 2019 (COVID-19) pandemic by adopting a new section to protect occupants from COVID-19 hazards in licensed temporary worker housing. The emergency rule requires operators:

- Educate occupants in a language or languages understood by the occupants on COVID-19;
- Provide occupants cloth face coverings;
- Ensure physical distancing of occupants when at housing sites, which includes all cooking, eating, bathing, washing, recreational, and sleeping facilities;
- Ensure frequent cleaning and disinfecting of surfaces;
- Identify and isolate occupants with suspect and confirmed positive cases; and
- Submit to the Department of Health a revised temporary worker housing management plan that demonstrates how the operator will comply with the emergency rule requirements.

In addition, the emergency rule includes an option for group shelters. A group shelter is where a cohort of up to 15 occupants stay together and separated from others for housing, work, and transportation. All dwelling units, facilities, and services must be only used by the group shelter members. If the operator is not the employer, the operator must ensure the employer will follow the group shelter requirements. Under the group shelter option, both the top and bottom beds of bunk beds may be used where the beds are at least feet 6 apart and the bunk bed occupants sleep head to toe. The physical distancing requirements of the emergency rule otherwise prohibit the use of the top bunk of bunk beds.

Citation of rules affected by this order:

New: WAC 296-307-16102
 Repealed:
 Amended:
 Suspended:

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

Other authority:

EMERGENCY RULE

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: L&I and DOH are taking action to help prevent the spread of COVID-19 and respond to the Governor's Proclamation 20-25, Stay Home, Stay Healthy. Under Proclamation 20-25, agriculture is an essential business and must comply with the social/physical distancing and sanitation requirements of the DOH, L&I, and the Center for Disease Control. The temporary worker housing rules have specific requirements for the minimum distance between beds that is inconsistent with social/physical distancing requirements requiring emergency rules to, at a minimum, address these requirements. Two farmworker labor unions also petitioned L&I and DOH to adopt emergency rules for temporary worker housing to protect occupants from COVID-19. This emergency rule is necessary for the preservation of public health, safety, and general welfare of occupants of temporary worker housing. The Governor's Stay Home, Stay Healthy order is currently in

effect, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest and the Governor's order.

**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>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</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>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted on the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

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>
-----	----------	---------	----------	----------	----------

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>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>

Date Adopted: May 13, 2020

Name: Joel Sacks

Title: Director

Signature:

