



WASHINGTON STATE LOGGER SAFETY INITIATIVE

Keeping Washington loggers safe.

August 22, 2016

Process for violations of Tier 1 & Tier 2 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).

Any safety and health inspection resulting in Severe Violator Enforcement case designation DOSH Directive 2.68 will be immediately suspended.

B. DOSH Consultation

In the Tier 1 memorandum of participation, employers agreed to undergo a DOSH comprehensive safety and health consultation of all manual logging conditions and operations. While an LSI participating employer has flexibility in determining the timing of the consultation, consultation may not be deferred to the extent that the employer is avoiding making meaningful progress towards achieving certification in a timely manner. *NOTE: Even if the employer feels they are not ready at the moment to schedule a consultation, contact still needs to be made in order to develop a plan and timeline for moving forward.*

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 2, 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. L&I Technical Audit

In Tier 1, the employer agreed to undergo an L&I technical premium audit (if they had not had a premium audit within the past 12 months).

If an employer does not schedule and/or participate in the L&I Technical Premium audit, the following steps will be taken:

1. The employer will receive two (2) phone calls to schedule the technical premium audit.
2. If the employer does not comply within 10 business days from the second phone call, a certified letter will be sent to the employer instructing the employer to schedule the technical premium audit by a set date.
3. 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 2, the employer agreed to have completed the L&I Technical audit and corrected any findings (i.e. paid amount owed or establish and comply with payment plan). If an employer has not corrected findings and/or paid owed funds, could mean the employers account is no longer in "good standing" – see Section F "Good Standing Violation."

D. 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 submit their monthly 5001 (LSI risk code 5551, 5552 or 5553) hours to receive the third-party audit.
2. Employer will receive a 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.

E. Training Requirement

In Tier 1, the employer agreed to annually attend one of the 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 requirement¹, 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.
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.

F. Good Standing

In the memorandum of participation, employers agreed to keep their L&I premium account in "good standing" (i.e. payment in full or alternatively established and is in compliance with a negotiated payment plan) 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.

¹ See "LSI Training Requirement Criteria" found at www.loggersafety.org for specific details regarding LSI training requirements.

3. Once an employer has brought their account back in to “good standing” 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.

G. Quarterly Reporting

In the Tier 1 memorandum of participation, the employer agreed to report work hours in the appropriate risk classification(s) on quarterly reports. Employers that are found to have incorrectly reported hours on quarterly reports must submit amended quarterly reports. Employers that do not submit amended reports will find their account no longer in “good standing” (see Section F “Good Standing Violations”).

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. LSI Employer Logging Safety Program

Employers agreed to implement the Employer Logging Safety program and actively work towards LSI program certification through independent third party safety audit verification of the LSI Logger Safety Program requirements.

As outlined in the memorandum of participation, if the employer does not pass a third-party audit and move into Tier 3 within a year of signing the memorandum the employer must submit a report to the LSI program office that:

1. Explains the steps they have taken to implement the requirements of the LSI program.

2. Explains why they have not participated and/or passed the third-party audit to date.
3. Includes a plan for achieving third-party audit approval within the next year.
4. What assistance is needed in order to pass the third-party audit.

The LSI participant's plan must be approved by L&I and the LSI taskforce prior to moving forward in the program.

J. Program Reinstatement after Termination

An employer who has been terminated from the LSI program must wait at least one year or four full quarters 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.