



RULE-MAKING ORDER EMERGENCY RULE ONLY

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

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: December 07, 2021

TIME: 4:18 PM

WSR 22-01-047

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

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: L&I continues to respond to the 2021 passage of Substitute Senate Bill 5254 (SSB 5424) regarding voluntary use of personal protective equipment (PPE) during a state of emergency, and Engrossed Substitute Senate Bill 5115 (ESSB 5115), also known as the Health Emergency Labor Standards Act (HELISA). This rulemaking maintains new sections of WAC regarding public health emergency reporting and notification requirements for infectious and contagious diseases.

The emergency rule maintains requirements for when there is a public health emergency for an infectious or contagious disease and as such, the requirements are applicable to COVID-19.

Under the emergency rule:

- * Employers with more than fifty covered employees at a workplace or worksite are required to report infectious or contagious disease outbreaks to L&I;
- * Employees are not required to disclose any medical condition or diagnosis to their employer;
- * Employers, except for certain healthcare employers, are required to notify employees in writing of potential exposures within one business day;
- * Employees and contractors must be permitted to voluntarily use personal protective equipment.

A CR-101 Preproposal Statement of Inquiry was filed on May 13, 2021 and initiates the permanent rulemaking process. This emergency rule supersedes WSR 21-17-051 filed on August 10, 2021.

Citation of rules affected by this order:

- New: WAC 296-62-600, 60001, 60002, 60003, 60004, 60005, 601, 60101, 60102, 60103
- Repealed:
- Amended:
- Suspended:

Statutory authority for adoption: RCW 49.17.010, RCW 49.17.040, RCW 49.17.050 and RCW 49.17.60

Other authority: Chapter 146, Laws of 2021, Chapter 252, Laws of 2021

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: SSB 5254 became effective April 26, 2021 and ESSB 5115 became effective on May 11, 2021 requiring L&I to take action to implement both bills. On February 29, 2021, Governor Inslee proclaimed a statewide state of emergency to respond to the continuing spread of COVID-19 which resulted in a global pandemic, Proclamation 20-05. Subsequent proclamations have been issued related to the pandemic response, including those with restrictions on business activities under Proclamation 20-25, et. Seq., initially entitled "Stay Home, Stay Healthy" and the most recent amendment titled "Washington Ready" under Proclamation 20-25.14. Washington state is still in the midst of a public health state of emergency battling the COVID-19 pandemic. These emergency rules are necessary to further respond to and diminish the spread of COVID-19, alert public officials to workers exposure to COVID-19 to allow for adequate responses to outbreaks, and to reduce the number of outbreaks, keeping Washington workers safe.

**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>10</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 on 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>10</u>	Amended	<u>0</u>	Repealed	<u>0</u>

Date Adopted: December 7, 2021

Name: Joel Sacks

Title: Director

Signature:

