

Logger Safety Initiative

POLICY Tier-2 Process for Violations**Section:** **Logger Safety Initiative** **Effective:** (date)**Title:** **Requirements, Violations Tier 2** **Cancels:** **New**
Memorandum of Participation
(MOP)**See Also:** **WAC 296-17-31004 (coverage requirements)**
WAC 296-17-940 (logger safety initiative)
WAC 296-17A-5001 (logging NOC)**Approved by:**

Cheri Ward for the Insurance Services Policy Council

This policy applies to employers participating in the tier two Logger Safety Initiative (LSI), outlining the requirements and violations of the terms of the LSI Premium Incentive Program's Memorandum of Participation (MOP).

1. Employers agree to terms of the LSI Program.

When employers sign the MOP they understand Labor and Industries (L&I):

- Will notify them of a violation; and
- Will provide the employer an opportunity to comply before terminating their participation in the program.
- May terminate the agreement if violated
- The LSI Program Office may consult with the LSI Taskforce for assistance in making termination decisions.

2. Employers must comply with Division of Occupational Safety and Health's (DOSH) safety and health standards.

L&I will immediately suspend from the program any employer receiving a safety and health inspection resulting in Severe Violator Enforcement case designation ([DOSH Directive 2.68](#)).

3. Employers must undergo an L&I technical premium audit if no audits were performed in past 12 months.

If an employer doesn't schedule and participate in the L&I Technical Premium audit, the following escalation process applies:

- LSI auditor contacts the employer on two separate occasions in an attempt to schedule the technical premium audit.
- If the employer doesn't comply within 10 business days from the second phone call, LSI Program Office will mail a certified letter to the employer instructing them to schedule the technical premium audit by a specified date. If the employer does not provide the verification by the final action date, the LSI Program Office will make a determination to terminate the employer from the program.
- LSI Program Office will notify the employer in writing of the department's decision.

The employer must correct any audit findings, such as paying amounts owed or complying with a payment plan, to remain in good standing. If an employer doesn't correct findings or paid amounts owed, the employer's account is no longer in good standing (see number of this policy)

4. Employers must submit accurate monthly supplemental reports.

- Employers must submit accurate monthly supplemental reports, including zero hour reports, for all work performed in risk classification 5001 (LSI risk code 5551, 5552 or 5553) as long as they are in the LSI Logger Safety Program
- If an employer doesn't submit a supplemental monthly report, the following escalation process applies:
 - LSI Program Office contacts the employer and asks them to submit the missing report(s) within the next 10 business days unless another date is agreed to.
 - If employer doesn't comply within the next 10 business days (or the agreed date), LSI sends a certified letter requesting the employer submit the

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missing report(s) with the next 10 business days.

- If employer doesn't comply within 10 business days, the LSI Program Office will make a determination to terminate the employer from the program.
- LSI Program Office notifies the employer in writing of the department's decision.

5. Enrollees must participate in required training

Each year, the employer or a delegated person with supervisory or training responsibilities must attend one of the approved LSI Employer Logger Safety Program training sessions.

- The employer must submit written verification for completion of training which identifies the nature of the training, length of time and date to the Department each year the employer is in the LSI Program.

If an employer does not meet the training requirement, the following escalation process applies:

- LSI Program Office will send the employer a certified letter providing them with upcoming training options and a date by which they must come into compliance.
- If the employer does not comply, the LSI Program Office will terminate the employer from the program.
- LSI Program Office will notify the employer in writing of the department's decision.

NOTE: For specific details regarding the [LSI training requirements](#), or go to www.loggersafety.org.

6. Employers must maintain their account "in good standing" to keep the LSI discounted rates.

If an employer's account is considered no longer "in good standing" for the purpose of discounted rates, the following escalation process applies:

The LSI Program Office will send the employer a certified letter notifying them that

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they are out of compliance and suspend their discounted rate unless the employer brings their account back in good standing within 30 business days.

- If the account isn't in good standing within 30 business days, LSI Program Office will terminate the employer from the program and issue a new rate notice with the non-discounted rate.
- When the account is considered in good standing again, the employer may apply for reinstatement in LSI as described in section 11 of this policy.
- When 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 Program Office will make a determination to terminate the employer from the program.

7. Good standing means an employer must:

- Be registered with L&I 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.
- 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).

8. Employers are required to turn in accurate quarterly reports to remain in good standing.

Employers must submit amended reports if they reported incorrectly on any quarterly reports. If the employer does not submit amended reports, on any non-audited quarters they will lose their "in good standing."

9. LSI may terminate an employer from the LSI program for repeat premium audit findings.

If an employer has unreported worker hours or misclassified worker hours, the LSI program will assess those findings to the employer's workers' compensation account along with statutory penalties and interest. LSI may terminate from the program any employer who is found to have repeat findings identified in a premium audit (final order).

Premium audits aren't taken into account 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

10. Terminating an employer from LSI for committing willful fraud

L&I may immediately suspend all LSI discounts for any employer who is issued a Notice of Order of Assessment of Industrial Insurance Taxes Field Audit from the Department of willful misrepresentation or misclassification of worker hours.

The employer will be terminated from LSI once the order is final and cannot apply for a period of three-years from the date of the discount suspension.

- LSI Program Office will notify the employer in writing sent via certified mail of the department's decision.

An employer who believes the willful misrepresentation or misclassification of worker hours order is incorrect may appeal the order. In these cases, the employer has the following options:

Option 1: Accept a three-year termination from the LSI program, with the option to reapply three-years from the date of the discount suspension.

Option 2: Remain in LSI with all discounts suspended and meet all LSI requirements during the time the order is on appeal.

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If the final order on appeal upholds the department order or the appeal is otherwise resolved, the employer will be terminated from the program and cannot apply for a period of three-years from the date of the discount suspension.

If the final decision on appeal is reversed by a finding of fact or law, the employer will be retroactively reimbursed the suspended discount amounts for all premiums paid during the period of suspension.

NOTICE OF SUSPENSION

This suspension only pertains to your discount rate for industrial insurance premiums (taxes). This suspension does not suspend your participation in the LSI Program or your obligation to continue to maintain records and submit reports to the Department as required under RCW 51.48.030 and WAC 296-17-35201. This suspension also does not preclude continuing to conduct business as usual.

If you believe this suspension is incorrect, you may file a written request for reconsideration with the Department within 30 days of receiving this notice. Your request for reconsideration should include the reasons you believe this suspension is incorrect and sent to:

Attn: Eddy Boulch, Logger Safety Initiative Program, Insurance Services, 7273 Linderson Way S.W., Tumwater, WA 98501-5414.

If you elect not to file a written request for reconsideration of this suspension, the Department will issue a Notice and Order of Assessment of Industrial Insurance Taxes Field Audit terminating your discount under the LSI Program.

11. An employer may apply for reinstatement in LSI after termination

Employers may apply for reinstatement in LSI. The LSI Program Office reviews the reinstatement request and makes a formal recommendation or decision approving or denying the request. L&I makes all premium discount level decisions.

To apply for reinstatement, the employer must:

- Wait a minimum of one year from the date of termination to reapply to the program. The LSI Tier 1 discount will not become effective for a minimum of four full quarters from the date of termination. In the reapplication process, the employer must explain how they have corrected the deficiency that resulted in the termination of its discount under the LSI Program.

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- An employer terminated from the LSI program due to a willful violation as described in number 10 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 LSI Program Office will review the information and make 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 quarters (one year) compliance audit which may expand to (12) quarters (three years). Statutory penalties and interest, as well as field audit penalties that were waived in the initial tier-2 technical premium audit, won't be waived

For further information about this policy, you may contact the Insurance Services' Logger Safety Initiative Program at (360) 902-5607.