



# PROPOSED RULE MAKING

**CR-102 (June 2024)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: February 18, 2025  
TIME: 10:12 AM

WSR 25-05-076

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

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

**Preproposal Statement of Inquiry was filed as WSR** WSR 24-19-074 ; 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)  
Sanitary Conditions for Construction Workers. Chapter 296-155 Safety Standards for Construction Work, Part B-1, Occupational Health and Environmental Control.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
March 25, 2025	10:00 a.m.	<b>In-person Hearing:</b> Labor & Industries Tukwila Service Center 12806 Gateway Drive S Tukwila, WA 98168	A pre-hearing overview will begin at 9:30 a.m. The hearing will begin at 10:00 a.m. and continue until all oral comments are received.
March 27, 2025	10:00 a.m.	<b>Virtual and telephonic hearing</b> To join electronically: <a href="https://lni-wa.gov.zoom.us/j/81508197087?pwd=mxYMGbfWHcbIZO4LCmDOUrf31EILk4.1">https://lni-wa.gov.zoom.us/j/81508197087?pwd=mxYMGbfWHcbIZO4LCmDOUrf31EILk4.1</a>  To join by phone (audio only): 253-205-0468 or 253-215-8782 Meeting ID: 815 0819 7087 Passcode: 8490406613	A pre-hearing overview will begin at 9:30 a.m. The hearing will begin at 10:00 a.m. and continue until all oral comments are received.

**Date of intended adoption:** May 20, 2025 (Note: This is **NOT** the effective date)

<b>Submit written comments to:</b> Name Cathy Coates, Administrative Regulations Analyst Address Department of Labor & Industries Division of Occupational Safety and Health PO Box 44620 Olympia WA 98504-4620  Email <a href="mailto:Cathy.Coates@Lni.wa.gov">Cathy.Coates@Lni.wa.gov</a> Fax 360-902-5619 Other Beginning (date and time) February 19, 2025, 8:00 a.m. By (date and time) <u>April 3, 2025, 5:00 p.m.</u>	<b>Assistance for persons with disabilities:</b> Contact Cathy Coates, Administrative Regulations Analyst Phone 360-280-2003  Fax 360-902-5619 TTY Email <a href="mailto:Cathy.Coates@Lni.wa.gov">Cathy.Coates@Lni.wa.gov</a> Other By (date) <u>March 14, 2025, 5:00 p.m.</u>
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**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This rulemaking proposal will implement 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.

The proposed amendments implement the requirements set forth in RCW 49.17.530, which 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.
- 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.

**Reasons supporting proposal:** This rulemaking will implement the requirements of RCW 49.17.530, which became effective June 6, 2024. Administrative Code is needed for L&I to enforce the code.

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

**Statute being implemented:** RCW 49.17.530

**Is rule necessary because of a:**

- Federal Law?  Yes  No
- Federal Court Decision?  Yes  No
- State Court Decision?  Yes  No

If yes, CITATION:

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

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

**Type of proponent:**  Private.  Public.  Governmental.

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting	Thomas 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 rule is exempt from a cost-benefit analysis per RCW 34.05.328(5)(b)(iii) because the rulemaking is proposing to adopt without material change the requirements of RCW 49.17.530 and per RCW 34.05.328(5)(b)(iv) as this rulemaking proposes to clarify language without changing its effect.

**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: RCW 34.05.310(4)(c) as the rulemaking is proposing to adopt without material change the requirements of RCW 49.17.530 and per RCW 34.05.310(4)(d) as this rulemaking proposes to clarify language without changing its effect.

**(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:** February 18, 2025

**Name:** Joel Sacks

**Title:** Director

**Signature:**

