



# WASHINGTON STATE LOGGER SAFETY INITIATIVE

Keeping Washington loggers safe.

## Process for Violations of Tier 3 Memorandum of Participation in the Logger Safety Initiative Premium Incentive Program

Employers that joined the Logger Safety Initiative (LSI) Logger Safety Program signed a Memorandum of Participation in which the employer agreed to terms of the LSI Incentive Program (see individual memorandum of participation for details). Employers signed with the understanding that the agreement may terminate if they were no longer within compliance with the requirements as outlined in the memorandum of participation and that, to the extent permitted by law, they would be given notice and an opportunity to comply before termination.

This document outlines the process L&I will follow when LSI participants are not compliant with the terms of the memorandum:

### A. Safety and Health

In the memorandum of participation, employers agreed to comply and remain in compliance with applicable safety and health standards administered by the Labor & Industries Division of Occupational Safety & Health (DOSH).

A LSI Safety Review Panel has been established to respond, in a timely manner, to serious safety issues involving LSI participants. See the "[LSI Safety Review Panel](#)" policy for the purpose and process for reviewing and addressing those serious safety issues that have been identified as a "triggering event".

### B. DOSH Consultation Annual Check-In

In the Tier 3 memorandum of participation, employers agreed to undergo a DOSH comprehensive safety and health consultation of all manual logging conditions and operations after the first and second year of certification.

Tier 3 LSI participants are obligated to contact DOSH Consultation for scheduling. To meet this requirement an LSI participant must, at a minimum, have a confirmed consultation appointment scheduled with DOSH consultation one year from the date the memorandum of participation was signed.

Failure to respond when contacted by DOSH Consultation's initial efforts to schedule a consultation visit after the MOP was signed.

- a) The employer will receive two (2) phone calls, and if unable to contact the employer, the employer will be left a voice messages to contact the consultation program.
- b) If the employer does not contact the consultation program within 10 business days from the second phone call, a certified letter will be sent to the employer instructing the employer to contact the consultation program by a set date.

- c) If employer does not comply by the set-date, the employer will be referred to the LSI Taskforce for possible suspension and/or termination. The employer will be notified, in writing, of the department's decision following the taskforce discussion.

In Tier 3, the employer agreed to have written confirmation that they had corrected all identified safety and health hazards. If an employer has not corrected findings by the time identified by the consultant, the consultant will follow the process outlined in the DOSH Consultation Manual, Chapter 8, Section F. If the employer has not provided the verification by the final action date, the employer will also be referred to the LSI Taskforce for possible suspension and/or termination. The employer will be notified, in writing, of the department's decision following the taskforce discussion

## C. Reporting

In the memorandum of participation, employers agreed to submit monthly supplemental reports, including zero hour reports, for all work in risk class 5001 (LSI risk code 5551, 5552 or 5553). Employers agreed to accurately report and submit monthly reports as long as they are in the LSI Logger Safety Program.

If an employer does not submit a supplemental monthly report the following steps will be taken:

1. Employers must continue to submit monthly supplemental manual logging hours reports, including zero hour reports, for all work in risk class 5001 (LSI risk code 5551, 5552 or 5553).
2. Employer will receive an email or phone call from the LSI program office asking the employer to submit the missing report(s) within the next 10 business days unless another date is agreed too.
3. If employer does not comply within the next 10 business days (or the agreed date), a certified letter will be sent requesting that the employer submit the missing report(s) with the next 10 business days.
4. If employer does not comply within 10 business days, the employer will be referred to the LSI Taskforce for possible suspension and/or termination. The employer will be notified, in writing, of the department's decision following the taskforce discussion

## D. Training Requirement

The employer agreed to annually attend one formal LSI Employer Logger Safety Program training sessions and in cases where the employer delegates supervision and or training responsibilities, those individuals must also attend. If an employer does not meet the training requirement<sup>1</sup>, the following steps will be taken:

1. The employer will be sent a certified letter providing them with upcoming training options and a date by which they must come into compliance.

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<sup>1</sup> See "LSI Training Requirement Criteria" found at [www.loggersafety.org](http://www.loggersafety.org) for specific details regarding LSI training requirements.

2. If the employer does not come into compliance, the employer will be referred to the LSI Taskforce for possible suspension and/or termination from the program. The employer will be notified, in writing, of the department's decision following the taskforce discussion.

## E. Good Standing

In the memorandum of participation, employers agreed to keep their L&I premium account in "good standing" as outlined in WAC 296-17-31004 (4).

If an employer's account is considered no longer in "good standing", in regards to the LSI discount only, the following steps will be taken:

1. A certified letter will be sent notifying the employer that they are out of compliance and the LSI discount will be suspended unless the employer brings their account back in good standing within thirty (30) business days.
2. If the account is not in good standing within 30 business days, the employer will be terminated from the program and a new rate notice will be issued with the non-discounted rate.
3. Once an employer has brought their account back in to "good standing" (i.e. payment in full or alternatively established and is in compliance with a negotiated payment plan) they are eligible to reapply; applications will be reviewed by the LSI Taskforce and employers will be notified, in writing, of the department's decision following the taskforce discussion.

For someone's account to be in good standing, they must:

- Be registered with the department of labor and industries for industrial insurance coverage with the state fund.
- Have a certificate of coverage, also known as a liability certificate that has not been revoked or canceled.
- Have submitted all reports and supplements required by the department within the past year; and
- Be current with all payments due to the state fund, or are current with an approved written payment agreement with the department regarding all unpaid amounts due the state fund.

## F. Quarterly Reporting

The employer agreed to report work hours in the appropriate risk classification(s) on quarterly reports. Employers who have self-identified misreporting of premium hours or were notified by an Account Manager that a reporting error was made must submit amended quarterly reports. Employers that do not submit amended reports will find their account no longer in "good standing" (see Section "Good Standing"). This section does not apply to reporting hours identified in premium audit status.

## G. Repeat Findings:

In the event of a premium audit, where an employer is found to have unreported worker hours or misclassified worker hours, the employer's workers' compensation account will be assessed those findings along with statutory penalties and interest. Any employer who is found to have repeat findings identified in a premium audit (final order) may be terminated from the LSI program. Premium audits will not be considered for repeat findings, when the audit occurred:

- Prior to the initial LSI technical premium audit, or
- Prior to January 1, 2013, or
- Greater than 9 years prior to the most current premium audit.

## H. Fraud

An employer who is found to have willfully misrepresented worker hours or who has willfully misclassified worker hours will be immediately terminated from the LSI program and debarred from the premium discount for a 3 year period.

## I. Recertification Year Requirements and Failing a LSI Third Party Recertification Audit

The LSI program requirements include recertification by the third party auditor in the third year after initial certification. If the employer fails the recertification third party audit, see the policy "[LSI Failed Independent Third-Party Audit Process](#)" for the detailed steps and process.

For an employer to maintain a Tier 3 20% discount during their recertification year, the employer must make meaningful progress to become recertified by the Memorandum of Participation expiration date. If the company is not making a meaningful good faith effort to becoming recertified by the Memorandum of Participation expiration date the following steps will be taken:

1. A certified letter will be sent notifying the employer that their Memorandum of Participation in their recertification year is expiring and they have not met all the requirements in a meaningful good faith effort.
2. If they do not meet the requirements identified in the letter to become recertified before the Memorandum of Participation expiration date, the employer will be referred to the LSI Taskforce for possible suspension and/or termination from the program. The employer will be notified, in writing, of the department's decision following the taskforce discussion.

## J. Program Reinstatement after Termination

An employer who has been terminated from the LSI program must wait at least one year, from the date of termination, before reapplying to join the program. Companies that reapply must include information on how they have addressed the deficiency that resulted in the termination. This information may be reviewed by the LSI Taskforce for a formal recommendation or decision on acceptance back in the program. L&I will make all decisions on the premium discount level.

An employer who has been terminated from the LSI program due to a willful violation of Section F they must wait at least three years, from the date of termination, before reapplying to join the program. Companies that reapply must include information on how they have addressed the deficiency that resulted in termination. The information may be reviewed by the LSI Taskforce for a formal recommendation or decision on acceptance back in the program. L&I will make all decisions on the premium discount level. If the company is allowed back in to the LSI program, it will undergo a full four (4) quarter compliance audit which may be expanded to twelve (12) quarters. Statutory penalties and interest, as well as field audit penalties that were waived in the initial Tier 1 technical premium audit, will not be waived.