A Guide to Workplace Safety and Health in Washington State

What every employer and worker needs to know

Division of Occupational Safety and Health

www.Lni.wa.gov/safety-health 1-800-423-7233

Washington State Department of Labor & Industries

Workplace Safety and Health Matters

Newspaper accounts of workplace deaths often quote a company representative or family member who said, "it was a tragic and unfortunate accident" or "it was a freak accident."

In reality, most workplace deaths, injuries and occupational diseases can be prevented. Too often, workplace safety and health rules intended to prevent "accidents" have not been followed, and a worker suffers a painful and sometimes disabling injury. Although Washington State has one of the lowest fatality rates in the United States, one or two workers dies here each week from a work-related injury or illness.

Prevention takes dedication and work. It is not something that can be accomplished as an afterthought—when there is a lull in production or during a staff meeting. It takes an ongoing commitment by employers, workers and the Washington State Department of Labor & Industries (L&I).

A Guide to Workplace Safety and Health in Washington State provides an overview of worker safety and health in Washington State. It outlines employers' and workers' responsibilities and L&I's requirements and services, all intended to prevent injuries and illnesses and save lives.

Contents

Understanding the Washington Industrial Safety and Health Act 1

Help from L&I: Creating and Maintaining a Safe Workplace 2

What an Employer Can Expect from a Workplace Safety and Health Inspection 4

Rule Making 6

Info for Employers 7

Info for Workers 8

Where to Go for Help . . . . . back cover

Understanding the Washington Industrial Safety and Health Act

What is WISHA?

WISHA is the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, enacted in 1973 by the Washington State Legislature. The purpose of this law is to ensure that Washington's employers provide their workers with safe and healthy workplaces.

The Department of Labor & Industries (L&I) administers WISHA through its Division of Occupational Safety and Health (DOSH). Washington is one of 27 states that administers its own workplace safety and health program.

The federal Occupational Safety and Health Administration (OSHA) enforces safety and health requirements in the remaining states. OSHA monitors and partially funds DOSH.

Where does WISHA apply?

WISHA covers nearly all employers and employees in Washington State, including state, county and city employees. Exceptions are federal agencies and workplaces on federal installations.

What are employers' responsibilities under WISHA?

Employers must provide a safe and healthy workplace and comply with applicable workplace safety and health rules. Employers may want to read more on this subject on Page 7.

WISHA requires employers to keep job sites safe for all employees, whether they work for the employer, a contractor, a subcontractor or someone else. For more information, read *A Guide to Hiring Independent Contractors in Washington State* (F101-063-000). It is available online at **www.Lni.wa.gov/go/F101-063-000**.

What are workers' responsibilities under WISHA?

Workers must comply with workplace safety and health rules that apply to their actions on the job. Workers may want to read more on this subject on Pages 8–9.

What are L&I's responsibilities?

The Washington Industrial Safety and Health Act (WISHA) gives L&I primary responsibility for overseeing workplace safety and health in Washington State. L&I's Division of Occupational Safety and Health carries out this responsibility by:

- Implementing rules to reduce or eliminate workplace hazards.
- Conducting no fee on-site consultations to help employers identify and fix workplace hazards.
- Providing education, training tools and resources.
- Inspecting workplaces.
- Investigating WISHA discrimination complaints.

Help from L&I: Creating and Maintaining a Safe Workplace

Creating and maintaining a safe workplace begins with Washington State's "safety and health core rules." These rules explain the minimum requirements for safe workplaces that employers must follow. They specifically address:

- Employer responsibilities for safe workplaces.
- Accident prevention program/safety committees.
- Personal protective equipment.
- Chemical hazard communication.

In addition to the core rules, other rules apply to specific industries — for example, noise control, confined space, forklift safety and respiratory protection.

L&I offers a variety of services to help employers understand and comply with workplace safety and health rules, protect their employees, and lower workers' compensation costs.

Consultations

DOSH offers three types of consultations to help employers provide safe and healthy workplaces.

- **Safety and/or health.** These consultations help employers c omply with WISHA rules, recognize hazards, and fix hazards before injuries occur.
  - A safety consultation focuses on physical hazards and procedures, such as machine guarding, fall protection or energy control (lockout/tagout). An industrial hygienist conducts health consultations for issues such as hazardous chemicals, noise control or confined space. An employer can request either or both.
- **Sprains and strains prevention (also known as ergonomics).** These consultations show employers how the design of workstations, work practices and work flow can create the best fit between people and their work.
  - By learning how to reduce potential hazards for sprains, strains and other similar injuries, employers can minimize risks to their workers, and maximize productivity and profits.

- **Risk management.** These consultations help employers see the connection between safe workplaces and profits — the impact injuries have on workers' compensation premiums, "claim-free" discount, and other business costs.

For more information, visit **www.Lni.wa.gov/DOSHConsultation** or call 1-800-423-7233, or read *Safety and Health Consultation Brochure* (F417-209-000), available online at **www.Lni.wa.gov/go/F417-209-000**.

Training Tools and Information

The Safety and Health section of L&I's website contains numerous tools and educational materials for employers and their workers. Go to **www.Lni.wa.gov/safety-health** and find the resources you need. They include:

- List of top 10 cited violations
- Safety and health topic search
- Online videos and training courses, including webcasts
- Employee training kits, required training and plans for instructors
- Hazard alerts and fatality bulletins
- Educational pamphlets, posters and stickers

Safety and Health Video Library

The library contains a large video and DVD collection, with more than 1,000 titles covering a wide variety of workplace safety and health topics. There are over 100 online videos to view on YouTube and some that require a current Borrower Account ID number. Complete descriptions are available on the web at **www.Lni.wa.gov/Videos**. Videos can be a useful training tool or help build awareness in safety committee meetings. They are available for loan to any Washington State resident. The only cost is return shipping using a traceable method.

To learn more:

- Visit **www.Lni.wa.gov/Videos**
- Call 1-800-574-9881 or 360-902-5444
- Send an email to SHVideo@Lni.wa.gov

Governor's Industrial Safety and Health Conference

The Governor's Industrial Safety and Health Advisory Board and L&I co-sponsor this annual two-day conference. Its purpose is to provide the latest tools, technologies and strategies for workplace safety and health. More than 15 different industries hold sessions on topics specific to their industry.

In addition to the annual conference, the Board and L&I present several industry-specific events, including Agriculture Safety Day and Construction Safety Day.

To learn more:

- Visit **www.gishab.org**
- Call 1–888-451-2004

What an Employer Can Expect from a Workplace Safety and Health Inspection

By law, DOSH conducts compliance inspections in addition to providing consultations, education and training. Inspections help ensure that employers comply with workplace safety and health rules. The terms "compliance," "enforcement," and "inspections" all describe the inspection process, found in WAC 296-900.

What is the purpose of a workplace inspection?

A workplace inspection helps an employer discover any potential hazards within the workplace and determines if applicable minimum workplace safety and health rules have been followed. Compliance Safety and Health Officers (CSHOs) conduct inspections.

- A safety inspector is a CSHO who specializes in physical hazards or procedural problems, such as inadequate machine guards, stair railings or equipment lockout procedures.
- An industrial hygienist is a CSHO who specializes in occupational health hazards, such as chemical vapors, asbestos, respirator issues and noise.

Safety inspectors and industrial hygienists may work together. For example, a safety inspector identifying potential hazards in a factory may have concerns about the level of noise and ask for an industrial hygienist to check noise levels.

When does DOSH inspect workplaces?

As required by law, DOSH conducts inspections without advance notice and in the following order of priority:

1. "Imminent danger" situations, where death or serious physical injury could happen immediately.
2. Workplace fatalities and hospitalizations.
3. Amputations or loss of an eye.
4. Complaints and referrals concerning potentially hazardous conditions.
5. Follow-up or monitoring inspections.
6. Scheduled inspections. DOSH uses objective factors such as claim history, injury/illness rates, and the safety performance of industries to plan scheduled or "routine" inspections. A special emphasis program focusing on a high-hazard industry may also be established within the state or required nationwide by the federal Occupational Safety and Health Administration.

I'm an employer. What should I know about inspections?

There are three parts to an inspection: the opening conference, the walk-around inspection and the closing conference.

Opening Conference

An "opening conference" is the first part of the inspection. The inspector will present credentials, request permission to enter the work site, and outline the reason for and scope of the inspection. The inspector will verify the legal name of your business, your UBI number, industrial insurance account number, how many employees you have and other general information.

Other documents the inspector will ask to see include your written accident prevention program, any other required safety programs and your injury and illness logs.

Employee representatives must be included in the opening conference, unless you or your employees' representatives request a separate opening conference. In such a case, both have the right to a written summary of the other's opening conference.

The opening conference allows the inspector to explain what to expect during the inspection itself and discuss your rights and responsibilities. These include:

- **Confidentiality.** The inspector is required to keep certain information confidential to protect your business. Trade secrets such as formulas, processes, patterns and blueprints will not be revealed, to the extent protected by law. The inspector may also need to have confidential discussions with employees.
- **Representation.** You or your representative and a representative authorized by your employees may accompany the inspector. The inspector will talk with some of your employees about safety and health conditions on the job site, especially if they do not have an authorized representative.

- **Participation.** By law, your employees must be allowed to participate in the inspection and must be paid for this time. They may not be fired, demoted or otherwise discriminated against if they talk with the inspector, file a complaint about potentially hazardous conditions, or exercise any other legal right under the Washington Industrial Safety and Health Act.

Walk-around Inspection

During the "walk-around" inspection, the inspector will look for any potential hazards that might endanger your employees, take notes and possibly photographs. For example, the inspector may look closely at the guards on machinery or take small samples of material for laboratory analysis. You have a right to accompany the inspector and ask questions about how to correct any problems discovered

The inspector will also determine whether you have complied with state and federal record-keeping requirements and whether you have posted the necessary documents, including the *Job Safety and Health Law* poster (F416-081-909), that inform your employees of their rights under the law. See **www.Lni.wa.gov/RequiredPosters**.

Closing Conference

The inspector will discuss any hazards discovered, ways to correct the hazards and deadlines for correcting them. You also will be told of any potential monetary penalties related to any violations and how you can appeal the findings of the inspection. By law, any hazard identified as "serious" carries a mandatory penalty. The monetary penalties you pay will be deposited into the supplemental pension fund, which provides disability pensions and survivor benefits to injured workers and their families.

During the closing conference, it is important that you provide any additional information that you want the inspector to consider.

Employee representatives must be included in a joint closing conference. However, either the employer or employee representatives may request a separate closing conference.

What happens after the inspection?

You must correct hazards. You will receive a "Citation and Notice of Assessment" (Citation and Notice) in the mail. It will include any violations the inspector found, the monetary penalty(ies) associated with the violations, what you must do to correct the hazards and how long you have to correct them. You need to:

- Immediately notify employees of the citation and notice by posting it and any related correspondence from an employee complaint on the "safety bulletin board" for three working days or until all violations are corrected, whichever time period is longer.
- Correct all hazards within the time specified on the Citation and Notice.
- Complete and return the *Employer Certification of Abatement* form that came with the Citation and Notice, once you have corrected the hazards. In some cases, you may be asked to provide pictures or other documentation of the corrected hazards.

You may request an extension to correct hazards. If you have made a sincere effort to correct problems in your workplace, but are unable to do so in time because of factors beyond your control, you may apply for an extension. You must make your request **before** the correction date deadline in the Citation and Notice.

If no violations were identified, you will receive a letter from L&I stating that no hazards were found at this time.

To request an extension, write a letter to the address listed at the top of the *Employer Certification of Abatement* form. In your letter, state why the violations cannot be corrected by the specified date, how your employees will be protected in the meantime and when you will be able to correct the problem. Your employees have the right to appeal the length of time allowed to correct hazards.

You may appeal the findings in the Citation and Notice. You must state your appeal in writing and send it to the address listed on the Citation within 15 working days from the date you received the Citation and Notice. You must correct or abate the cited serious violations by the designated correction due date even if you appeal unless you request and are granted a stay of the abatement date. A stay of the abatement date means the requirement to abate or correct the hazard is put on hold or suspended until the appeal is resolved.

The request for a stay of the abatement date must be included in the written notice of appeal.

For more information on requesting a stay of abatement, search "296-900-170" at **www.Lni.wa.gov/WISHA**.

How does the appeal process work?

L&I has the option to reassume jurisdiction and try to resolve the appeal informally, or to forward your appeal to the Board of Industrial Insurance Appeals, which is an independent agency.

If L&I reassumes jurisdiction, you will meet with an L&I hearings officer. This will be your opportunity to present relevant facts, opinions, information and questions. You are not required to have an attorney there. After the meeting, you will receive a document that explains L&I's final decision. This document is called a Corrective Notice of Redetermination or CNR. If you still disagree with the findings, you may further appeal to the Board of Industrial Insurance Appeals within 15 working days of receiving the CNR. Decisions of the Board of Industrial Insurance Appeals can be further appealed through the court system.

Rule Making

Workplace safety and health rules outline employers' minimum requirements to provide a safe and healthy workplace. From time to time, it may be necessary to change rules, or implement new rules that address new hazards, respond to legislative action, or meet the requirements of other government agencies. For example, Washington State's rules must be "at least as effective" as federal OSHA rules. If OSHA changes a rule, Washington State must change its corresponding rule within six months.

How does L&I create rules?

L&I adopts, amends or repeals all permanent workplace safety and health rules through a formal process that gives the public advance notice and opportunity to comment. The Administrative Procedures Act (RCW 34.05) outlines the rule-making process.

How does L&I involve the public?

Interested parties, such as labor and management organizations in an affected industry, may assist L&I's Division of Occupational Safety and Health in developing the wording of the rule. Before adoption, the public has the opportunity to review the proposed rule and comment at a public hearing.

L&I publishes an official announcement of public hearings in the Washington State Register and posts information about proposed rules on its website at **www.Lni.wa.gov/SafetyRules**. L&I reviews the written and oral testimony from the public hearing and revises the proposed rule as needed. The rule is officially adopted when L&I's director signs it and files it with the Code Reviser's Office.

How can you stay informed if rules change?

Extensive information, including proposed changes to workplace safety and health rules and upcoming public hearings, can be found on L&I's website at **www.Lni.wa.gov/rulemaking-activity**.

What is a variance?

If a workplace safety and health rule requires you to use a method of protection that makes it impossible for you to operate your business, you may apply for a variance from that rule. You will need to fill out an application and describe how you will protect employees to the same degree the rule requires. Information and application forms are available at your local L&I office or online at **www.Lni.wa.gov/safety-health/safety-rules/enforcement-policies/rule-variances-variance-notices**.

Info for Employers

What are your responsibilities?

The following list identifies some of the basic responsibilities employers have under the Washington Industrial Safety and Health Act. Additional requirements that address specific hazards and specific industries may also apply. The basic responsibilities are:

- Provide a safe and healthy workplace and comply with applicable rules. Visit **www.Lni.wa.gov/SafetyRules** where you can review and/or print the rules. If you do not have access to the web, call 1-800-423-7233 to request assistance.
- Develop, maintain and implement a written safety and health program that addresses the hazards specific to your business.
- Post the *Job Safety and Health Law* poster (F416-081-909), which explains the rights and responsibilities of employers and workers. You can order a free poster online at **www.Lni.wa.gov/RequiredPosters**. Or, call your local L&I office or 1-800-423-7233.
- Provide training to your employees about job safety and health.
- Involve employees in your safety program by either having a safety committee or holding monthly safety meetings, depending on the size of your business.
- Keep records of all work-related injuries and illnesses that meet the criteria specified by law.
- Report an employee fatality or in-patient hospitalizations including amputations or losses of eye within eight (8) hours of the incident.
- Report a non-hospitalized employee amputation or loss of eye of any employee within twenty-four (24) hours of the incident.
  - **Where to report:** Contact the L&I office nearest you by phone or in person, or call 1-800-423-7233.

What are your rights?

You have the right to require that your employees follow Washington State workplace safety and health rules and your company's policies. You have a right to require your employees to:

- Follow safety practices.
- Use safe work practices in their daily work.
- Use and maintain any personal protective equipment you provide for them.
- Never remove, displace or damage any safeguards, notices or warnings intended to provide a safe workplace.
- Not wear torn or loose clothing while working around machinery.
- Report any near misses or accidents promptly.

You have the right to have a safety program and safety practices with requirements greater than those of the Washington Industrial Safety and Health Act and hold your employees accountable for complying with your program.

Employers have specific rights identified throughout the inspection process. See Pages 4–6, "What an Employer Can Expect from a Workplace Safety and Health Inspection."

What are your responsibilities?

By law, you must comply with the safety and health rules that apply to your workplace. They include:

- Read the *Job Safety and Health Law* poster (F416-081-909). Your employer is required to display this poster.
- Follow your employer's safety and health rules.
- Wear any personal protective equipment your employer requires.
- Report any potentially hazardous conditions to your safety committee, safety officer or supervisor.
- Report any on-the-job injury or illness immediately and get medical attention, if needed.
- Cooperate with inspectors from L&I's Division of Occupational Safety and Health (DOSH).

What are your rights under WISHA?

Every worker has the right to a safe and healthy workplace. If you know of potentially hazardous conditions and have reported them to your employer, and they remain uncorrected, you may file a confidential complaint with DOSH. DOSH will evaluate your complaint and may schedule an inspection of your workplace.

You have the right to:

- Bring job safety and health concerns to your employer's attention.
- Discuss safety and health matters with other workers.
- Participate in union activities concerning safety and health matters.
- Refuse a dangerous task when certain conditions are met. See *"Do you have the right to walk off the job to protest unsafe conditions?"* on the following page.
- File safety and health grievances.
- Participate in safety and health inspections with a DOSH inspector.

In addition, you have the right to:

- File a complaint about workplace safety or health hazards with DOSH, OSHA, your local health or fire department, or any other appropriate government agency. You may ask that your name not be revealed if you file such a complaint.
- Testify before any panel, agency or court about job hazards.
- File a safety and health discrimination complaint and give evidence in connection with such complaints.
- For additional information, you can read the *Pocket Guide to Worker Rights* (F101-165-909) at **www.Lni.wa.gov/go/F101-165-909**.

What constitutes discrimination?

By law, no one including your employer may take action against you for exercising your rights under the Washington Industrial Safety and Health Act. If that happens, you may have been discriminated against. Discriminatory actions include but are not limited to:

- Dismissal.
- Demotion.
- Assignment to an undesirable job or shift.
- Loss of seniority.
- Reduction in pay or hours.
- Denial of a promotion you would otherwise have received.

- Denial of benefits earned, such as sick leave or vacation time.
- Harassment.
- Blacklisting with other employers.
- Taking away company housing.
- Damaging your credit at banks or credit unions.

What should you do if you believe your rights under WISHA have been violated?

Make a list of the facts. Do this while they are fresh in your mind. Record the names and addresses of the people involved and what happened. Also, note the names of any witnesses, when and where the incident happened, and anything else that may be significant. Keep any documents, letters or notes that relate to the incident.

Contact the Department of Labor & Industries, DOSH, in person, by letter, or by telephone: You must file your complaint **within 30 days** from the time a discriminatory action occurred. You may file your complaint with the Assistant Director for DOSH at this address:

Assistant Director
Division of Occupational Safety and Health
Department of Labor & Industries
PO Box 44600
Olympia WA 98504-4600

You may file the complaint yourself, or you may authorize a representative, such as your union, to do it for you.

Discrimination complaint forms are available online and from local L&I offices (see back cover).

Do you have the right to walk off the job to protest unsafe conditions?

No! However, you can refuse to do a specific task if you reasonably believe that doing so would be dangerous to your life and/or health. But you need to stay on the job until the issue is resolved. If you walk off the job, DOSH may not be able to protect you.

Your right to refuse to do a task is protected if all of the following conditions are met:

1. The refusal to work must be genuine. It cannot be a disguised attempt to harass your employer or disrupt business.
2. A reasonable person (or most people) would agree that there is a real danger of death or serious injury if you were to perform the job.
3. There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as DOSH.

When all three of these conditions are met, you should:

1. Ask your employer to correct the hazard;
2. Ask your employer for other work;
3. Tell your employer that you won't perform the work unless the hazard is corrected; and
4. Remain on the work site until ordered to leave by your employer.

Where to Go for Help

For more information, visit the L&I website: **www.Lni.wa.gov**. For person-to-person assistance, contact the L&I office nearest you.

Contacting local L&I offices

For phone numbers, maps and directions, visit **www.Lni.wa.gov/Offices**.

Find it fast

- Safety and health information online: **www.Lni.wa.gov/safety-health**
- Safety and health information in Spanish (Información sobre seguridad en español): **www.Lni.wa.gov/Seguridad**
- Information by phone, toll-free: 1-800-423-7233
- L&I forms and publications online: **www.Lni.wa.gov/forms-publications/search**
- Safety and health, ergonomics, and risk management consultation: **www.Lni.wa.gov/DOSHConsultation**

Other important information for employers

- Your employees' workplace rights: **www.Lni.wa.gov/workers-rights**
- Workers' compensation insurance: **www.Lni.wa.gov/Insurance**
- Contractor registration: **www.Lni.wa.gov/RegisterAsAContractor**

Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 711. L&I is an equal opportunity employer.

PUBLICATION F416-132-000 [11-2017]