



RULE-MAKING ORDER

PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 20, 2025

TIME: 10:08 AM

WSR 25-11-072

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

Effective date of rule:

Permanent Rules

- ☐ 31 days after filing.
- ☒ Other (specify) July 1, 2025 (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: L&I initiated this rulemaking to align WAC 296-155-140 in chapter 296-155 WAC, Safety Standards for Construction Work, with the requirements of Engrossed House Bill (EHB) 2266 (Chapter 258, Laws of 2024), codified under RCW 49.17.530, which became effective June 6, 2024.

RCW 49.17.530 requires employers in the construction industry to provide workers performing construction activities and who menstruate or express milk the following:

Access to an adequate portable toilet or restrooms, accessible on the worksite, or access to a permanent structure with a restroom/bathroom. Requirements include:

- Minimum size bathroom-equivalent to a standard sized portable chemical toilet;
- Internal latch (lock) to prevent inadvertent entry; and
- Adequate time to accommodate for multiple layers of clothing while using the bathroom.

Adequate and convenient supply of menstrual hygiene products at no cost to employees:

- Products must be located in all gender-neutral bathrooms and bathrooms designated for workers who menstruate, or
- Provided in kits for each worker who needs such product.

Reasonable accommodations to express milk after the child's birth each time such employee has need to express to include:

- Flexible scheduling, including breaks;
- Private dedicated space, other than a bathroom, lockable (if possible) and free from intrusion;
- Convenient hygienic refrigeration on the worksite for the storage of milk;
- Convenient water source in a private location near the location where milk is expressed for the worker to clean and wash hands and milk expression equipment; and
- RCW 49.17.530 requires L&I's rules identify minimum reasonable accommodations for expressing milk that include alternatives for worksites of varying numbers of employees.

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 296-155-140

Suspended:

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.17.530.

Other authority: Chapter 49.17 RCW

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 25-05-076 on February 18, 2025 (date).

Describe any changes other than editing from proposed to adopted version: None.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

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	<u>1</u>	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	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	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: May 20, 2025

Name: Joel Sacks

Title: Director

Signature:

