



## Washington Industrial Safety and Health Act (WISHA) Advisory Committee Meeting

**Date:** June 17, 2025

**Time:** 9:00 a.m. to 11:30 a.m.

**Location:** L&I Tumwater Office or Virtual (via Teams)  
7273 Linderson Way SW  
Tumwater, WA 98501

Time	Topic	Facilitator
9:00 - 9:15	Welcome & Introductions	Craig Blackwood
9:15 - 9:30	<p>DOSH Rules Update</p> <p><b>Core Rules:</b></p> <ul style="list-style-type: none"> <li>• OSHA alignment</li> <li>• Updates around biological agents, alcohol/intoxicant free workplaces, safety meeting and committee requirements being clarified.</li> <li>• Clarifying regulations around employee safety and PPE.</li> <li>• Updating number of years an individual can serve on a safety committee in response to a stakeholder petition. Increase to two years.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• Filed a CR-101 (1<sup>st</sup> step of our rulemaking process) on 7/23/24.</li> <li>• Held stakeholder meetings in January and February. Will adjust draft language based on feedback received and look to move to a CR-102 in the late spring/summer.</li> </ul> <p><b>Cranes – currently underway and adding in some of the provisions from <a href="#">2SHB2022</a> (2024):</b></p> <ul style="list-style-type: none"> <li>• OSHA alignment, which includes clarifying each employer's duty to ensure the competency of crane operators through training, certification or licensing, and evaluation, implementing state legislation, and other housekeeping updates.</li> </ul> <p><b>Updates:</b></p>	Thomas West

	<ul style="list-style-type: none"> <li>• Going through public comments received.</li> <li>• Anticipate filing CR-103 in August with an effective date in September.</li> </ul> <p><b>Tower Cranes Permitting:</b></p> <ul style="list-style-type: none"> <li>• Implementing Section 4 and 6 of 2SHB2022 establishing the permitting process and requirements for tower cranes.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• Filed a CR-101 on 1/21/25. Held first stakeholder meeting end of March beginning of April.</li> <li>• Going through feedback on preliminary draft language.</li> <li>• Anticipate filing CR-102 announcing public hearings in August.</li> </ul> <p><b>Ergonomics – Scheduled Airline – Ground Crew Operations:</b></p> <ul style="list-style-type: none"> <li>• Implementing ESSB 5217 (2023)/RCW 49.17.520.</li> <li>• Scheduled Airlines –Ground Crew is the first industry selected based on the criteria in the statute.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• CR-101 filed 10/29/24.</li> <li>• Held general industry meeting in and industry specific meeting in January.</li> <li>• Held 1<sup>st</sup> advisory committee, preparing for follow up meetings with the Advisory Committee likely in July.</li> </ul> <p><b>Hazard Communication Standard:</b></p> <ul style="list-style-type: none"> <li>• Occupational Safety and Health Administration updated their current Hazard Communication Standard to better protect workers by improving the amount and quality of information on labels and safety data sheets and allow workers and first responders to react more quickly in an emergency. The updates take effect on July 19, 2024.</li> </ul> <p><b>Longshore &amp; Drayage Truck Drive Bathroom Access:</b></p> <ul style="list-style-type: none"> <li>• Rulemaking began in 2022 to update this rule chapter to align with OSHA updates to marine terminals, also implements state legislation on bathroom and lactation space access for drayage truck drivers at port terminals.</li> </ul>	
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	<p><b>Updates:</b></p> <p>Waiting on AAG advice on drayage truck provisions and whether they are SLRs. If so, need a CBA. If no move to CR-102 packet finalization and timeline for public hearings.</p> <p><b>Improve tracking of workplace illness and injury:</b></p> <p>Establishments with 100 or more employees in designated high-hazard industries (listed in Appendix A) must electronically submit to OSHA detailed information about each recordable injury and illness entered on OSHA Form 300 Log and Form 301 Incident Report.</p> <p><b>Updates:</b></p> <p>Received no public comments, anticipate filing CR-103 in September.</p> <p><b>Trenching Rescue &amp; Excavation Plan:</b></p> <ul style="list-style-type: none"> <li>• Small work group met in May.</li> <li>• Reevaluating the draft to ensure focus on/emphasize prevention rather than rescue.</li> <li>• Will circle back with a larger stakeholder meeting or ask for written feedback sometime this fall.</li> <li>• Would like to finalize the rule by the end of the year.</li> <li>• This includes updating associated directives.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• Small work group is working on feedback to an updated draft and development of a worksheet. Next step will be public stakeholder meeting.</li> </ul> <p><b>Worker Protection Standards' Application Exclusion Zones:</b></p> <ul style="list-style-type: none"> <li>• Addressing updates made by the EPA related to application exclusion zones, and includes changes related to spraying pesticides in enclosed spaces, ANSI standards, and other housekeeping updates.</li> <li>• EPA made updates to their rules that impact this standard. We will need to coordinate this work</li> <li>• with the Washington State Department of Agriculture.</li> <li>• The main change is incorporating ANSI standards for droplet sizes and updating tables and some housekeeping language.</li> </ul>	
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	<ul style="list-style-type: none"> <li>• Much of their other changes include removal of some allowances that we struck during a previous update. The only part I had a question on is the comments on paragraph 2, and if we want to update our referral to table 2 to match up with the EPA wording.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• Kick-off meeting to come soon. Staff are meeting with WSDA first week of June to discuss language changes and approach.</li> </ul> <p><b>Workplace Violence Prevention – Healthcare:</b></p> <ul style="list-style-type: none"> <li>• Putting standards from different RCWs that hospitals, long-term care facilities, and health care settings are required to follow to protect employees from workplace violence and abusive behaviors.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• Holding internal kick-off meeting to gain alignment on approach to new draft which will separate the rules into three parts that are facility/worker specific. Stakeholder meeting to follow.</li> </ul> <p><b><u>IN PROCESS/ON HOLD/ON THE HORIZON</u></b></p> <p><b>Infectious Disease:</b></p> <ul style="list-style-type: none"> <li>• This rule is currently paused, we will be meeting in DOSH soon to discuss how to get this rule back up and going. We had a few staff leave and have now onboarded a new IH policy/tech manager.</li> </ul> <p><b>Lead:</b></p> <ul style="list-style-type: none"> <li>• This rule currently paused due to staff turnover. We are reevaluating the scope of the rulemaking, and intend to limit the to work to blood lead levels and medical removal (looking at recent updates made by Michigan as example).</li> <li>• Will pick up in 2025, this is an OSHA goal.</li> </ul> <p><b>Indoor Heat:</b></p> <ul style="list-style-type: none"> <li>• We committed to doing indoor heat rules when we filed the outdoor heat CR-101 in 2020. While there is significant interest in this topic I do not anticipate us beginning any work on this until mid-2025, but agency priorities could dictate a different schedule.</li> <li>• We've been reviewing the proposed OSHA rule to compare with WA and CA.</li> </ul>	
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	<p><b>Worker Walkaround Representative Designation:</b></p> <ul style="list-style-type: none"> <li>• OSHA adopted a rule that allows employers and employees the right to authorize a representative to accompany OSHA officials during a workplace inspection.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• Filed a CR-101 on 12/17/24. On hold.</li> </ul> <p style="text-align: center;"><b><u>FINISHED</u></b></p> <p><b>Fire Resistant Material Applicators – Implementing <a href="#">SHB 1323</a> (2023):</b></p> <ul style="list-style-type: none"> <li>• Implementing <a href="#">SHB 1323</a> (2023)</li> <li>• Requires any worker applying spray on fireproofing material or installing firestop in certain buildings to receive training and get certified by L&amp;I.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• CR-103 filed 5/29/2025.</li> <li>• Effective date we anticipate as July 1. There will still be a 12 month gap between when the rule is effective and when we will begin enforcement to align with statutory intent to allow time for trainers to get approved and workers to get certified.</li> </ul> <p><b>Sanitary Conditions for Construction Workers:</b></p> <ul style="list-style-type: none"> <li>• Implementing <a href="#">EHB 2266</a> (2024)</li> <li>• Requires providing menstrual products for workers</li> <li>• Requires providing a dedicated space and accommodations for workers expressing milk.</li> <li>• Filed a 101 - September 2024.</li> </ul> <p><b>Updates:</b></p> <ul style="list-style-type: none"> <li>• CR-103 filed 5/20/2025 month and an effective date of 7/1/25 when the underlying statute allows for penalties to be issued for violations of the law/rule.</li> </ul> <p><b>WFS – EPA AQI Alignment:</b></p> <ul style="list-style-type: none"> <li>• EPA updated their calculations for the Air Quality Index, and the original WFS rule needed to be updated to include correct AQI approximate equivalents.</li> <li>• Received an objection to using expedited rulemaking and asking to reopen the underlying rule.</li> </ul>	
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	<b>Updates:</b> <ul style="list-style-type: none"> <li>• CR-103 filed April 15, the rule will reflect the update AQI references May 16.</li> <li>• Topic page in the process of being updated, along with the directive.</li> </ul>	
9:30 - 9:45	<b>Ergonomics Rulemaking Project Update</b> <ul style="list-style-type: none"> <li>• Please review the below draft Ergonomic Rulemaking Framework and provide feedback to Beth via email at: <a href="mailto:RulemakingErgo@LNI.WA.GOV">RulemakingErgo@LNI.WA.GOV</a></li> </ul>	Beth Covert
9:45 - 10:00	<b>Legislative Updates</b> <p>Four bills passed the 2025 legislature that impact WISHA/DOSH:</p> <ul style="list-style-type: none"> <li>• HB 1294 – Extending the pesticide application safety committee through 2035. Effective 7/1/25.</li> <li>• HB 1524 - Concerning workplace standards and requirements applicable to employers of isolated employees. Effective Jan 1, 2026.</li> <li>• HB 1644 – Concerning the safety and health of working minors. Effective 7/1/26.</li> <li>• SB 5127 – expanding pregnancy-related accommodations. Effective 1/1/27.</li> </ul>	Tammy Fellin
10:00 - 10:15	Break	All
10:15 - 10:30	<b>SHIP Grant Update</b> <p>SHIP has closed two cycles for funding in the last 6 months. Both cycles have gone through the funding process.</p> <ul style="list-style-type: none"> <li>• The cycle that closed the end of January 2025 received 10 proposals and 3 proposals were funded. <ul style="list-style-type: none"> <li>○ University of Washington/Wilcox, Infection Prevention and Control in Poultry Worksites</li> <li>○ Construction Center of Excellence, Empowering Clean Energy Construction: Inclusive Toolbox Talks for Future of Worksite Safety</li> </ul> </li> </ul>	John Geppert

	<ul style="list-style-type: none"> <li>○ Queer Power Alliance, Strippers are Workers: Safety and Health for Washington Dancers</li> <li>• The cycle that closed mid-April received 16 proposals and of those 5 were funded and two are awaiting final disposition after further review <ul style="list-style-type: none"> <li>○ Carlson Sheet Metal Works, Best Practices for Welding with a Class 4 Laser</li> <li>○ Casa Latina, Preventing Falls and Musculoskeletal Disorders in Day Laborers</li> <li>○ Nonprofit Association of Washington, Safety and Emotional Wellness in Non-Profits</li> <li>○ Pacific Northwest Agricultural Safety and Health, Lead Safe -- From Leadership to Safety</li> <li>○ Washington Food Coalition, Non-Profit Safety Hero</li> </ul> </li> <li>• Two proposals are awaiting final disposition after further review <ul style="list-style-type: none"> <li>○ University of Washington, Sensors for assessing crane safety and providing warnings, risk reduction recommendations and assistive control</li> <li>○ University of Washington, SAFE AI Guide: Best Practices</li> </ul> </li> </ul> <p>We will fund nearly 95% of our safety and health allotment for the 23-25 biennium. No grants were submitted for the RTW grant type for this biennium.</p>	
10:30 - 10:45	Safety & Health Assessment & Research for Prevention (SHARP) Update	Dave Bonauto
10:45 - 11:00	Diversionary Program	Craig Blackwood
11:00 - 11:15	Open Forum	All
11:15 - 11:30	Review of Action Items and Future Agenda Topics	All

[Join the meeting now](#)

Meeting ID: 290 664 754 444

Passcode: 5Sp9Dn2K

Coordinator: Bonnie Justice  
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# Ergonomic Project and Rulemaking (RCW 49.17.520)

*Beth Covert, Ergonomics Implementation Manager  
Division of Occupational Safety and Health*



# Background: RCW 49.17.520

Authorizes L&I to adopt rules for work-related musculoskeletal disorder (WMSD) hazards, with constraints:

- Only one rule for an industry or a risk class in a 12-month period
- Industry or risk class must have a compensable WMSD claim rate greater than two times the overall state rate, including all subdivisions
- May not adopt emergency rules
- May not adopt rules for employee home offices
- Rule may not go into effect sooner than July 1, 2026

# Background: RCW 49.17.520

Requires L&I to annually publish:

- Industries and risk classes eligible for rule making
- “Low priority” industries or risk classes based on decreasing statistical trend
- “High priority” industries or risk classes most likely to be selected for future rule making
- Review of compensable WMSD claims

# Project progress to date

Date	Task
November 2023	First 'Industries and Risk Classifications Eligible for Ergonomic Rulemaking' report published
October 2024	First risk class selection for rule making, Scheduled Airlines – Ground Crew, Risk Class 6802  Filed CR-101
November 2024	Second 'Industries and Risk Classifications Eligible for Ergonomic Rulemaking' report published  Second risk class selection for rule making, Fulfillment Centers, Risk Class, 2103
January 2025	Initial Stakeholder scoping sessions
May 2025	First Advisory Committee Meeting

# Stakeholder Meetings

- January Stakeholder Scoping Sessions
  - Two meetings held for feedback:
    - First meeting specifically tailored to any interested stakeholder.
    - Meeting two specifically tailored to the scheduled airlines stakeholder.
- From the initial scoping sessions, L&I prepared a rule development framework

# Advisory Committee

- Comprised of 8 committee members
  - 4 business representatives
  - 4 labor representatives
- Will meet about every 5 weeks for a work session
- First meeting established:
  - Goals, roles and meeting cadence
  - Reviewed basic ergonomics
  - Reviewed the rule framework

# Rule Framework

## Next steps

- Continue work with the Advisory Committee and their recommendations
- Begin process to publish the annual list of those eligible for rule-making and high priority
- Begin rule drafting process
- DOSH consultation services are available for technical assistance



# **Thank you!**

Questions, thoughts, comments?

Beth Covert, email: [RulemakingErgo@LNI.WA.GOV](mailto:RulemakingErgo@LNI.WA.GOV)



May 14, 2025

## Overview

In 2023, the Washington State Legislature authorized the Department of Labor & Industries (L&I) to adopt ergonomic rules to prevent strains, sprains, and other work-related musculoskeletal disorders (WMSDs) in industries or risk classes that have a compensable workers' compensation claim rate greater than two times the statewide rate ([RCW 49.17.520](#)). L&I can only adopt one rule within a 12-month period for either an industry or a risk classification.

This framework outlines the approach for rulemaking across industries and risk classes. The framework consists of principles for any ergonomic rule development, preliminary scoping assessment, and ergonomic rule elements. L&I will use this framework to inform and guide each rule development process going forward, and review the framework following adoption of the initial two rules to determine if changes are needed.

## Principles for Ergonomic Rule Development across Industries and Risk Classes

Rule development is collaborative.

- Rule development should include input from all relevant parties in order to understand the complexity of industry operations to avoid conflict or barriers to compliance.
- Industry/risk class advisory committees will be convened to advise on rule development for each rule.

Rules will be tailored to the specific industry/risk class where possible and appropriate, balancing where consistency increases effectiveness or reduces burdens for employers who might be covered by more than one rule.

- Where identifiable, the rule should target the known causes of WMSDs in the specific industry or the risk class.
- Where possible and appropriate, the rules should include requirements for known hazards in an industry or risk class, rather than generic requirements for WMSD risk identification, assessment, and control.
- Consideration for how similar work is performed to work performed in other industries/risk classes, as well as whether the industry/risk class is a subset of a larger industry sector.

The rules should be clear and easy to understand so that employers will know what compliance looks like and employees will know what their protections are.

The specific industry/risk class rules should be "right-sized" to the degree of risk in the workplace.

- The rules should not cover workplaces, jobs, or tasks that pose very small risk.
- In workplaces with minor WMSD risks, employers should not have to do as much as workplaces that have significant risk.

The rules should be based on sound science and ensure worker protection to the extent feasible. Where WMSD assessment tools are used, they should be supported by evidence, be readily available, and easy to apply.

Rules should acknowledge that some potential solutions may take time to implement and should only require those solutions that are economically or technologically feasible.

Rule implementation timelines should be based on specific industry/risk class requirements and consider factors such as resource concerns for small businesses.

During rule development L&I must consider including options for an employer to demonstrate alternative control methods where: the alternative methods are at least as effective as the rule requirements; affected employees are trained and monitored for compliance; and the employer has documented all efforts.

### Preliminary Scoping Assessment

At the start of each rulemaking for a specific industry/risk class, the following preliminary scoping assessment will be conducted to help understand how the rules can be tailored to the specific industry/risk class.

<b>What is known about the scope of who and what is covered under the industry or risk class, including:</b> <ul style="list-style-type: none"><li>• What is the definition of the North American Industry Classification System, NAICS (industry) or the risk class (chapter 296-17A WAC)?<ul style="list-style-type: none"><li>• What employers does it cover?</li><li>• What work performed by those employers does it cover?</li></ul></li><li>• Are there any subsets of NAICS or risk class that must be excluded under the claim rate threshold to be eligible for the rule per RCW 49.17.520(3)(b) through (d)?</li></ul>
<b>What is known about the WMSD injuries, risk factors, and controls, including:</b> <ul style="list-style-type: none"><li>• What does the injury and illness data for the industry/risk class show?<ul style="list-style-type: none"><li>• Does it help to identify high-risk jobs or activities?</li><li>• Does it help to identify low or no priority risks that could be excluded?</li></ul></li><li>• Are there published studies for WMSD hazards in the industry/risk class?<ul style="list-style-type: none"><li>• Do they help to identify high-risk jobs or activities?</li><li>• Do they identify solutions to risk factors? How successful are those solutions?</li><li>• What is the strength of the evidence?</li></ul></li><li>• Are there any industry-specific best practices or standards in other jurisdictions?<ul style="list-style-type: none"><li>• What risk factors and job activities do these identify?</li><li>• Do they identify solutions to risk factors? How successful are those solutions?</li></ul></li><li>• What does the compliance inspection and consultation data show?</li></ul>
<b>What is known about employers in the industry/risk class – in general and in relation to information on WMSD injuries and risk factors, including:</b> <ul style="list-style-type: none"><li>• What is known about the size of employers in the industry/risk class?</li><li>• What is known about the workforce and the workforce demographics?</li><li>• To what degree are there similarities in the way work is performed across employers?</li><li>• To what degree are there similarities in the way the work places are set up?</li><li>• What is known about where the work is performed?</li><li>• What is known about current WMSD prevention activities for Washington employers in the industry or risk class and how they resource these efforts?</li><li>• What is known about duration and pattern of work activities, and the degree of similarities across employers?</li><li>• What is known about common barriers to implementing controls?</li></ul>

### Ergonomic Rule Elements

The following outlines the standard elements for ergonomic rules, the purpose of each element, and examples for how the standard elements could be tailored for a specific industry/risk class. These elements are consistent with other L&I safety and health rules and cover the key components needed for any rule intended to prevent injuries by identifying and reducing worker exposure to hazards.

Rule Element	Purpose	Examples of tailoring to a specific industry/risk class
Scope	Define who and what are covered by the rule.	<ul style="list-style-type: none"> <li>Are there any subsets of NAICS or risk class that must be excluded as under the claim rate threshold to be eligible for rule per RCW 49.17.520(3)(b) through (d)?</li> <li>If known, can the scope, in whole or in part, focus on specific WMSD risk factors or activities that are causing injuries?</li> </ul>
Risk Identification	Screening step to identify WMSD risks in the employer's workplaces needing further analysis.	<ul style="list-style-type: none"> <li>Risk identification may not be needed for known WMSD risks, such as patient handling in healthcare.</li> </ul>
Risk Assessment	Evaluation of identified WMSDs risks in the employer's workplace to determine degree of risk, need for risk reduction, and prioritization of risk reduction efforts.	<ul style="list-style-type: none"> <li>Risk assessment may not be needed or may be streamlined for known WMSD risks, such as patient handling in healthcare.</li> </ul>
Risk Reduction	<p>Identification and implementation of required actions an employer must take to reduce WMSD risks in their workplaces. Use the hierarchy of controls to implement the most effective controls to eliminate or reduce the WMSD risk.</p> <ul style="list-style-type: none"> <li>Effectiveness of controls are supported by evidence.</li> <li>Consideration is given to economic and technological feasibility of controls, as well as overall prioritization of WMSD risk.</li> </ul>	<ul style="list-style-type: none"> <li>Where there are known controls for high-risk hazards in the industry or risk class, such as engineering controls.</li> </ul>
Evaluation of Effectiveness	Assess if risk reduction measures are effective in eliminating or reducing WMSD risks, adjust as appropriate and feasible. If not, ensure that the measures don't create other unanticipated hazards.	<ul style="list-style-type: none"> <li>May be specific to other tailored provisions in the rule.</li> </ul>
Involving Employees	Identify the ways employees are involved in the rule requirements so they can help identify hazards and offer potential solutions.	<ul style="list-style-type: none"> <li>May be specific to other tailored provisions in the rule.</li> </ul>
Training	Identify training requirements, including how employees and supervisors are made aware of WMSD hazards in their workplaces, how to identify them, what WMSD hazard controls are in place, and how to recognize signs and symptoms of WMSDs.	<ul style="list-style-type: none"> <li>Method, time dedicated, and resources used could be industry dependent.</li> <li>May be specific to other tailored provisions in the rule.</li> </ul>
Recordkeeping	Documentation of activities required under the rule.	<ul style="list-style-type: none"> <li>May be specific to other tailored provisions in the rule.</li> </ul>



### Technical Reports

- [DOSH Compliance Effectiveness in Washington State, 2022–2023](#)
- [The State of Occupational Health in Washington: 10 years of Occupational Health Indicator Data, 2014–2023](#)

### Prevention Resources

- FACE Fatality/Injury Narratives & Slideshows:
  - [Roofers Falls 45 Feet through Skylight \(slideshow\)](#) | [Spanish \(slideshow\)](#)
  - [Day Laborer Burned in Adhesive Explosion \(slideshow\)](#) | [Spanish \(slideshow\)](#)
  - [Framer Falls 8 Feet from Rim Joist \(slideshow\)](#) | [Spanish \(slideshow\)](#)

### Research and Data Summaries

- SHARP Stats:
  - [Wildland Smoke Exposure](#)
  - [2024 Work-Related Deaths](#)
  - [Worker Homicide Deaths, 2019–2024](#)
  - [DOSH Inspection Effectiveness, 2018–2022](#)
  - [Declines in WMSD Claims](#)
- Research Findings:
  - [Occupational Heat Exposure and Mental Health Outcomes](#)

### Cleaners' Occupational Injury Reduction Emphasis—**CORE** (Janitorial Workload Study)

- [Newsletter–Winter 2025](#)
  - [Spanish Vietnamese Russian Bosnian Amharic Somali Chinese Tagalog](#)
- [Tips for Safer Mopping](#)
  - [Spanish Vietnamese Russian Bosnian Amharic Somali Chinese Tagalog](#)

### About the SHARP Program

SHARP (Safety & Health Assessment & Research for Prevention) is a workplace safety and health research and prevention program within L&I.

Our research brings together information from available data, site visits at participating employers, interviews with workers and safety professionals, and the scientific literature. Our aim is to prevent workplace injuries and illnesses by developing practical solutions that benefit workers and employers.

For more information about SHARP's ongoing projects, publications, and to sign up for our newsletter, visit: <https://lni.wa.gov/safety-health/safety-research/about-sharp>



THE STATE  
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AKOSH Policy Memo

Date: July 1, 2024

To: Dale Williamson  
AKOSH Chief of Enforcement

From: Tanya Keith, Director

Handwritten initials "PK" in blue ink.

Subject: Informal Settlement Guidance-Diversions Program for Inspections with Initial Citations

As you know, on August 3, 2023, *Acting* Commissioner Muñoz issued a memo instructing AKOSH to use its discretion to eliminate penalties for employers who have no inspection history and have made concerted efforts to achieve abatement immediately following an inspection. This memorandum formalizes guidance related to informal settlement negotiations with employers cited under Alaska Statute § 18.60.091. This guidance is designed to supplement the policies and procedures established in the Alaska Occupational Safety and Health Field Operations Manual (AKOSH FOM – Program Directive 21-02).

AKOSH's mission is to work in partnership with Alaskan employers and workers toward eliminating workplace injuries, illnesses, and deaths and to assist employers in complying with state and federal regulations relating to occupational safety and health. To further this mission, AKOSH will work to foster stronger relationships between itself and Alaskan employers, facilitating better safety cultures within the State of Alaska by incentivizing education and training, by using an assisted compliance approach that fortifies the efforts of the Enforcement and Consultation and Training (C&T) programs. AKOSH Enforcement will consider a penalty modification for employers who agree to C&T services during the informal settlement agreement (ISA) negotiations following the issuance of a citation for alleged workplace safety and health standards violations.

The Chief of AKOSH Enforcement or designee may consider employers who meet the following criteria for this program:

- Employers who have no inspection history within the last 5 years, or
- A previous inspection was conducted that resulted in No Alleged Serious Violations.

If citations are issued under the current inspection, the following considerations may apply:

- For citations issued under current inspection, employers must have either abated completely or made concerted efforts to abate all citations issued prior to the informal conference.
- Any citations issued will maintain their abatement due dates of 15 or 30 days.
- Any citations issued are not willful.
- Any citations for serious violations involving serious injury/death will not be given an 100% penalty reduction.

The Chief of Enforcement or designee, using their discretion and professional judgement, may consider a penalty modification during negotiations, if the employer demonstrates willingness to take steps to develop or improve on a safety and health program through enhanced abatement measures. Considerations will be given based on the circumstances of the case, the extent of health and safety efforts by the employer, and the particular improvements in employee and health that can be obtained. The Chief may modify or withdraw penalties in one of two ways:

- Employers who elect to complete a voluntary AKOSH C&T visit that is limited to the hazards identified during the Enforcement inspection may receive up to 50% reduction for all monetary penalties assessed. As part of the ISA penalty payments will be placed on hold for 90 days. \*
- Employers who elect to complete a voluntary AKOSH C&T comprehensive health and safety evaluation of the establishment to include all required programs relating to the hazards present in the employer's establishment, an evaluation of all safety and health hazards in the establishment, may receive up to 100% reduction for all monetary penalties assessed. As part of the ISA penalty payments will be placed on hold for 90 days \*

Employers who elect to participate in this program shall:

- Complete agreed upon the C&T visit within 90 days and abate all hazards identified by C&T due date as a condition of the Informal Settlement Agreement. \*\*
- Provide written confirmation to the Director of the completed visit. At that time outstanding penalty amounts will be waived. Failure by the employer to complete the terms of the ISA will result in full penalties being reinstated. \*\*\*

The implementation of this program has the advantage of achieving enterprise-wide abatement and enhanced safety and health protective measures beyond those stated in the original citations. This provides a higher level of protection for employees by ensuring that employers who have been inspected will receive additional Health and Safety evaluations beyond the scope of the original inspection.

*\*Consideration of size limitations for Employers: Employers with more than 250 employees at the location or more than 500 employees corporate-wide are considered large employers and are a low priority to receive AKOSH Consultation and Training services. The Chief of Enforcement or*



*designee may allow large employers to obtain, at their own expense, an independent, third-party safety and health consultant. The ISA provisions shall include AKOSH's right to approve the employer's choice of consultant, a requirement for the consultant to conduct an assessment of the employer's worksites covered in the ISA, and that copies of the consultant's assessment report(s), showing that all identified hazards have been abated, shall be provided to AKOSH for outstanding penalty amounts to be waived.*

*\*\*The scheduled visit date is dependent upon the Consultation Department's workload; the employer will notify the Director to request an extension if the 90-day requirement cannot be met through no fault of the employer. When appropriate an extension will be granted.*

*\*\*\* C&T visits will be kept confidential at all times. Written confirmation of completion can be satisfied with a copy of an email from C&T to the employers, or the C&T closure letter confirming the visit was completed. At no time will Enforcement request any information in the C&T report from the visit or inquire about any hazards found in the visit from either C&T or the employer.*

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