



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: February 20, 2020

TIME: 12:30 PM

WSR 20-06-008

Agency: Office of Financial Management (OFM)

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) May 1, 2020 (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: Washington Paid Family and Medical Leave, or PFML insurance program, as codified in Title 50A RCW, became effective on October 19, 2017. Beginning January 1, 2020, the PFML insurance program provides a partial wage replacement for Washington workers for an employee's own medical condition, to care for family members, bonding with a child or for certain military-related events. Under the PFML insurance program, the Employment Security Department will replace up to 90% of an employee's average weekly wage (up to \$1,000 per week). During the 2019 legislative session, the law was amended to allow the employer to offer a "supplemental benefit" to employees while they are on approved PFML. The proposed new section, WAC 357-31-247, is to allow an employee the option to choose whether or not they want to use their accrued paid leave as a supplemental benefit. The proposed new section, WAC 357-31-248, addresses which accrued leave an employee may use as a supplemental benefit. The proposed new section, WAC 357-31-249 allows a higher education employer the ability to deny an employee's request to use accrued leave as a supplemental benefit during a period when the employee is receiving partial wage replacement PFML from May 1, 2020 to August 1, 2020 to allow for system readiness. The proposed amendments incorporate the ability for an employee to request to use their accrued leave as a supplemental benefit, required updates to employers leave policies and removing the Washington Family Leave Law from WAC 357-31-520. The proposed amendments to WAC 357-31-490 and WAC 357-31-515 are to add shared leave as a type of leave an employee can request for a pregnancy related disability and for parental reasons in accordance with WAC 357-31-390 subsections 1(g) and 1(h).

Citation of rules affected by this order:

New: 357-31-247, 357-31-248, 357-31-249

Repealed:

Amended: 357-31-070, 357-31-100, 357-31-130, 357-31-200, 357-31-230, 357-31-327, 357-31-335, 357-31-490, 357-31-515, 357-31-520, 357-31-567

Suspended:

Statutory authority for adoption: Chapter 41.06 RCW

Other authority: RCW 50A.15.060

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-02-103 on December 31, 2020 (date).

Describe any changes other than editing from proposed to adopted version: Since the proposed version, WAC 357-31-100 and WAC 357-31-248 were changed. WAC 357-31-100(3) was changed with a minor correction to state that the employer's leave policy must allow an employee to use (not designate) accrued leave as a supplemental benefit as provided in WAC 357-31-248 to remain consistent with other WAC language. WAC 357-31-248 was changed to add a comma in between the words "personal holiday" and "compensatory time."

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	<u>3</u>	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	3	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	3	Amended	11	Repealed	___

Date Adopted: February 20, 2020

Name: Roselyn Marcus

Title: Assistant Director of Legal and Legislative Affairs

Signature:

