



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: September 19, 2023

TIME: 8:16 AM

WSR 23-19-073

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) November 1, 2023 (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:

RCW 70.114A.065 directs the Department of Health (DOH) and the Department of Labor and Industries (L&I) to adopt joint rules for the licensing, operation and inspection of temporary worker housing (TWH).

In April 2020, DOH and L&I received a petition for rulemaking requesting immediate rule amendments to further protect occupants in TWH and cherry harvest camps. In response to the petition and the Governor's Proclamation 20-25, Stay Home, Stay Health order, DOH in conjunction with the L&I adopted emergency rules to protect occupants from the coronavirus disease 2019 (COVID-19) hazards in licensed TWH. The last emergency rule expired January 14, 2023.

Throughout the duration of the emergency, DOH and L&I continued to review new information, data, and science as it became available to determine necessary requirements to protect TWH occupants from COVID-19 and similar airborne infectious disease hazards. Each emergency rule provided specific requirements responding to the needs at the time the emergency rule was adopted.

DOH and L&I have assessed the emergency rule requirements, along with input from interested parties and are adopting the following key provisions to address prevention of future outbreaks and the spread of any airborne infectious disease.

WAC 296-307-16103 Definitions.

- Added and revised definitions to aid in rule clarity.

WAC 296-307-16127 TWH management plan.

- Clarified that the TWH complaint line was multi-lingual and not bilingual.
- Added requirement that updates to the TWH management plan must be submitted to DOH within 10 calendar days.
- Clarified current rule language to provide the updated plan to occupants in a language or languages understood by the occupants.

WAC 296-307-16146 Ventilation. (NEW)

- Added specific ventilation requirements for all TWH buildings and cherry harvest tents to maximize outdoor air intake including maintaining maintenance logs and other documentation.

WAC 296-307-16147 Tents.

- Made non-substantive clarifying edits such as grammar and punctuation, reflecting updates made to definitions.
- Added requirement to close outside openings when external conditions pose a health or safety risk.

WAC 296-307-16190 Disease prevention and control.

- Revised the disease prevention and control requirements to:
 - Require cooperation with the local health jurisdiction and DOH in the investigation and control of confirmed cases, suspected cases, outbreaks and suspected outbreaks of communicable diseases or notifiable conditions;
 - Update reporting requirements for communicable diseases;
 - Require an implementation of an infection control program;
 - Require the posting of education about health and safety practices in a language commonly understood by TWH occupants;

- Allow community based outreach workers and community health workers to reach out to TWH occupants;
- Establishes a communicable disease and prevention response plan which includes identifying and isolating occupants with suspect and confirmed cases, and providing medical assistance; and
- Provide specific training for those responsible for executing the communicable disease and prevention response plan.

Citation of rules affected by this order:

New: WAC 296-307-16146

Repealed:

Amended: WAC 296-307-16103, 296-307-16127, 296-307-16147, and 396-307-16190.

Suspended:

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

Other authority: Chapter 49.17 RCW

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-10-092 on May 3, 2023 (date).

Describe any changes other than editing from proposed to adopted version:

WAC 246-358-010 and WAC 296-307-16103, Definitions.

- Added the definition of “Local Health Jurisdiction or LHJ” for rule clarity.
- The defined term “Mechanical ventilation system” was amended to clearly exclude kitchen and bathroom exhaust fans.
- Added the definition of “Suspected case” for rule clarity.

WAC 246-358-050 and WAC 296-307-16127, TWH management plan.

- The Department of Health TWH complaint phone line is available in multiple languages and therefore the reference to the “bilingual TWH complaint line” was changed to “multilingual TWH complaint line.”

WAC 246-358-076 and WAC 296-307-16146, Ventilation.

- The proposed rule was amended to clarify that a filter with an equivalent rating of MERV 13 could be used to comply with the rule.

WAC 246-358-175 and WAC 296-307-16190 Disease prevention and control.

- Removed “unexpected weight loss” as a symptom that needed to be reported to the local health jurisdiction.
- Clarified the word “required” to say “directed” when used to describe actions that are given by the local health jurisdiction.
- Entry of community health workers and community-based outreach workers. The proposed rule was amended to clarify the reasons these workers should be entrusted to enter the property of the TWH to educate occupants about public health, safety, and worker’s rights provided that they notify the operator to set up a designated time and place for the visit.
- Food preparation, specifically if an occupant is sick, was clarified that a sick occupant cannot prepare food for occupants that are not sick but may prepare food for others that are sick and/or in isolation/quarantine with the sick occupant.
- “Oral thermometers” was removed from the requirements, as “no touch” or “no contact” thermometers can effectively meet the requirements for fulfilling the communicable disease prevention and response plan requirements.
- Medical transportation, specifically around transportation provided by a service provider, was clarified to remove “aid service” and instead state “ambulance service or other transportation service”.
- Communication requirement, specifically access to phone services, was clarified to require operators to provide phone services only if the occupant does not have access to a personal phone.

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

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**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	___	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	<u>1</u>	Amended	<u>4</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	<u>1</u>	Amended	<u>4</u>	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: September 19, 2023

Name: Joel Sacks

Title: Director

Signature:

