



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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FILED

DATE: November 21, 2023

TIME: 8:42 AM

WSR 23-23-155

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) January 1, 2024 (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 increase ease of reporting, and ensure consistent and equitable treatment to businesses.

Also as a part of this rulemaking, L&I is updating the trucking reporting and classification rules based on recommendations from a cross-divisional workgroup. These updates clarify L&I's practice of determining interstate or intrastate trucking based on where the driver drives rather than the location of the load being hauled.

Lastly, L&I is changing the word "servant" to "worker" in Classification 6510 Domestic servants/home care assistance employed in or about the private residence of a home owner, as "worker" is a more respectful term. We've had requests from industry to change this language. We look forward to any opportunity in the future to update RCW 51.12.020 to make the same improvement.

Adopted amendments include:

WAC Numbers	WAC Description	What Changed	Reason for Change
296-17-31004	Coverage requirements	Added reference to licensed plumbing contractors where appropriate.	Alignment with Senate Bill 5088 from the 2023 legislative session. Plumbing contractors were previously registered contractors under chapter 18.27 RCW, but they are now licensed plumbing contractors under chapter 18.106 RCW.
296-17-31014	Farming and agriculture	Updated reporting rule for the Farm Internship Program based on changes in 2023 legislation.	L&I updated this rule to implement Substitute Senate Bill 5156. 2023's SSB 5156 changed the Farm Internship Program from a pilot to a permanent program. Some of the qualifying requirements that appear in our reporting rule changed in the new law.
296-17-35203 296-17A-1102	Special reporting instruction Trucking	<ul style="list-style-type: none"> Changed terms <i>establishments</i> and <i>firms</i> to <i>businesses</i>. 	A small workgroup, with representatives from Employer Services, Field Audit, and Firm Appeals, was asked to update this WAC to

		<ul style="list-style-type: none"> • Changed formatting so that each subclass has a full description of its scope. • Updated definitions of <i>interstate truck driving</i> and <i>intrastate truck driving</i>. • Added common duties and goods hauled to scopes descriptions. • Clarified that any workers that ride in the truck along with the driver are included in the scope of classification 1102. • Clarified that classification 1102 includes driving the truck while the vehicle isn't carrying a load. • Clarified classification exclusions. • Added note that references WAC 296-17-31015 General inclusions. • Removed note that caused confusion about application of classification 5206 with 1102: <i>All hours for workers who spend any time driving or riding in trucks for businesses subject to this classification must be reported in classification 1102.</i> <ul style="list-style-type: none"> ○ A worker who is sometimes a driver can work an entire shift in the yard or shop and have those hours correctly reported in classification 5206-80. 	<p>clarify the department's practice of determining interstate or intrastate trucking based on where the driver drives rather than the location of the load being hauled.</p> <p>The group also made updates to improve clarity and formatting.</p>
296-17A-2903	Wood boat: Manufacturing, repair, or refinish	Removed "repairing" an exclusion in 2903-28.	Correcting error from a 2016 reformatting of Classification 2903-28 that had added "or repairing" to the exclusion for manufacture of fiberglass boats. Repair is not included in the manufacture of fiberglass boats classification.
296-17A-5301	Accounting or bookkeeping services	Added "or interpreter" to subclassification 5301-21 Word processing, secretarial, or tutoring.	Documenting L&I's practice of classifying interpreter service businesses in subclassification 5301-21 Word processing, secretarial, or tutoring.
296-17A-6121	Acute care hospitals - Without a fully implemented safe patient handling	Removed direction that this classification can only be assigned by the hospital underwriter.	L&I no longer has a hospital underwriter. This classification may be assigned by any underwriter.

	program (to be assigned only by the hospital underwriter)		
296-17A-6411	Stores	Replaced “marijuana” with “cannabis”.	Cannabis, rather than marijuana, is the word used by the Liquor and Cannabis Board (LCB). Changing to align with the LCB. We will update staff advisements.
296-17A-6504	Thrift stores operated by charitable or other nonprofit organizations	Added “Applies to:” to subclass 01.	Correct typographical error. This was overlooked when reformatting last year.
296-17A-6510	Domestic servants/home care assistants employed in or about the private residence of a home owner	Changed the word “servants” to “workers”. Domestic workers rather than domestic servants. Reformatted rule.	The word “workers” is more respectful than the word “servants”. L&I received requests from the industry to change this language. We hope in the future to have the opportunity to update RCW 51.12.020 to make the same improvement. Reformatted to comply with current standardized format.
296-17A-0601	Electrical wiring in buildings; electrical wiring, N.O.C.; Permanent flood lighting; Installation	Reduced the number of subclassifications and reformatted rules.	L&I 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. Some reasons for collapsing: <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
296-17A-1303	Telecommunication service providers-All other employees, N.O.C.		
296-17A-1801	Lead smelting, sintering, or refining; calcium carbide manufacturing		
296-17A-3602	Electrical, telegraph or radio component, telephone set: Manufacture, assembly, or repair		If the format of these rules was a barrier to clarity, they were reformatted to make them easier to understand, apply, and follow.
296-17A-4305	Garbage works or landfill: Reduction or incineration		
296-17A-5108	Cable or wire rope: Drawing and manufacturing		
296-17A-0103	Drilling or blasting: N.O.C.	Reformatted to comply with current standardized format.	Reformatted classifications to reflect standardized format established in 2019 for easier readability. In addition, some of our classifications were formatted so that they were only identified by title rather than having narrative. This caused some confusion for staff and they requested we update the classifications so that every subclassification provides all the information, rather than title only.
296-17A-0104	Dredging, N.O.C.	Reformatted the rule so that subclassifications are expanded with the appropriate information rather than title only.	
296-17A-0105	Fence erection or repair: N.O.C.; parking meter installation; and placement of wire mesh on slopes for slope protection		
296-17A-0106	Tree care and pruning services, N.O.C.		

296-17A-0107	Utility line and pipelaying construction, underground, N.O.C.		
296-17A-0112	Commercial production of sand, gravel, clay and stone products		
296-17A-0210	Asphalt paving or surfacing: Highway, street or roadway		
296-17A-0212	Asphalt paving or surfacing, N.O.C.		
296-17A-0214	Concrete paving and repaving: Highways, streets or roadways, N.O.C.		
296-17A-0217	Concrete flatwork – Construction and/or repair: N.O.C.		
296-17A-0301	Lawn type sprinkler systems: Installation, service or repair		
296-17A-0303	Plastering, stuccoing and lathing buildings, N.O.C.		
296-17A-0504	Waterproofing, N.O.C.: Buildings or structures		
296-17A-0511	Glass installation in buildings		
296-17A-0519	Sheet metal work in building construction N.O.C.		
296-17A-0602	Elevators or elevator door bucks: Installation, service and/or repair		
296-17A-0701	New dam construction: All operations in dam site area		
296-17A-1004	Log storage and log sorting yards		
296-17A-1005	Shake and/or shingle mills		
296-17A-1006	Land surveying services, N.O.C.		

296-17A-1103	Coal and solid fuel dealers – Yard operations		
296-17A-1104	Auto or truck wrecking or dismantling		
296-17A-1105	Septic tank pumping		
296-17A-1701	Ore reduction, by wet or dry process without application of heat at mine		
296-17A-1702	Coal mines and mines N.O.C., underground; coke ovens		
296-17A-1703	Open cut mining – All types; placer or hydraulic mining		
296-17A-1704	Quarries, N.O.C.		
296-17A-2203	Laundries – Commercial or industrial: N.O.C.		
296-17A-3101	Ready mix concrete dealers		
296-17A-3405	Precision machined parts and products, N.O.C.: Manufacturing		
296-17A-5209	Boiler or tank construction		
296-17A-6107	Veterinary hospitals or clinics		
296-17A-6206	Golf courses, N.O.C.		
296-17A-6410	Janitorial supply dealers		
296-17A-6502	Banks; credit unions; savings and loan associations		
296-17A-6503	Labor unions or employee representative associations		
296-17A-6512	Home care services/consumer directed employer program		
296-17A-6601	Detective agencies		
296-17A-6704	Parking lot operations		

296-17A-6706	Athletic teams: Operations and facilities		
296-17A-6907	Household furnishings moving and storage		
296-17A-6908	Lightweight paper products, N.O.C.: Manufacturing		
296-17A-7308	Animal shelters or services, dog pounds and humane societies		
296-17A-7100	Exempt limited liability company members, N.O.C.	Clarified that corporate officers with optional coverage engaged exclusively in outside sales is to be reported in 6303.	Corrected an oversight from a previous reformatting that changed meaning and consistency in classifications 7100 and 7101.
296-17A-7101	Corporate officers, N.O.C.	Clarified that LLC members with optional coverage reporting in 6303 meet the standard exception requirements for classification 6303 in WAC 296-17-31018.	Added reference to reporting rule to align with same language in classification 7101.

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 296-17-31004, 296-17-31014, 296-17-35203, 296-17A-0103, 296-17A-0104, 296-17A-0105, 296-17A-0106, 296-17A-0107, 296-17A-0112, 296-17A-0210, 296-17A-0212, 296-17A-0214, 296-17A-0217, 296-17A-0301, 296-17A-0303, 296-17A-0504, 296-17A-0511, 296-17A-0519, 296-17A-0601, 296-17A-0602, 296-17A-0701, 296-17A-1004, 296-17A-1005, 296-17A-1006, 296-17A-1102, 296-17A-1103, 296-17A-1104, 296-17A-1105, 296-17A-1303, 296-17A-1701, 296-17A-1702, 296-17A-1703, 296-17A-1704, 296-17A-1801, 296-17A-2203, 296-17A-2903, 296-17A-3101, 296-17A-3405, 296-17A-3602, 296-17A-4305, 296-17A-5108, 296-17A-5209, 296-17A-5301, 296-17A-6107, 296-17A-6121, 296-17A-6206, 296-17A-6410, 296-17A-6411, 296-17A-6502, 296-17A-6503, 296-17A-6504, 296-17A-6510, 296-17A-6512, 296-17A-6601, 296-17A-6704, 296-17A-6706, 296-17A-6907, 296-17A-6908, 296-17A-7100, 296-17A-7101, and 296-17A-7308

Suspended:

Statutory authority for adoption: RCW 51.04.020 and 51.16.035

Other authority: n/a

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-17-144 on August 22, 2023 (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	2	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	59	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>61</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	___	Repealed	___

Date Adopted: November 21, 2023

Name: Joel Sacks

Title: Director

Signature:

