

WSR 24-22-067
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 29, 2024, 11:36 a.m.]

Subject of Possible Rule Making: Establishing a new chapter or section to address Ergonomics for scheduled airlines—Ground crew operations, risk class 6802, and key components of an ergonomics rule that the department of labor and industries (L&I) should consider for future industry specific ergonomics rules; Title 296 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.17.520.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Work-related musculoskeletal disorders (WMSDs) account for at least one-third of all workers' compensation claims that result in time loss, are more severe than the average nonfatal injury or illness, and are a common cause of long-term disability in the state. In 2023, the Washington state legislature enacted ESSB 5217 (chapter 112, Laws of 2023), codified under RCW 49.17.520, allowing L&I to adopt rules to prevent WMSDs in industries or risk classes that see workers compensation claims for WMSDs at least two times the overall state rate. Only one rule for either an industry or risk classification can be adopted within a 12-month period. L&I is initiating the first rule making for Scheduled airlines—Ground crew operations under risk class 6802, as defined under WAC 296-17A-6802.

As directed by RCW 49.17.520, L&I published an initial report of industries and risk classifications eligible for rule making in November 2023, identifying 31 high-priority industries and risk classes most likely to be selected for the rule making. The high priority list was then narrowed to five industries and risk classes, with the final selection for the first rule-making effort being Scheduled airlines—Ground crew operations, risk class 6802. The rule will cover WMSD hazards for members of ground crews employed by businesses operating scheduled airlines who are assigned the risk class 6802 in L&I's workers' compensation system, excluding those in subclass 6802-01 as required by RCW 49.17.520 (3) (d).

Scheduled airlines—Ground crew operations, risk class 6802, was selected in consideration of multiple factors, including but not limited to:

- The WMSD compensable claim rate is 10.6 times the statewide average, the highest of all industries and risk classes on the high priority list in the November 2023 report, with 47 out of 1,000 full-time equivalent employees getting injured seriously enough to miss work over the five-year period. The statewide compensable claim rate for the same period is 4.4 out of 1,000 full-time equivalent employees.
- The statistical trend shows the claim rate will remain much higher than two-times the state average in the next three years and the trend is not decreasing.
- A high annual claim rate and annual number of compensable claims.

Process for Developing New Rule: L&I will work collaboratively with stakeholders on the rule development process.

L&I will start the rule development process by gathering input from interested parties across all industries on key components that the department should consider for future industry specific rules.

Discussions will also be scheduled with employers and employees in the Scheduled airlines—Ground crew operations risk class to gather input on industry-specific issues, concerns, and best practices. After these initial scoping discussions, meetings will then be held with all interested parties to discuss developing the rule language that will be specifically for the Scheduled airlines—Ground crew operations risk class.

As directed by RCW 49.17.520(6), an advisory committee will be assembled, representing equal parts business and labor representatives in the Scheduled airlines—Ground crew operations risk class, to provide recommendations to L&I during the rules development process.

Parties interested in the formulation of these rules for proposal may contact the individual listed below. Any interested party may also participate by commenting on the proposed rules by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cathy Coates, Administrative Regulatory Analyst, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-280-2003, fax 360-902-5619, email RulemakingErgo@Lni.wa.gov, website <https://www.lni.wa.gov/rulemaking-activity/>.

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Director