



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: October 18, 2022
TIME: 8:19 AM

WSR 22-21-117

Agency: Department of Labor & Industries (L&I)

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) January 1, 2023 (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: Classification Development's goal is to implement clear rule writing to ensure staff and customers can easily understand and apply the workers' compensation insurance classification and reporting rules. Classification Development studied some subclassifications for potential reduction in number; and reviewed classification and reporting rules for improvement and clarification.

The purpose of this rulemaking is not to make substantive changes to how employers are classified and amendments will not increase employer rates.

As part of this rulemaking, L&I also reviewed these chapters for need, clarity, and consistency to make changes where possible to reduce the regulatory burden on employers insured with the State Fund.

L&I is required by law to establish and maintain a workers' compensation classification plan that classifies all occupations or industries in accordance with their degree of hazard and in a manner consistent with recognized insurance principles (RCW 51.16.035). We are amending some classifications to improve ease of reporting, and ensure consistent and equitable treatment to businesses.

Also as a part of this rulemaking adoption, the dollar amounts were removed from state fund and self-insurance rules pertaining to penalties and documenting the penalty amounts on the L&I website. Substitute House Bill 2409, 2020 legislative session, requires penalties in chapter 51.48 RCW be updated every three years based on the Consumer Price Index (CPI). Removing penalty amounts from the rules eliminates the need to perform rulemaking every three years when those amounts change. Penalty amounts will be available on L&I's website and updates will be made every three years.

WAC Numbers	WAC Description	What is Changing	Reason for Change
296-15-560 296-17-35201 296-17-35204	Self-insured third-party administrator (TPA) penalties Recordkeeping and retention Penalty assessments for employers who fail to register under Title 51 RCW	Removed penalty dollar amounts and added reference to RCW 51.48.095 Adjustment for inflation.	Substitute House Bill 2409 requires penalties in chapter 51.48 RCW be updated every three years based on the Consumer Price Index. We removed penalty amounts from the rules to eliminate the need to perform rulemaking every three years when the CPI causes those amounts to change. Penalty amounts will be available on L&I's website and updates will be made every three years.
296-17A-0307	Heating, ventilation, air conditioning, refrigeration and furnace systems; Installation, service or repair	Updated class to reflect that HVAC businesses may perform incidental duct cleaning work. Also reformatted the rule so that subclassifications are expanded with the	Clarified to eliminate staff confusion.

		appropriate information rather than title only.	
296-17A-1108	Glass tempering	Reduced the number of subclassifications.	<p>Reduced subclassifications: We combined subclassifications as part of our plan to reduce the overall number of subclassifications in the Classification plan to ease administrative burden for customers and staff.</p> <p>Some reasons for collapsing:</p> <ul style="list-style-type: none"> • Low number of employers/hours reporting in subclassification (low credibility from actuarial view) • Subclassification does not represent separate risks from overall risk classification • Low loss data • No longer need to track these subclassifications separately <p>Reformatting rules: If the current format of these rules is a barrier to clarity, they were reformatted to make them easier to understand, apply, and follow.</p>
296-17A-2102	Warehouses-General merchandise		
296-17A-3503	Pottery, earthenware, ceramics, porcelain or china: Manufacturing		
296-17A-3708	Hide or leather dealers		
296-17A-4301	Glue, lard, or tallow: Manufacturing		
296-17A-4302	Custom meat cutting		
296-17A-5106	Blacksmithing; vehicle spring or auto bumper: Manufacturing		
296-17A-6207	Carnivals – Traveling		
296-17A-6208	Amusement parks; exhibition caves or caverns		
296-17A-6607	Card rooms; bingo parlors or casinos		
296-17A-3309	Golf cart, motorcycle, and motorized sport vehicle dealers	Reformatted the rule so that subclassifications are expanded with the appropriate information rather than title only.	Some of our classifications were formatted so that they were only identified by title rather than having narrative. This caused some confusion for staff. We updated the classifications so that every subclassification provides all the information, rather than title only.
296-17A-3702	Beverage manufacturing, wine making, distilleries, breweries, malt houses, bottling, and yeast manufacturing		
296-17A-4502	Radio, television, recording, video production, and cable services providers; all other employees		
296-17A-4904	Administrative, clerical, reception, and sales staff working in a business office		
296-17A-4907	Offender work opportunity		
296-17A-5003	Log hauling by contractor		
296-17A-5004	Tree planting services		
296-17A-5006	Forestry machine work – Forest firefighting		
296-17A-6109	Medical and health services N.O.C.		

296-17A-6204	Gyms, fitness centers, martial arts training, baths or saunas		
296-17A-6301	Lot and marina sales personnel for vehicles and pleasure craft; driving instructors, and limousine drivers		
296-17A-6303	Sales personnel with outside duties, messengers, insurance producers or surplus line brokers, social workers and dietitians employed by a home health care service		
296-17A-6504	Thrift stores operated by charitable or other not-for-profit organizations		
296-17A-6509	Assisted living and group homes		
296-17A-6511	Chore services/home care assistants		
296-17A-6707	Football teams and other contact sports, N.O.C., such as wrestling, roller derbies, and the martial arts		
296-17A-6801	Scheduled airlines – Flight crews		
296-17A-6802	Airlines, scheduled – Ground crew operations		
296-17A-6809	Professional and semiprofessional sports teams; noncontact sports		
296-17A-6901	Volunteers		
296-17A-6906	Volunteer law enforcement officers		

296-17A-6306	Furniture stores	<p>Changed subclassification number 6306-04 to 6306-06.</p> <p>Removed subclassification number 6306-05 Entertainment and home theater systems, big screen televisions stores.</p> <p>Added "Entertainment and home theater systems, big screen televisions stores" back to the title of subclassification number 6306-02.</p>	<p>Corrected past rulemaking errors. This corrects errors in the rulemaking that was effective January 1, 2019. The first bullet in the <i>What is changing</i> column was a typographical error; the next two bullets were the result of miscommunication.</p>
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Citation of rules affected by this order:

New: n/a

Repealed: n/a

Amended: WAC 296-15-560, 296-17-35201, 296-17-35204, 296-17A-0307, 296-17A-1108, 296-17A-2102, 296-17A-3309, 296-17A-3503, 296-17A-3702, 296-17A-3708, 296-17A-4301, 296-17A-4302, 296-17A-4502, 296-17A-4904, 296-17A-4907, 296-17A-5003, 296-17A-5004, 296-17A-5006, 296-17A-5106, 296-17A-6109, 296-17A-6204, 296-17A-6207, 296-17A-6208, 296-17A-6301, 296-17A-6303, 296-17A-6306, 296-17A-6504, 296-17A-6509, 296-17A-6511, 296-17A-6607, 296-17A-6707, 296-17A-6801, 296-17A-6802, 296-17A-6809, 296-17A-6901, and 296-17A-6906.

Suspended: n/a

Statutory authority for adoption: RCW 51.04.020 and RCW 51.16.035

Other authority: n/a

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-16-091 on August 2, 2022 (date).

Describe any changes other than editing from proposed to adopted version: No changes 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	<u>3</u>	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	36	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>36</u>	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	<u>36</u>	Repealed	_____

Date Adopted: October 18, 2022

Name: Joel Sacks

Title: Director

Signature:

