



# PROPOSED RULE MAKING

**CR-102 (July 2022)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: January 23, 2024  
TIME: 3:22 PM

WSR 24-03-149

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

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

**Preproposal Statement of Inquiry was filed as WSR 23-06-068 ; 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) Safety standards for firefighters. WAC 296-305-03002, Hazardous materials; WAC 305-04001, Respiratory equipment protection.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
February 28, 2024	10:00 a.m.	Virtual hearing via Zoom <b>To join electronically:</b> <a href="https://lni-wa.gov.zoom.us/j/86198428444?pwd=MVkyVzE0UjVJTHZueVNBTVovdz09">https://lni-wa.gov.zoom.us/j/86198428444?pwd=MVkyVzE0UjVJTHZueVNBTVovdz09</a> Password (if prompted): Fire@930  <b>To join by phone (audio only):</b> 253-205-0468 or 253-215-8782 Meeting ID: 861 9842 8444 Password: 47522467	A pre-hearing overview will occur 30 minutes prior to the start of the hearing at 9:30 a.m. The hearing will begin at the indicated time and will continue until all oral comments are received.

**Date of intended adoption:** April 16, 2024 (Note: This is **NOT** the effective date)

Submit written comments to:	Assistance for persons with disabilities:
Name: Tari Enos Address: Department of Labor & Industries Division of Occupational Safety & Health PO Box 44620 Olympia, WA 98504-4620 Email: Tari.Enos@Lni.wa.gov Fax: 360-902-5619 Other: By (date) <u>March 6, 2024</u>	Contact <u>Tari Enos</u> Phone: 360-902-5541  Fax: 360-902-5619 TTY: Email: Tari.Enos@Lni.wa.gov Other: By (date) <u>February 14, 2024</u>

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** L&I received a petition requesting L&I engage in rulemaking to update the language in WAC 296-305-03002, Hazardous materials. There have been many technological advances in the years since this WAC code was written, including in personal protective equipment (PPE) materials, certification and testing. The proposed rule updates the required standards for hazardous materials protective equipment. The current rule requires compliance with the following National Fire Protection Association (NFPA) standards for hazard material protective equipment: NFPA 1991 (2000 edition), NFPA 1992 (2000 edition) and NFPA 1994 (2001 edition). The proposed rule updates the requirements to the NFPA 1990 (2022 edition), which is a consolidation of the currently referenced NFPA standards and the current edition. As requested in the petition, the proposed rule allows an exemption from the requirement that protective ensembles and liquid splash-protective ensembles completely cover the

wearer's respiratory protection when respiratory protection meets the National Institute for Occupational Safety and Health (NIOSH) chemical, biological, radiological, and nuclear (CBRN) self-contained breathing apparatus (SCBA) testing.

WAC 296-305-04001, Respiratory equipment protection, which has guidance for breathing air quality for firefighters will also be updated. The reference to ANSI/CGA G6-1, Commodity Specification for Air, needs to be updated to fix a typo in the standard number.

**Reasons supporting proposal:** The reason supporting this proposal is enhancing the safety of responders.

By updating the language in WAC 296-305-03002, this will improve the speed of action by the responders. Technological advancements in protective ensembles have increased the dexterity as well as the overall protectiveness of these ensembles, which allows Fire Fighters and Departments to better protect workers based on the associated hazards of the given emergency response. The changes enhance safety and align with current version of the consolidated NFPA standard for hazardous materials protective equipment.

**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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** N/A

**Type of proponent:**  Private  Public  Governmental

**Name of proponent:** (person or organization) Department of Labor & Industries

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Tracy 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:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain: The rulemaking is exempt from a cost-benefit analysis per RCW 34.05.328(5)(b)(iii) and (iv). This rulemaking proposes to adopt a national consensus standard which provides clarity and updated options for selection of PPE when engaged in activities under the rule, and to adopt a housekeeping update to correct a reference in the rule.

**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 checked="" 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:

**(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](#)):
- 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.
- 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:

**Date:** January 23, 2024

**Name:** Joel Sacks

**Title:** Director

**Signature:**

A handwritten signature in black ink that reads "Joel Sacks". The signature is written in a cursive, slightly slanted style.