



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Labor and Industries

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (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: See Attachment 1 for a list of amended rules.

After review of these chapters, The Department intends to adopt the proposed changes that make revisions to:

- Correct typographical and other errors (such as invalid telephone numbers and out-of-date references),
- Revise wording and formatting to make the rules easier to understand and apply, and
- Incorporate and formalize existing agency practices (such as expressly including in a risk classification employment that the Department currently includes by interpretation or analogy).

The purpose of this rulemaking is not to make substantive changes to how the Department classifies employment, but to review and revise our classification plan to ensure it is clear and understandable. These changes will not change the way we calculate employer rates, our reporting requirements, or how we classify businesses.

As part of this rulemaking, the Department also intends to review these chapters as required by SSB 5679 (Chapter 30, 2013 Laws 2nd Special Session) to make changes where possible to reduce the regulatory burden on employers insured with the State Fund.

Citation of existing rules affected by this order:

Repealed: None
Amended: See Attachment 1
Suspended: None

Statutory authority for adoption: RCW 51.04.020 and RCW 51.16.035

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-13-088 June 17, 2014.

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

WAC 296-17A-5201, *Classification 5201*, which includes electric power or transmission equipment; manufacturing or assembly, is removed from the list of amended classifications. Staff determined that further time and attention is required to improve the re-formatted proposed amended version due to inconsistencies in their interpretation of the update.

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

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted: August 19, 2014

NAME (TYPE OR PRINT)

Joel Sacks

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 19, 2014

TIME: 7:34 AM

WSR 14-17-085

**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	<u>42</u>	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	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	_____	Repealed	_____

Attachment 1

Miscellaneous classification and rating rule changes

WAC Chapter 296-17, General Reporting Rules, Audit and Recordkeeping, Rates and Rating System for Washington Workers' Compensation Insurance and WAC Chapter 296-17A Classifications for Washington Workers' Compensation Insurance.

	WAC Numbers	WAC description	What is changing	Reason for change
1.	296-17-31018	Exception classifications	Update language to plain-talk and reformat. Move scopes descriptions to the classifications in WAC 296-17A.	The standard exception classification restrictions are presently addressed specifically in the general reporting rules. Customers must look in two places in the rules to learn what the restrictions are. We propose to rewrite each standard exception classification to incorporate the parameters of the reporting requirements into the language of the classification. This change will ease administrative burden and make it easier to do business with L&I.
2.	296-17A-0107 -00 -01	<ul style="list-style-type: none"> Utility line construction: underground, N.O.C. Pipelaying, N.O.C. 	Re-format language and remove language referring to depth, which causes confusion when applying the WAC.	Staff have indicated that the word "depth" is causing confusion for them and for employers when assigning 0107. Depth has no bearing on what the correct classification is. The classification is assigned based only on the work activity performed.
3.	296-17A-0108-01	Sewer construction; septic tank installation	Re-format language and remove language referring to depth, which causes confusion when applying the WAC.	Staff have indicated that the word "depth" is causing confusion for them and for employers when assigning 0108-01. Depth has no bearing on what the correct classification is. The classification is assigned based only on the work activity performed.
4.	296-17A-0112-02	Pit, crusher and bunker operations in connection with road, street and highway construction	Update language to clarify application of WAC, using "for" rather than "in connection with" and clarifying that the classification is not assigned to contactors making materials for their own road construction project. Language as written has been confusing to those applying classification.	Staff requested clarification due to the difficulty understanding the intent of the language.

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5.	296-17A-0301-08	Landscape construction operations, N.O.C.	Add a reference to landscape roofing being reported in 0507-05 Roofing	Landscape roofing is a relatively new type of business operation. The worker exposure is comparable to roofing. Staff have applied the roofing classification since this activity started. We are documenting an existing work practice. Landscape roofing is to be reported in 0507-05 Roofing instead of 0301-08 Landscaping or 0308-01 Lawn care maintenance.
6.	296-17A-0308-01	Lawn care maintenance	Add a reference to landscape roofing being reported in 0507-05 Roofing.	Landscape roofing is a relatively new type of business operation. The worker exposure is comparable to roofing. Staff have applied the roofing classification since this activity started. We are documenting an existing work practice. Landscape roofing is to be reported in 0507-05 Roofing instead of 0301-08 Landscaping or 0308-01 Lawn care maintenance.
7.	296-17A-0507-05	Roofwork construction and repair	Add landscape roofing activities to WAC as this is where we have been classifying this new industry.	Landscape roofing is a relatively new type of business operation. The worker exposure is comparable to roofing. Staff have applied the roofing classification since this activity started. We are documenting an existing work practice. Landscape roofing is to be reported in 0507-05 Roofing instead of 0301-08 Landscaping or 0308-01 Lawn care maintenance.
8.	296-17A-0510	Wood frame building: Construction or alterations N.O.C.	Clarify an existing distinction between 0516, Building repair, and 0510 for non-metal siding.	Staff requested this clarification in the rule to increase efficiency and consistency when applying classifications 0516 and 0510: <ul style="list-style-type: none"> • Changing “wood or vinyl” to “nonmetal” reflects evolution of industry without changing scope of classification.

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				<ul style="list-style-type: none"> Clarification added so employers and staff can distinguish between applying 0510 and 0516 without having to also look in two additional WACs.
9.	296-17A-0514-01	Nonstructural additions to buildings or structures: Installation, removal, alteration, and/or repair	Add "metal" to the title to read "Nonstructural metal additions to buildings or structures: Installation, removal, alteration, and/or repair."	Staff requested we make include "metal" additions in the title of the rule so that it is more obvious that metal additions are included in 0514-01.
10.	296-17A-0516 00 02	<ul style="list-style-type: none"> Building repair, remodeling and carpentry Building repair, remodeling and carpentry, N.O.C. This subclassification applies to a firm that chooses to report all construction phases into separate construction classifications 	<ul style="list-style-type: none"> Clarify that repairing or installing <u>all types</u> of siding on an existing structure is included in this classification. Correct formatting of language for wood framing/sheathing/windows/nonmetal siding on the list of classes to be reported separately. 	<ul style="list-style-type: none"> Staff requested clarification to eliminate questions regarding what types of siding should be included in 0516-00 Building repair, remodeling and carpentry. A spacing error in the formatting caused confusion for staff.
11.	296-17A-0803-00	Cities and towns – all other employees	Clarify exclusionary language regarding waterworks operations in cities that has caused confusion among staff.	Various staff reported confusion in determining whether waterworks duties performed by employees of cities/towns are included in 0803 Cities/towns or are reported separately in 1507-02 Waterworks operations. We are clarifying that businesses providing waterworks operations are classified as 1507-02 Waterworks, but duties performed by city/town employees are reported in 0803-00 Cities/towns.

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12.	296-17A-1501-01	Housing authorities, N.O.C. – All other employees	Remove “disabled” and replace with “people with disabilities”.	Terminology has changed.
13.	296-17A-3105 -06 -07	<ul style="list-style-type: none"> Concrete blocks, bricks, poles, piles, tiles and beams manufacturing Concrete sewer and irrigation pipes, concrete septic tanks and concrete products, N.O.C. manufacturing 	Remove “at a construction site” from language to clarify application of classifications.	This is a manufacturing classification. Reference to a construction site was unnecessary and confusing. Staff requested this clarification in the rule to increase efficiency and consistency when applying classification 3105.
14.	296-17A-3309 -02 -03	<ul style="list-style-type: none"> Golf cart sales/rental agencies Motorcycle, moped, motor scooter, snowmobile, jet ski, all-terrain vehicles sales/rental agencies 	<p>Update language to plain-talk and reformat.</p> <p>Update language to plain-talk and reformat. Add a reference to the appropriate classification for Durable Medical Equipment (DME) businesses, and 6306-01 Stores: Furniture – rental.</p>	<p>Improve the flow of the text using plain talk principles to make it easier to understand and apply the rules.</p> <p>There was language describing DME businesses in two different classifications (3309-03 and 6306-01) which created confusion for staff when classifying these DME businesses. Emphasizing the correct classification for DME.</p>
15.	296-17A-3406-04	Automobile or truck – Detailing by contractor; glass tinting; windshield repair	Add a reference to clarify that boat detailing is to be reported in 3414-00 Boat dealers or 3414-01 Marinas and boat house operations: Boat storage facilities (whichever classification applies).	Staff applying this classification requested the reference be added to provide direction to the appropriate classification for boat detailing.
16.	296-17A-3411 -01 -02	<ul style="list-style-type: none"> Automobile: Service centers, repair shops or garages Automobile: Service specialty shops 	Add to list of exclusions “Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409 Dealers: Machinery/equipment, N.O.C.”	Staff requested this reference be added to all subclassifications to help guide to the correct classification and ensure consistency. The same exclusion is already in 3411-00 Automobile: Dealers, rental or leasing agencies, including service repair garages;

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	WAC Numbers	WAC description	What is changing	Reason for change
				Recreational vehicle; Dealers, rental/leasing agencies, or service/repair garages.
17.	296-17A-3701-09	Drug, medicine, or pharmaceutical preparation: Manufacturing	Add an exclusion that retail compounding pharmacy stores are to be reported in 6406-16 Stores: Drug - Retail	Staff requested clarification when classifying compounding. Adding this reference to the exclusions will help guide to the correct classification and ensure consistency.
18.	296-17A-3702-05	Wine making or wineries Spirituuous liquor: Manufacturing	Add "off premises" to the exclusion to read: This classification excludes off-premises wine/liquor stores which are to be reported in classification 6403, Stores: Wine, liquor, or soft drinks - retail	Document current practice of separately rating a retail store when it is not located on the premises of a winery.
19.	296-17A-3901 -00 -01	<ul style="list-style-type: none"> • Bakeries – retail • Bakeries – retail – specialty shops 	Clarify that some wholesale activity is included in 3901 as long as the principal business remains retail.	Classification 3901 excluded all wholesale activities. This does not conform to either the practice of most small retail bakeries or how we currently apply these classifications. Most retail bakeries and retail specialty bakeries sell wholesale to a limited number of local stores, restaurants, or coffee shops.
20.	296-17A-4900	Construction: Superintendent or project manager	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018 and clarify that a division of hours is permitted by contract.	A division of hours by project was introduced in rule changes in 2010. Because at the time we did not know if exposure would be measured in hours or payroll, the wording was very general, and not very clear.
21.	296-17A-4904 -00 -13 -17 -20	<ul style="list-style-type: none"> • Clerical office, N.O.C. • Clerical office: Insurance companies, agents or brokers • Clerical office: Employee leasing companies • Community action organizations – Clerical 	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018.	See changes described in item #1, 296-17-31018.

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	WAC Numbers	WAC description	What is changing	Reason for change
		office employees		
22.	296-17A-4910-02	Mini-storage warehouse	Change title from mini-storage warehouse to Mini-storage facilities.	A representative of The Washington Self Storage Association asked department staff to remove the word "warehouse" from the title of this classification. The title has caused confusion for their members who are assigned 4910-02 since storage unit facilities are not actually warehouses and the scopes language of this classification otherwise doesn't mention warehouses.
23.	296-17A-5003 -01 -02	<ul style="list-style-type: none"> Log hauling by contractor Log truck drivers, N.O.C. 	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018 and language regarding division of hours.	See changes described in item #1, 296-17-31018.
24.	296-17A-5301-19	Travel agencies	Remove "disabled" and replace with "people with disabilities".	Terminology has changed.
25.	296-17A-6207-02	Carnivals - Traveling	Correct reference from WAC 296-17-675 to WAC 296-17A-5206.	Classification WAC numbers changed in the past. This correction ensures the reference in 6207 is correct.
26.	296-17A-6208-11	Carnival operations, N.O.C.	Correct reference from WAC 296-17-675 to WAC 296-17A-5206.	Classification WAC numbers changed in the past. This correction ensures the reference in 6208 is correct.
27.	296-17A-6301 -00 -06 -07	<ul style="list-style-type: none"> Sales personnel: Vehicles and marine pleasure craft Instructors of driving schools Limousine drivers 	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018.	See changes described in item #1, WAC 296-17-31018.
28.	296-17A-6303 -00 -03 -21	<ul style="list-style-type: none"> Outside sales personnel, N.O.C.; messengers Insurance sales 	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018.	See changes described in item #1, WAC 296-17-31018.

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	WAC Numbers	WAC description	What is changing	Reason for change
		personnel and claims adjusters <ul style="list-style-type: none"> Home health care services: Social workers and dietitians 		
29.	296-17A-6305-05	Stores: Wig or hat – retail	Correct spelling of “brooches”	Correct misspelling.
30.	296-17A-6306-00 -01 -02 -06	<ul style="list-style-type: none"> Stores: Furniture – wholesale or retail; Stores: Billiard or pool table – wholesale or retail Stores: Furniture – rental Stores: Appliance – wholesale or retail Stores: Office furniture – wholesale or retail 	Correct apostrophe placement in the word “store’s” Add Durable Medical Equipment (DME) to title.	Correct use of apostrophe. There was language describing DME businesses in two different classifications (3309-03 Motorcycle, moped, motor scooter, snowmobile, jet ski, all-terrain vehicles sales/rental agencies and 6306-01 Stores: Furniture – rental) which created confusion for staff when classifying these DME businesses. Emphasizing the correct classification for DME.
31.	296-17A-6403-07	Stores: Wine, liquor, or soft drinks - retail	Clarify that when a store or tasting room is operated off winery premises they are separately reported. Remove language regarding state-operated liquor stores.	Document current practice of separately rating a retail store when it is not located on the premises of a winery. Change in language regarding state-operated liquor stores is needed due to new laws eliminating state-operated liquor stores.
32.	296-17A-6409-00	Dealers: Machinery/equipment, N.O.C.; Service/repair garages; Machinery/equipment, N.O.C.	Update classification title to read: Dealers: Service/repair garages, machinery, equipment, N.O.C.	Staff requested the classification title be improved to emphasize the service and repair of machinery in a better way.
33.	296-17A-6509-04	Boarding homes and centers, N.O.C., adult family homes, rooming houses,	Remove “disabled” and replace with “people with disabilities”.	Terminology has changed.

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	WAC Numbers	WAC description	What is changing	Reason for change
		foster homes, and orphanages.		
34.	296-17A-6510-00	Domestic servants/home care assistants employed in or about the private residence of a home owner	Remove “handicapped” and replace with “people with disabilities”.	Terminology has changed.
35.	296-17A-6511 -00 -20	<ul style="list-style-type: none"> • Chore services/home care assistants • Community action organizations – Chore services/home care assistants 	<p>Correct reference from Home Care Quality Authority (HCQA) to Home Care Referral Registry (HCRR) Update language to plain-talk and reformat. Indicate examples of activities included in 6511, such as:</p> <ul style="list-style-type: none"> ○ Supervised visits between children and parents, including transporting of the child ○ Packing up senior homes ○ Organizing homes prior to customers putting a home on the market ○ Organizing homes prior to customers having an estate auction ○ Pet sitting ○ House sitting 	DSHS changed the programs responsible for the chore service activities. Staff and customers have requested clarification as to some work activities included in this classification. Documenting current practice of classifying.
36.	296-17A-6512-00	Home care services/home care referral registry (HCRR)	Remove “disabled” and replace with “people with disabilities”.	Terminology has changed.
37.	296-17A-6602-05	Janitorial, N.O.C.	Correct typo principle to principal.	Correct misspelling.
38.	296-17A-6709-00	Sheltered workshops	Remove “disabled” and replace with “people with disabilities”.	Terminology has changed.
39.	296-17A-6902-02	Logging road: Construction	Correct reference from WAC 296-17-675 to	Classification WAC numbers changed in the

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	WAC Numbers	WAC description	What is changing	Reason for change
		or maintenance	WAC 296-17A-5206.	past. This correction ensures the reference in 6902 is correct.
40.	296-17A-6905-01	Salaried law enforcement officers of counties and taxing districts; Volunteer law enforcement officers, N.O.C.: Full coverage	Clarify that detention and correctional officers are included in this classification.	Staff often question whether these types of personnel are included in 6905 Salaried law enforcement officers of counties and taxing districts. This change is needed to assist staff in assigning the appropriate classification for claims. Documenting current practice.
41.	296-17A-7101-00	Corporate officers, N.O.C.	Update language to plain-talk and reformat. Add qualifying language from WAC 296-17-31018 and language regarding division of hours.	See changes described in item #1, WAC 296-17-31018.
42.	296-17A-7309-00	Work activity centers	Remove "disabled" and replace with "people with disabilities".	Terminology has changed.