



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 22, 2020

TIME: 10:34 AM

WSR 20-19-128

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

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 20-12-105 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Fulfillment Centers Classification
Chapter 296-17 WAC, General Reporting Rules, Audit and Recordkeeping, Rates and Rating System for Washington
Workers' Compensation Insurance and Chapter 296-17A WAC, Classifications for Washington Workers' Compensation
Insurance.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 27, 2020	3 p.m.	ZOOM hearing Joining electronically: Join Zoom Meeting at https://zoom.us/j/97005594668 Meeting ID: 970 0559 4668 Passcode: 8V!\$KeC5 Joining by phone: +1-253-215-8782 US (Tacoma) Meeting ID: 970 0559 4668 Passcode: 02185292	
October 29, 2020	3 p.m.	Joining electronically: Join Zoom Meeting at https://zoom.us/j/98210811662 Meeting ID: 982 1081 1662 Passcode: 4a%&u29m Joining by phone: +1-253-215-8782 US (Tacoma) Meeting ID: 982 1081 1662 Passcode: 40650585	

Date of intended adoption: November 30, 2020 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Jo Anne Attwood

Address: PO Box 44148

Olympia WA 98504-4148

Email: JoAnne.Attwood@Lni.wa.gov

Fax: 360-902-5830

Other:
 By (date) October 30, 2020, 5 p.m.

Assistance for persons with disabilities:
 Contact Jo Anne Attwood
 Phone: 360-902-4777
 Fax: 360-902-5830
 TTY: 360-902-5797
 Email: JoAnne.Attwood@Lni.wa.gov
 Other:
 By (date) October 16, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rulemaking is being proposed to ensure classifications and rates accurately reflect expected losses for fulfillment centers. We propose creating one new classification for fulfillment centers and amending two classifications to reflect references to the new classification.

Proposal:

- Creating a new classification for Classification 2103 Fulfillment centers (WAC 296-17A-2103);
- Creating a new rate for Classification 2103 in WAC 296-17-89509;
- Amending Classification 2102 Warehouses (WAC 296-17A-2102) exclusion language to refer to the new fulfillment center classification; and
- Amending Classification 6407 Wholesale stores, N.O.C. (WAC 296-17A-6407) exclusion language to refer to the new fulfillment center classification.

New: WAC 296-17A-2103 Fulfillment centers; WAC 296-17-89509
 Amend: WAC 296-17A-2102 Warehouses; WAC 296-17A-6407 Wholesale stores, N.O.C.

Reasons supporting proposal: RCW 51.16.035 requires the department to classify all occupations or industries by degree of hazard. The department researched and evaluated the operations of fulfillment centers currently classified in Classification 2102 Warehouses - General Merchandise. We discovered, after evaluating expected losses and some unique operations of fulfillment centers, that possible classification changes may be required to ensure these operations are still being classified by their degree of hazard to ensure fair rates in the industry.

Statutory authority for adoption: RCW 51.04.020 and RCW 51.16.035

Statute being implemented: RCW 51.16.035

Is rule necessary because of a:

Federal Law? ☐ Yes ☒ No
 Federal Court Decision? ☐ Yes ☒ No
 State Court Decision? ☐ Yes ☒ No

 If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) L&I

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jo Anne Attwood	Tumwater, WA	360-902-4777
Implementation:	Mike Ratko	Tumwater, WA	360-902-6369
Enforcement:	Victoria Kennedy	Tumwater, WA	360-902-4997

Is a school district fiscal impact statement required under RCW 28A.305.135?

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

☒ No: Please explain: A cost-benefit analysis is not required per RCW 34.05.328(5)(b)(vi), as the proposed rules are adjusting rates pursuant to legislative standards.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☐ RCW 34.05.310 (4)(b)
(Internal government operations)

☐ RCW 34.05.310 (4)(e)
(Dictated by statute)

☐ RCW 34.05.310 (4)(c)
(Incorporation by reference)

☒ RCW 34.05.310 (4)(f)
(Set or adjust fees)

☐ RCW 34.05.310 (4)(d)
(Correct or clarify language)

☐ RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: September 22, 2020

Name: Joel Sacks

Title: Director

Signature:

