



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: November 28, 2023

TIME: 4:41 PM

WSR 23-24-021

Agency: Office of Financial Management (OFM)

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) January 1, 2024 (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: The amendment to WAC 357-28-265 is to align Washington State Department of Labor and Industries guidance that if an employer requires employees to receive a COVID-19 vaccine, the time associated with receiving the vaccine must be considered hours worked and overtime must be paid under the Washington State Minimum Wage Act. The amendment to WAC 357-31-027 adds subsection (8) to require that a higher education employer must allow a part-time high-risk employee to utilize accrued holiday credit to protect themselves from risk of exposure to an infectious or contagious disease if the employer determines no other accommodation is reasonable besides the use of leave. This amendment was inadvertently missed during previous rulemaking in 2022. The amendments to WAC 357-31-070(1)(f), WAC 357-31-100(9), WAC 357-31-130(3), WAC 357-31-200(1)(h), WAC 357-31-230(8) and WAC 357-31-567(1)(d) is to align with a policy decision to allow for a high-risk employee outside of a declared public health emergency to utilize all accrued leave types when seeking an accommodation to protect themselves from risk of exposure to an infectious or contagious disease if no accommodation is reasonable. A high-risk employee is no longer limited to the definition of an employee who is high-risk as defined in RCW 49.17.062. The amendments to WAC 357-31-100(9) removes the requirement for an employer to grant leave without pay (LWOP) to a high-risk employee who is seeking an accommodation and adds new language to state the employer may require that the high-risk employee's request be supported by verification or documentation. The amendments to WAC 357-31-100 to add subsection (10) and WAC 357-31-327(6) is to clarify that an employer must grant LWOP to a high-risk employee during a declared public health emergency. The requirement for employers to approve LWOP for this reason is limited to the duration of a declared public health emergency as required in RCW 49.17.062. The amendments to WAC 357-31-100 to add subsection (13) and WAC 357-31-160 is to align with a longstanding rule interpretation that separation is from state service and to clarify former employees who are reemployed after being separated from state service for five years or longer may be restored unused sick leave credits in accordance with employer leave policy. The amendment to WAC 357-31-330(14) expands the reasons an employer may grant LWOP for an employee to protect themselves, or a relative or household member from risks related specifically to coronavirus disease to the risk of exposure to any infectious or contagious disease.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: 357-28-265, 357-31-027, 357-31-070, 357-31-100, 357-31-130, 357-31-160, 357-31-200, 357-31-230, 357-31-327, 357-31-330, 357-31-567
- Suspended:

Statutory authority for adoption: RCW 41.06.133

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-20-075 on September 29, 2023 (date).
Describe any changes other than editing from proposed to adopted version:

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	11	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	11	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	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	11	Repealed	___

Date Adopted: 11-29-23

Name: Nathan Sherrard

Title: Assistant Legal Affairs Counsel
Office of Financial Management

Signature:

