

**Stakeholder Meeting Summary-Virtual via Zoom**  
November 13, 2024

**Chapter 296-155 WAC**  
**Safety standards for construction work**  
**Part B-1, Occupational Health and Environmental Control**

**Department of Labor & Industries (L&I), Division of Occupational Safety and Health (DOSH) Standards and Technical Staff present:**

DOSH Occupational Safety and Health Specialist  
DOSH Technical Services Safety Program Manager  
DOSH Policy Stakeholder Engagement Advisor  
DOSH Administrative Regulations Analyst  
DOSH Management Analyst  
Acting Rulemaking Program Manager

**Attendees and organizations represented:**

City of Marysville  
Approach MS  
Foushee and Associates  
NWCCA  
District Council of Washington and North Idaho Laborers  
City of Tacoma  
Central Washington University  
Puget Sound Chapter, NECA  
Washington State Department of Natural Resources  
British Columbia Ministry of Energy, Mines and Low Carbon Innovation  
Lennar Corp.  
Olympic College and Finishing Trades Institute NW  
Washington State Department of Enterprise Services  
NWCascade Inc., dba Honey Bucket  
ABC of Western Washington\*  
ABC/SWCA  
Operating Engineers Local 612  
GIL's General Construction  
IMCO General Construction  
KC Automation  
Washington State University  
JRT Mechanical, Inc.  
Sound Transit  
Paragon Strategic Partners  
IBEW Local 191  
Pacific Bath  
Exxel Pacific

MJ Hughes Construction  
WRS Construction  
AGC of Washington  
Vertical Options LLC  
Whatcom County Public Works  
SMACNA Western Washington  
Inland Northwest AGC  
Shield of Armor Safety  
Operating Engineers Local Union, No. 3 and Board Member on Cal-OSHA Standards Board  
Washington State Attorney General's Office  
California Occupational Safety and Health Standards Board (OSHSB)  
GLY Construction  
PCI  
Washington State Department of Labor & Industries

Attendees represented a wide variety of interests; including private sector, government, agriculture and those in the longshore, stevedore and waterfront related operation industries.

**Summary:**

Meeting called to order at 10:00 a.m.

**Discussion:** DOSH staff welcomed attendees and provided a safety tip.

DOSH staff shared with attendees the purpose of this rulemaking is to align the standard with Engrossed House Bill (EHB) 2266 (Chapter 258, Laws of 2024), codified under RCW 49.17.530, which became effective June 6, 2024.

DOSH staff provided an overview of the legislation. EHB 2266 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 workers:
  - 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 worker 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.

EHB 2266 requires L&I's rules identify minimum reasonable accommodations for expressing milk that include alternatives for worksites of varying numbers of workers.

The law requires L&I to partner with relevant labor organizations and the Office of Minority and Women's Business Enterprises to develop educational materials, and perform outreach to educate employers regarding new employer responsibilities under the law.

DOSH staff provided an overview of the draft language.

**Questions and answer session:**

**Question/comment:** An attendee asked if the slides would be available.

**DOSH Response.** Yes, slides available on the Sanitation in Construction rulemaking webpage currently. In addition, link to the Sanitation in Construction rulemaking webpage shared with attendees via Zoom Chat.

**Question/comment:** An attendee asked if L&I planned to define construction industry.

**DOSH Response.** Good question. The standard defines construction in Part A. The standard also defines the scope. If an employer falls under the scope and definition, the rule applies.

**Question/comment:** An attendee asked if L&I plans to add the definition of "potable water."

**DOSH Response.** Good comment. We will take under consideration, thank you.

**Question/comment:** An attendee asked if the rule applied for construction companies with a division that falls under general industry.

**DOSH Response:** Review the scope and definition and provided an example. If a company had staff at an administrative office in Bellevue, and only administrative work performed, and, two construction sites performing construction in Seattle and Everett; the rule would not apply to the administrative site; however, would apply to the sites in Seattle and Everett.

**Question/comment:** An attendee stated the rule should clarify that construction means construction industry.

**DOSH Response:** Thank you, will take under consideration.

**Question/comment:** An attendee asked if a locker room could be used as the dedicated space for expressing milk if it has separate toilet stalls and a separate private space.

**DOSH Response:** Seems reasonable. Do not want the worker in a stall. If there was a separate area that is clean, sanitary, and private, would be reasonable.

**Question/comment:** In relation to the sanitary storage for breast milk, an attendee asked how blood-borne pathogen concerns would be remedied. Is it a requirement to have this storage space separate from anyone else's access? Does this fall under the employer's responsibility?

**DOSH Response:** Good comments and questions. We have guidance documents from the Centers for Disease Control (CDC) on the handling and storage of expressed milk, as well as temperature we plan to share. I believe those are things we would not necessarily have in the rule, however, would provide the information in guidance documents.

**Question/comment:** An attendee asked if attendees may request amendments to the proposed rules, and, how to submit.

**DOSH Response:** DOSH staff will share contact information as part of the presentation. In addition, contact information located on the rulemaking web page. Comments and suggestions welcome.

**Question/comment:** An attendee asked if the employer has full selection on what sanitary products to provide, e.g., brand, tampons versus pads etc. Must an employer provide based upon the requests of employees?

**DOSH Response:** The Employer decides what they want to provide. The rule does not require, however, an employer may want to collaborate with workers on what brand/type to provide.

**DOSH staff provided an overview of the following supplemental materials:**

- Reference Guide and Frequently Asked Questions, English and Spanish (L&I)
- House to Keep Your Breast Pump Kit Clean, English and Spanish (Centers for Disease Control and Prevention [CDC])
- Storage and Preparation of Breast Milk, English and Spanish (CDC)
- Outdoor Job Sites (U.S. Department of Health & Human Services, Office on Women's Health (OASH))

**Questions and answer session:**

**Question/comment:** An attendee stated that if (6) applies to everyone at the construction site regardless of whether they are “involved in the construction activities,” you may want to change the language to make clear. Currently, reads otherwise.

**DOSH response:** Thank you for your comment. We will take under consideration.

**Question/comment:** An attendee stated, if not clear, must the employee indicate that they fall under menstruation or express milk category so and employer will know facilities are necessary?

**DOSH response:** Thank you. Attendees asked this question during other meetings, currently under review.

**Question/comment:** An attendee asked if L&I plans to develop Webinars and make available for employers and primary contractors.

**DOSH response:** L&I will perform education and outreach, on the web page, etc. We will share the request for Webinars with Education and Outreach.

**Question/comment:** An attendee asked if it is the employee's responsibility to request an accommodation. Otherwise, how would an employer know if an employee needs an accommodation without violating HIPAA?

**DOSH response:** We have received this question previously. A collaboration between employee and employer is needed. If there is a need, the employee needs to express the need to the employer. However, both need to collaborate to work it out.

**Question/comment:** An attendee if the requirement to provide menstrual products only for female and gender neutral restrooms; wouldn't it be supportive of Trans employees to also provide menstrual products in men's restrooms.

**DOSH response:** The rule states may provide in restrooms, gender neutral, or may make available to workers in a kit. The products do not necessarily need to be located in the porta pot.

**Question/comment:** Other than during the Public Hearing, an attendee asked if there will be an opportunity to present verbal comments and if the public has the ability to debate, any proposed rules. Other than written comments.

**DOSH Response:** We are currently conducting stakeholder meetings, working through the draft process. We encourage and want stakeholder input. As a safety professional, important to obtain the information. It will help us develop a better rule, for employers and employees. We want this to be a rule for everyone. L&I welcomes comments, questions, whatever the dynamic, we want the information. Attendees may submit information via email.

The requirements of the law became effective June 4, 2024. We are developing rule language based upon the law.

**Question/comment:** An attendee asked for the definition of "adequate supply." Women's flow varies.

**DOSH response:** We have received several questions and comments. It is the employer's choice on what type of product to provide, pads or tampons. The employer may consider employee's preference. Recommend collaboration.

**Question/comment:** An attendee asked; if there is no communication between the employer and employee, does the employer still need to provide these extra spaces in the event it is needed?

**DOSH Response:** Thank you for the question. We need to research.

**Question/comment:** An attendee requested L&I contact information be shared with attendees via Chat.

**DOSH response:** Contact information shared via Chat.

**Question/comment:** An attendee asked, with public schools being required to provide sanitary products, is there a formula the department could share with employers to define what an adequate supply is? For example, for every menstruating worker=10 products on site; or, something along those lines?

**DOSH Response:** L&I spoke with the Facilities Manager of the local Public School District. The District purchases through regular supply vendors and, schools order from the District. Recommend reaching out to supply vendors, they may have a formula in relation to the number of products to have on hand based upon number of employees, similar to calculating the number of chemical toilets needed.

**Question/comment:** An attendee asked if there are currently no females on the job, does the employer need to have the extra space.

**DOSH Response:** If there is a need, the employer must provide. We are working through whether an employer must have a dedicated space if there is no need.

Following the presentation of draft language, meeting materials and Q&A session, DOSH staff provided a review of the rulemaking timeline and next steps.

Meeting concluded at 10:52 a.m.