

WAC 296-35-100 Definitions. (1) **Adverse action.** Any action taken or threatened by an employer against an employee for their exercise of chapter 49.84 RCW rights, which may include, but is not limited to:

- (a) Terminating, suspending, demoting, or denying a promotion;
- (b) Changing the number of work hours for which the employee is scheduled;
- (c) Altering the employee's preexisting work schedule;
- (d) Reducing the employee's rate of pay;
- (e) Threatening to take, or taking action, based upon the immigration status of an employee, former employee, or an employee or former employee's family member; and
- (f) Preventing future job opportunities whether for the employer or elsewhere.

(2) **Affiliate.** A person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person. For purposes of this subsection, "control" means the possession, directly or indirectly, of more than 50 percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(3) **Defined time period.** Any unit of time measurement equal to or less than the duration of an employee's shift, and includes hours, minutes, and seconds and any fraction thereof.

(4) **Department.** The department of labor and industries.

(5) **Director.** The director of the department of labor and industries or the director's designee.

(6) **Employee.** An employee who is not exempt under RCW 49.46.010 (3)(c) and works at a warehouse distribution center.

(7) **Employer.** A person who directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary services, or staffing agency, independent contractor, or any similar entity, at any time, employs or exercises control over the wages, hours, or working conditions of 100 or more employees at one or more warehouse distribution centers in the state.

(a) For the purposes of determining the number of employees employed at a single warehouse distribution center or at one or more warehouse distribution centers, all employees employed directly or indirectly, or through an agency or any other person, and all employees employed by an employer and its affiliates, must be counted.

(b) For the purposes of determining responsible employers, all agents or other persons, and affiliates must be deemed employers and are jointly and severally responsible for compliance with this chapter.

(8) **Establishment.** A single physical location where business is conducted or where services or industrial operations are performed. Normally, one business location has only one establishment.

When distinct and separate economic activities are performed at a single physical location each would be considered separate establishments provided:

(a) No one industry description in the North American Industrial Classification System applies to the joint activities of the establishments;

(b) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information; and

(c) Employment and output are significant for both activities.

(9) **Occupational safety and health hazards.** For purposes of this chapter, means potential sources of harm or adverse health effects for workers including, but not limited to, physical safety hazards, chemical hazards, biological hazards, physical safety hazards, and ergonomic risk factors. See table of examples in WAC 296-35-300.

(10) **Person.** An individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

(11) **Quota.** A work performance standard, whether required or recommended, where:

(a) An employee is assigned or required to perform at a specified productivity speed, or perform a quantified number of tasks, or to handle or produce a quantified number of tasks, or to handle or produce a quantified amount of material, within a defined time period and under which the employee may suffer an adverse employment action if they fail to complete the performance standard; or

(b) An employee's actions are categorized between time performing tasks and not performing tasks, if the employee may suffer an adverse employment action if they fail to meet the performance standard.

(c) For the purposes of this chapter, if any quota applies to a group of employees, each individual employee of the group is considered to have an individual quota.

(12) **Reasonable travel time.** The employee must have enough time to access bathroom locations considering the architecture and geography of the facility and the location within the facility that the employee is located at the time a bathroom is required.

(13) **Warehouse distribution center.** An establishment engaged in activities as defined by any of the following North American Industry Classification System codes, however such establishment is denominated:

(a) 493 for warehousing and storage, but does not include 493130 for farm product warehousing and storage;

(b) 423 for merchant wholesalers, durable goods;

(c) 424 for merchant wholesalers, nondurable goods; or

(d) 454110 for electronic shopping and mail-order houses.

[Statutory Authority: RCW 49.84.060, 49.17.010, 49.17.040, 49.17.050, 49.17.060, chapters 49.17 and 49.84 RCW. WSR 24-12-048, § 296-35-100, filed 5/31/24, effective 7/1/24.]