

## ADMINISTRATIVE POLICY



### STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

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<b>TITLE:</b>	<b>RECORDKEEPING AND ACCESS TO PAYROLL RECORDS (NON-AGRICULTURAL EMPLOYMENT)</b>	<b>NUMBER:</b>	<b>ES.D.1</b>
<b>CHAPTER:</b>	<a href="#">RCW 49.12.050</a> <a href="#">RCW 49.46.040</a> and <a href="#">070</a> <a href="#">WAC 296-126</a> <a href="#">WAC 296-128</a>	<b>ISSUED:</b>	<b>1/2/2002</b>
		<b>REVISED:</b>	<b>5/7/2004</b>

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#### ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

### 1. Recordkeeping requirements, Industrial Welfare Act, [RCW 49.12](#)

This policy addresses non-agricultural employer record keeping responsibilities for under the Industrial Welfare Act and the Minimum Wage Act. In most cases the requirements are essentially identical. [See ES.D.2](#) for agricultural employer requirements.

Employers bound by RCW 49.12 must keep records of the names of all employees, the address and occupation of each employee, dates of employment, rate or rates of pay, amount paid each pay period and the hours worked. See [RCW 49.12.050](#) and [WAC 296-126-050](#).

Employees must be provided with itemized statements of pay at the time of payment of wages showing pay basis (hours or days worked), rate or rates of pay, gross wages and deductions taken from pay. See [WAC 296-126-040](#).

Employers paying workers by direct deposit must provide a pay statement to workers on the established payday. The pay statement may be transmitted electronically, e.g., by e-mail, as long as each employee has computer access to receive the information.

"An itemized statement" means a separate statement issued to employees on each payday. Pay periods shall be identified by month, day, year, and payment date.

The statement shall include the total of all actual hours worked, with regular and overtime hours shown separately, and all rate or rates of pay whether paid on hourly, salary, commission, piece rate or combination thereof or other basis during the pay period. Workers paid on rate other than hourly or salary are entitled to a detailed printed accounting of commissions, piece rate, or other methods of payment earned in the pay period.

**2. Employees protected by the Industrial Welfare Act have the right to examine records kept by their employers.** Employers must make the above records "available to the employee upon request at a reasonable time." See [WAC 296-126-050\(2\)](#).

a. "**Available to the employee**" means that the *originals* of the required records (name, address, occupation, dates of employment, rate of pay, amounts paid each pay period) are made available to the employee for inspection, review, transcription and/or photocopying. Records must be available to the employee for inspection at the employer's usual place of employment.

b. "**Upon request**" means an oral or written request by the employee.

c. "**At any reasonable time**" generally means within ten business days from date of request by employee.

**3. Making records available.** Employers must make records available for inspection by the department. The department may inspect the required records. See [RCW 49.12.050](#).

The department can also require statements of employers relative to wages, hours and conditions of employment, and can inspect the books, records and physical facilities of those employers who are bound by the Industrial Welfare Act. See [RCW 49.12.041](#).

The above means that the department has the authority to request reasonable production of an employer's records, i.e., can request the employer to provide copies or can request the employer to allow the Department to examine the requested records on the employer's premises and to copy or have copied the relevant materials.

The department is also entitled to request meetings with employers and employer's agents to obtain statements or other information.

**4. Poster requirements.** Employers are required to post a copy of the Industrial Welfare rules in a poster (Your rights as a Worker) provided by the department in a readily accessible location within plain view in each work site where one or more employee is located. See [WAC 296-126-080](#).

**5. Records must be kept for three years.** All records required must be kept for at least three years. See [WAC 296-126-050\(1\)](#).

a. **“All records required”** includes the original time records, including dates and hours worked, recorded on time sheets, time clocks, time cards, computer-generated time records, video camera (if used as a means of record keeping by the employer), or any other method of recording hours worked.

Upon discharge, employees have a further right to make a written request and receive from their employer within ten days, a written statement setting forth reasons for discharge and the effective date of discharge. See [WAC 296-126-050\(3\)](#).

## 6. Recordkeeping requirements of the Minimum Wage Act, RCW 49.46

The initial record keeping requirements of the Minimum Wage Act (MWA) are essentially identical to those under the Industrial Welfare Act. Employers subject to the MWA must keep a record of each employee’s name, address, occupation, rate of pay, amount paid in each pay period and hours worked each day and each workweek. See [RCW 49.46.070](#).

Additionally, under the provisions of the MWA, employers must keep the following records:

- Employee’s date of birth, if under the age of 18.
- Time of day and day of the week that each employee’s workweek begins.
- Total daily or weekly earnings at straight time rate.
- Total overtime earnings for weeks in which overtime was worked.
- Date of the wage payment and the dates of pay period covered.
- Total wages paid for each pay period.
- All additions or deductions to or from the wages for each pay period and a record of the additions or deductions from pay.

## 7. Definitions of terms:

a. The **“employee’s name”** is his or her full name as used for social security purposes. The employee’s address is his or her home address. Occupation is the occupation in which the employee is presently employed. An employer may use symbols or employee numbers in place of names but they must be uniform and defined.

b. A **“workweek”** is “a fixed and regularly recurring period of 168 hours or seven consecutive 24-hour periods.” It can begin on any day or the week and at any hour of the day and need not coincide with the calendar week.

If all, or a defined group of employees have a workweek which begins on the same day, a single notation of the time of day and day of the week that each workweek begins is sufficient. Separate notations must be made for employees or groups of employees who have a workweek beginning and ending at a different time.

c. A **“workday”** is “a fixed and regularly recurring period of 24 hours.” It can begin at any hour of the day but must begin at the same time each day.

d. A “**place for keeping required records**” means the records must be kept on the premises where the employee is employed or at a central location and must be made available for inspection by an authorized representative of the department within a reasonable time. A "reasonable time" is determined to be within 10 business days of receipt of a written request.

Upon request from the department, employers subject to the MWA must provide the above information to the department. See [RCW 49.46.070](#).

**8. Required records must also be accessible to employees.** An employee who is entitled to the protections of the Minimum Wage Act who requests “his or her work record” may inspect the records that his or her employer is required to keep “at any reasonable time.” See [WAC 296-128-025](#).

**9. “Employee work record”** means the original records and must include the name, address, and occupation of each employee; dates of employment; rate or rates of pay including regular and overtime rates; amount paid each pay period to each employee; all deductions from or additions to wages; and the hours and dates worked including regular and overtime hours.

**10. Inspection of records.** Such records shall be open upon request to inspection, review, transcription and/or photocopying by the employee and must be available at the employee's usual place of employment.

a. "**Upon request**" shall mean an oral or written request by the employee.

b. "**At any reasonable time**" generally means within 10 business days from date of request by employee.

**11. All records required must be kept for three years.** See [WAC 296-128-020](#).

**12. "All records required”** shall include the original time records, including dates and hours worked, recorded on time sheets, time clocks, time cards, computer-generated time records, video camera (if used as a means of record keeping by the employer), or any other method of recording hours worked.

**13. Time Clocks and Rounding Practices.** Employers may use time clocks, sign-in/out sheets, electronic swipe cards, time cards, or other method of keeping track of employee's dates and hours worked. Employees must be paid for all time worked, which includes all preparatory and concluding activities. Employers may pay for all minutes on the time card, or may use the rounding practices described below.

a. **Differences between clock records and actual hours worked when rounding is not used:** Time clocks are not required. When employer's use the time clock method, minor differences between the clock records and actual hours worked cannot ordinarily be avoided, but major discrepancies should be discouraged since they raise a doubt as to the accuracy of the records of the hours actually worked. The employer controls the workplace and to avoid potential pay issues surrounding time clock punches, should not

allow employees to arrive and clock in early for their own convenience. Should employees arrive before their scheduled starting time and begin their work, or continue to work after their closing time, they must be paid for that time unless as described in the following paragraphs.

When a time clock is used, an employee must be allowed to punch in at the time they are required to report for work and must be allowed to punch out only when they are finished performing tasks at the end of their shift. If a written time card is used, an employee or their supervisor must be allowed to record the actual time they are required to report for work and the time when they are finished performing tasks at the end of their shift.

**b. Rounding practices:** It has been found that in some industries, particularly where time clocks are used, there has been the practice for many years of recording the employees' starting time and stopping time by rounding the time to the nearest 5 minutes, or to the nearest one-tenth or quarter of an hour. Employers may not utilize recordkeeping systems in which 15-minute segments of work time are not recorded or paid. When rounding to the nearest quarter-hour, employers must round based on the 7-minute rule, i.e., when employees are 1 to 7 minutes late, they must be paid for the entire quarter-hour; if they are 8 to 14 minutes late, payment may begin at the nearest quarter-hour. If they clock out 7 minutes before the end of their shift, they must be paid to the end of that shift; if they clock out 8 minutes prior to the end of their shift, their payment may stop at the nearest quarter-hour.

A system where it is always rounded down is not appropriate. The rounding practice must work both ways so that sometimes it is rounded up and sometimes it is rounded down. Presumably, this arrangement averages out so that the employees are fully compensated for all the time they actually work. For enforcement purposes, this practice of computing working time will be accepted, provided that it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.

Rounding practices may be used only with a time clock record keeping system or when a written record keeping system accurately reflects the actual time the employee signed in before and after the scheduled shift.

**c. Examples of time clock rounding:**

The following chart is provided as an example of rounding practices based on the 7-minute rule.

<b>CLOCK IN TIME</b>	=	7:52 a.m. /	PAY AS	7:45 a.m.
		7:55 a.m. /	PAY AS	8:00 a.m.
		8:07 a.m. /	PAY AS	8:00 a.m.
		8:09 a.m. /	PAY AS	8:15 a.m.
		8:21 a.m. /	PAY AS	8:15 a.m.

	8:23 a.m. / PAY AS	8:30 a.m.
<b>CLOCK OUT TIME =</b>	4:51 p.m. / PAY AS	4:45 p.m.
	4:54 p.m. / PAY AS	5:00 p.m.
	5:07 p.m. / PAY AS	5:00 p.m.
	5:09 p.m. / PAY AS	5:15 p.m.
	5:22 p.m. / PAY AS	5:15 p.m.
	5:24 p.m. / PAY AS	5:30 p.m.

**d. Rounding is not permitted for meal and rest periods.**

The Washington meal and rest period requirements found in [WAC 296-126-092](#) require a 30-minute meal period no later than the end of the fifth working hour, and a 10-minute rest period in each four-hour working period. Employers cannot round, deduct, or average any time from a meal or rest period. Examples: 1) If the employee works four minutes into an unpaid 30-minute meal period, the employer must start the 30-minute meal period from the time the employee actually stops working; or 2) If an employee's meal period is from 12:00 p.m. to 12:30 p.m., and the employee does not start the meal period until 12:04, the employee does not have to return to work until 12:34 p.m. [See Administrative Policy ES.C.6 Meal and Rest Periods.](#)

**14. Employers of truck and bus drivers subject to the Federal Motor Carrier Act.** In addition to the general record keeping requirements under the Minimum Wage Act and WACs, employers who employ truck and bus drivers subject to the Federal Motor Carrier Act are required to keep specific, additional records. Those records are described in [WAC 296-128-011](#) and need not be further interpreted. Drivers who work for bus and truck employers have a specific right to obtain copies of such records.

**16. Employers of minors and other employers who may be authorized to pay subminimum wage rates.** Employers who may be subject to a special subminimum wage rate approved by the department are required to keep specific records with respect to the payment of subminimum wages, including the certificate granting the right to pay subminimum wage. See [WAC 296-128-310](#). Educational institutions must keep special records regarding employment of "student workers."

**16. Failure to comply with recordkeeping requirement.** Compliance with record keeping requirements is the responsibility of the employer. In the event of an investigation by the department, an employer's failure to keep and produce the required records may result in the department's acceptance of personal records kept by employees to determine back wages owed.