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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.

What is known about the scope of who and what is covered under the industry or risk class, including:

- What is the definition of the North American Industry Classification System, NAICS (industry) or the risk class (chapter 296-17A WAC)?
 - What employers does it cover?
 - What work performed by those employers does it cover?
- 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)?

What is known about the WMSD injuries, risk factors, and controls, including:

- What does the injury and illness data for the industry/risk class show?
 - Does it help to identify high-risk jobs or activities?
 - Does it help to identify low or no priority risks that could be excluded?
- Are there published studies for WMSD hazards in the industry/risk class?
 - Do they help to identify high-risk jobs or activities?
 - Do they identify solutions to risk factors? How successful are those solutions?
 - What is the strength of the evidence?
- Are there any industry-specific best practices or standards in other jurisdictions?
 - What risk factors and job activities do these identify?
 - Do they identify solutions to risk factors? How successful are those solutions?
- What does the compliance inspection and consultation data show?

What is known about employers in the industry/risk class – in general and in relation to information on WMSD injuries and risk factors, including:

- What is known about the size of employers in the industry/risk class?
- What is known about the workforce and the workforce demographics?
- To what degree are there similarities in the way work is performed across employers?
- To what degree are there similarities in the way the work places are set up?
- What is known about where the work is performed?
- What is known about current WMSD prevention activities for Washington employers in the industry or risk class and how they resource these efforts?
- What is known about duration and pattern of work activities, and the degree of similarities across employers?
- What is known about common barriers to implementing controls?

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"> 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)? If known, can the scope, in whole or in part, focus on specific WMSD risk factors or activities that are causing injuries?
Risk Identification	Screening step to identify WMSD risks in the employer's workplaces needing further analysis.	<ul style="list-style-type: none"> Risk identification may not be needed for known WMSD risks, such as patient handling in healthcare.
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"> Risk assessment may not be needed or may be streamlined for known WMSD risks, such as patient handling in healthcare.
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"> Effectiveness of controls are supported by evidence. Consideration is given to economic and technological feasibility of controls, as well as overall prioritization of WMSD risk. 	<ul style="list-style-type: none"> Where there are known controls for high-risk hazards in the industry or risk class, such as engineering controls.
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"> May be specific to other tailored provisions in the rule.
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"> May be specific to other tailored provisions in the rule.
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"> Method, time dedicated, and resources used could be industry dependent. May be specific to other tailored provisions in the rule.
Recordkeeping	Documentation of activities required under the rule.	<ul style="list-style-type: none"> May be specific to other tailored provisions in the rule.