

AMENDATORY SECTION (Amending WSR 92-01-104 and 92-08-101, filed 12/18/91 and 4/1/92, effective 8/31/92)

**WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials.** (1) The materials covered under this section ~~((are))~~ include but are not limited to: Sand, gravel, crushed rock, concrete ~~((mix))~~, asphalt, or other similar materials.

~~((1) Workers are subject to the provisions of chapter 39.12 RCW when they are employed by a contractor as defined by WAC 296-127-010 (5) (c) and:~~

~~(a) They are engaged for a public works project in the production of the above-listed materials in a sand or gravel pit, rock quarry, concrete mixing plant, or other similar facility; or~~

~~(b) They are engaged in the transportation of the above-listed materials for use on a public works project, whether or not they perform any work on the project site.)~~

(2) All workers, regardless of by whom employed, are subject to the provisions of chapter 39.12 RCW when they perform any or all of the following functions:

(a) They deliver or discharge any of the above-listed materials to a public works project site ~~((and perform any spreading, leveling, rolling, or otherwise participate in any incorporation of the materials into the project; or))~~:

(i) At one or more point(s) directly upon the location where the material will be incorporated into the project; or

(ii) At multiple points at the project; or

(iii) Adjacent to the location and coordinated with the incorporation of those materials.

(b) They wait at or near a public works project site to ~~((participate in the incorporation of any of the above-listed materials into the project; or))~~ perform any tasks subject to this section of the rule.

(c) They remove any materials from a public works construction site pursuant to contract requirements or specifications (e.g., excavated materials, materials from demolished structures, clean-up materials, etc.) ~~((or))~~.

(d) They work in a materials production facility (e.g., batch plant, borrow pit, rock quarry, etc.,) which is established for a public works project for the specific, but not necessarily exclusive, purpose of supplying materials for the project.

(e) They deliver concrete to a public works site regardless of the method of incorporation.

(f) They assist or participate in the incorporation of any materials into the public works project.

(3) All travel time that relates to the work covered under subsection (2) of this section requires the payment of prevailing

wages. Travel time includes time spent waiting to load, loading, transporting, waiting to unload, and delivering materials. Travel time would include all time spent in travel in support of a public works project whether the vehicle is empty or full. For example, travel time spent returning to a supply source to obtain another load of material for use on a public works site or returning to the public works site to obtain another load of excavated material is time spent in travel that is subject to prevailing wage. Travel to a supply source, including travel from a public works site, to obtain materials for use on a private project would not be travel subject to the prevailing wage.

(4) Workers are not subject to the provisions of chapter 39.12 RCW when ~~((+))~~ they deliver materials to a stockpile.

(a) ~~((The employees' duties do not include spreading, leveling, rolling, or otherwise participating in the incorporation of the delivered materials into a public works project, and they are employed by an established materials supplier either in the production or delivery of sand, gravel, crushed rock, concrete mix, asphalt or other similar materials;~~

(b) ~~They are employed by a common or contract carrier trucking company principally or exclusively engaged in the hauling or delivery of such products, and the employees' duties do not include spreading, leveling, rolling, or otherwise participating in the incorporation of the delivered materials into a public works project; or~~

(c) ~~Their employer is engaged in the production and stockpiling of such materials for unspecified future use by the state of Washington or by municipalities as defined by RCW 39.04.010.~~

(4)) A "stockpile" is defined as materials delivered to a pile located away from the site of incorporation such that the stockpiled materials must be physically moved from the stockpile and transported to another location on the project site in order to be incorporated into the project.

(b) A stockpile does not include any of the functions described in subsection (2)(a) through (f) of this section; nor does a stockpile include materials delivered or distributed to multiple locations upon the project site; nor does a stockpile include materials dumped at the place of incorporation, or adjacent to the location and coordinated with the incorporation.

(5) The applicable prevailing wage rate shall be determined by the locality in which the work is performed. Workers subject to ~~((the provisions of chapter 39.12 RCW, as outlined in))~~ subsection ~~((+))~~ (2)(d) of this section, who produce such materials at an off-site facility shall be paid the applicable prevailing wage rates for the county in which the off-site facility is located. Workers subject to ~~((the provisions of chapter 39.12 RCW, as outlined in))~~ subsection ~~((+))~~ (2) of this section, who deliver such materials to a public works project site shall be paid the applicable prevailing wage rates for the county in which the public works project is located.