

General Questions

Q: What is changing?

The Washington State Legislature passed a law, which you can find in state code at [RCW 49.17.520](#), allowing the Washington State Department of Labor & Industries (L&I) to adopt one new rule every year covering work-related musculoskeletal disorders (WMSDs). The rule each year can apply only to one industry or risk classification, and the first rule cannot take effect until July 1, 2026.

Q: Who would be affected?

Every year, L&I is required to publish a list of industries and risk classifications that an upcoming rule could cover. To be on that list, the industry or risk classification must have at least twice the statewide rate of WMSDs.

L&I is also required to provide a second list of high priority industries or risk classifications the agency is most likely to choose. The agency will prioritize efforts to provide technical assistance to employers on the high priority list each year. L&I published the first of these lists in November 2023.

We expect to select an industry or risk class for initial rulemaking from the high priority list in spring of 2024. Then we will establish an advisory committee of impacted business and labor stakeholders to assist in developing the rule.

Q: When would any new rules take effect?

The earliest date a new WMSD rule can take effect is July 1, 2026. For any WMSD rule, employers will have at least 120 days from the date L&I adopts the rule before it is in effect.

Q: Why is the state considering new rules?

WMSDs account for at least one-third of all workers' compensation claims that result in time loss and wage replacement, and are a common cause of long-term disability in the state. Rules to improve worker safety can reduce these workplace hazards.

Q: What is a work-related musculoskeletal disorder?

A: WMSDs are disorders of the muscles, nerves, tendons, joints, cartilage, spinal disks and other components of the musculoskeletal system. They happen to workers exposed to excessive force, highly repetitive movement, awkward posture, and vibration. Interventions to reduce WMSDs rely on decreasing these hazardous exposures. WMSDs are common in Washington State and are costly to workers and their families, businesses, and the workers' compensation system.

Industry, NAICS and Risk Classifications

Q: What is an Industry or a NAICS code?

A: For purposes of WMSD rules, "industry" is any classification in the North American Industry Classification System (NAICS), a national standard used to classify business establishments according to

their primary economic activity. NAICS uses a six-digit coding system to identify particular industries. The first two digits designate the sector, the third digit designates the subsector, the fourth digit designates the industry group, the fifth digit designates the NAICS industry and the sixth digit designates the national industry. For example:

Example Table #1: NAICS

Number of Digits	NAICS Description	Example
2	Sector	72 – Accommodation and Food Services
3	Subsector	722 – Food Services and Drinking Places
4	Industry Group	7223 – Special Food Services
5	Industry	72232 – Caterers
6	National Industry	722320 – Caterers

Q: What is a risk classification?

A: Rather than choosing a specific industry for rulemaking, L&I could focus rulemaking on a specific risk classification. When L&I is setting workers' compensation insurance premiums, we group work activities that have similar risks for insurance loss together into risk classifications. Risk classifications and their descriptions are defined in the [Washington Administrative Code – 296-17A](#).

High Priority List

Q: When will the Department select an industry or risk classification for regulation?

A: L&I expects to select an industry or risk classification for initial rulemaking in the spring of 2024. Following the selection, the Department will establish an advisory committee of impacted business and labor stakeholders to assist in the development of the rule requirements.

Q: How did we determine who is on the high priority list?

A: To be eligible for rulemaking at all, state law requires an industry or risk classification have a rate of WMSD claims that is greater than two times the statewide rate. For the November 2023 report, industries or risk classifications on the high priority list had rates of WMSD claims that were high even among that group. In choosing priorities, L&I also considered the likelihood that an industry or risk classification would be subject to future regulatory efforts, the number of employees potentially impacted, the long-term trend of WMSD rates, and the desire to include a range of sectors.

Q: How often will the list be updated?

A: L&I will publish the list of industries and risk classifications eligible for rulemaking and the high priority list each November.

Q: My business is in an industry or risk class on the high priority list, but my company has had no or very few WMSD claims and/or my claims rate is much lower than the industry or risk class average. Will I still be covered by future rules?

A: Yes, we expect the scope of future rules to focus on hazards by industry or risk classification, not individual businesses. If you are already taking steps to control WMSD hazards at your business, you will have the opportunity to work with us during the rulemaking process to include your controls as part of

the rule requirements or as an acceptable alternative. In other words, if what you are doing is working effectively to keep your employees safe, you may not have to change it.

L&I considers allowing alternative options 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.

Q: What is a 'compensable' claim?

A: Workers compensation claims may have costs for medical treatment, wage replacement for lost work time, permanent partial disability awards, disability pensions and other costs. When a claim has just medical expenses it is called a 'medical only' claim. When a claim has any additional costs beyond medical expenses it is termed a 'compensable' claim.

Q: How did we determine the compensable claim rate?

A: A compensable claim rate is calculated by dividing the number of compensable claims by the number of full time equivalent (FTE) employees. Hours reported by employers for premium payments in the state fund and by self-insured employers are converted into FTE with one FTE being equal to 2,000 hours. Compensable claim rates for each industry or risk classification are calculated by dividing the number of compensable claims by 1,000 FTE.

A compensable claim rate ratio is a comparison of two compensable claim rates. The rate ratio is calculated by dividing the compensable WMSD claim rate of the specific industry or risk classification by the overall statewide compensable WMSD claim rate.

Next Steps

Q: How will L&I decide which industry or risk class will be first for rulemaking and when will that determination be made?

A: In the coming months, L&I will review the industries and risk classes on the high priority list and select one for the initial rulemaking effort. We will be seeking input from the WISHA Advisory Committee and the Workers' Compensation Advisory Committee as well consider input from employers, workers, employer associations, labor advocates, and occupational safety and health professionals.

Q: When does L&I expect to start the first rulemaking effort?

A: We expect to start the formal rulemaking process in spring 2024 following the selection of the first industry or risk class.

Q: What are the steps in the rulemaking process?

A: L&I will follow the 3-step permanent rulemaking process as described [here](#). We will first file the notice of intent to adopt rules (called the "CR 101"). Then we propose rule language (called the "CR 102"). Last, we adopt the final version of the rule.

Q: How will L&I develop the proposed rule?

Following the CR 101, L&I will work on developing the proposed rule language with input from interested parties. L&I will also convene an advisory committee with business and labor representatives

from the selected industry or risk classification to advise us on the rule development. We expect to solicit nominations for employer and worker representatives for the advisory committee in summer 2024.

Q: My business is in an industry or risk class on the high priority list, is there any help available to reduce the WSMD hazards in my workplace and reduce my claims?

A: Yes, L&I offers free consultation services to address workplace hazards, including WMSD hazards. We will prioritize those consultation services and technical assistance to employers in the industries and risk classifications on the high priority list.

Consultation services are free and confidential. No fines or penalties result from hazards identified when the employer agrees to correct serious problems. L&I will work collaboratively with industry associations, employers, employees, and labor advocates to help address WMSD hazards.

Q: How do I request a consultation?

A: You can request a consultation by emailing ergonomics@lni.wa.gov or by visiting [Request an Onsite Consultation \(wa.gov\)](#). We can only provide consultations if we're invited by a member of management.

Q: Under this new law, L&I can only adopt one rule a year for an industry or risk class, what about the other industries or risk classes on the high priority list or the eligible list?

A: In the coming year, we'll work collaboratively with industry associations, employers, employees, and labor advocates on approaches to reduce WMSD hazards in the industries and risk classes on the high priority list, even if they aren't selected for rulemaking. Working to reduce those hazards, and the injuries they lead to, can reduce the likelihood of future rulemaking in an industry or risk classification.

Employers can also request consultations and technical assistance or use online resources from L&I's DOSH (Division of Occupational Safety and Health) or SHARP (Safety & Health Assessment & Research for Prevention) webpages:

[Ergonomic process for finding and fixing strain and sprain hazard](#)

[Ergonomic training and tips](#)

[Ergonomic evaluation tools](#)

[Solutions for sprains and strains](#)

[Ergonomic idea bank](#)

[Identifying risks for WMSDs/Physical job evaluation checklist](#)