

Chapter 137-80 WAC
CORRECTIONAL INDUSTRIES AND PROGRAMS

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WAC

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WAC 137-80-010 Purpose. (1) These rules and regulations are adopted pursuant to and in accordance with chapter 34.05 RCW. The purpose is to provide standards and procedures necessary to ensure the implementation of a comprehensive work program. (See RCW 72.09.015(32).) The headings and captions for the above classes are used for convenience only and do not constitute a part hereof. The use of the term "class" to identify a work program does not restrict the department to a singular description of a work program within that class or the use of other work programs authorized by separate statute.

(2) The secretary may adopt policies providing further guidance for establishing, among other things, worker participation eligibility and security requirements for each class of work program. The secretary may pilot temporary changes to correctional industries' Class IV and V work crew programs for the preservation of public health, safety or general welfare and in response to other community service needs that also promote public health, safety and general welfare. The benefits of such changes will be assessed through a limited number of work crew agreements that may not be subject to all of the current provisions of this chapter.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-010, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-010, filed 9/24/15, effective 1/1/16. Statutory Authority: RCW 72.01.090. WSR 03-21-088, § 137-80-010, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. WSR 82-18-042 (Order 82-11), § 137-80-010, filed 8/27/82.]

WAC 137-80-020 Definitions. (1) "Community custody" means that portion of an individual's sentence of confinement in lieu of earned release time, or imposed as part of a sentence, and served in the community subject to controls placed on the individual's movement and activities by the department. (See RCW 9.94A.030.)

(2) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by an individual under the jurisdiction of the department.

(3) "Community supervision" means a period of time during which an individual convicted of a crime, is living in the community under the jurisdiction of the department, and is subject to crime-related

prohibitions and other sentence conditions imposed by a court. (See RCW 9.94B.020(2).)

(4) "Community work crew" means a crew comprised of incarcerated individuals who, with correctional officer supervision, leave prison to go into the community to provide services to eligible recipients. Community work crew services are Class IV services.

(5) "Contracting entity" means an eligible for-profit corporation, an eligible nonprofit corporation, or a public agency, as these terms are defined herein.

(6) "Correctional facility" means a facility, prison, or institution operated directly, or by contract, by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

(7) "Correctional industries advisory committee" or "committee" means the committee created under RCW 72.09.070 to make recommendations to the secretary regarding the implementation of RCW 72.09.100.

(8) "Crew supervisor" means a department or other public agency employee who provides security and custody supervision of workers and coordinates worker transportation to work locations.

(9) "Department" means the department of corrections.

(10) "DOSH" means the division of occupational safety and health, the part of the Washington state department of labor and industries (L&I) that develops and enforces safety and health rules.

(11) "For-profit corporation" means a corporation of two or more persons having a joint or common economic interest and is engaged in any lawful business under RCW 23B.03.010.

(12) "Goodwill services" means a type of Class IV (prisons) or Class V (community corrections) work, the cost of which is paid for by the department of corrections and the criteria for which is determined by the secretary or designee.

(13) "Gratuity" means a sum of money paid to an incarcerated individual, in accordance with an hourly rate scale approved by the secretary or designee, when the individual works in an eligible class industry.

(14) "Incarcerated individual" (formerly "offender") means an individual committed to the custody of the department including, but not limited to, individuals residing in a correctional institution or facility and individuals released from such facility on furlough, work release, or community custody, and individuals received from another state, state agency, county, or federal jurisdiction. (See RCW 72.09.015(17).)

(15) "Master agreement" means the main, multiyear agreement between the department and the recipient containing the terms and conditions for the provision of work crew services.

(16) "Not-for-profit corporation" or "nonprofit corporation" means a corporation or organization, certified by the federal Internal Revenue Service as such and for which no part of its income is distributable to its members, directors, or officers.

(17) "Program director (director)" means the correctional industries program administrator appointed by the secretary.

(18) "Project Matrix" means the Class IV and Class V charts developed by the department that contain the types of services, grouped into Levels 1, 2, and 3 based upon risk and difficulty, that can be provided to eligible recipients.

(19) "Public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose

districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state. (See RCW 39.34.020(1).)

(20) "Public charity" means an organization, usually nonprofit, that holds federal 501(c)(3) tax exempt status. Public charities are generally recognized as those organizations with broad based public support and active programs, for example, houses of worship, benevolence organizations, animal welfare agencies, and educational organizations.

(21) "Recipient of the services" or "recipient" means an eligible nonprofit corporation, an eligible for-profit corporation, or a public agency, as these terms are defined herein, eligible to receive one or more types of work crew services.

(22) "Secretary" means the secretary of the department of corrections or his or her designee.

(23) "Service agreement" means the written and fully signed agreement required between a prison or community corrections location and a recipient, that is necessary before workers may perform goodwill services for the recipient.

(24) "Social welfare organization" means a civic 501(c)(4) organization, considered by the federal IRS to be operated exclusively for the promotion of social welfare, that is primarily engaged in actively promoting the common good in ways related to the organization's purpose.

(25) "Worker" means an individual under department jurisdiction who is incarcerated, in work release, or under community supervision or community custody who performs work crew services for eligible recipients.

(26) "Work location" means the location where workers perform the services or create the products requested by the recipient or contracting entity and over which such entity has the right of access or control.

(27) "Work program" means a comprehensive work program designed to provide individuals under department jurisdiction with work skills, work experience, and exposure to the work ethic.

(28) "Work project description" means a localized agreement, for up to one year, that operates under a Class IV or Class V master agreement to detail the responsibilities of the recipient and the community or community restitution work crew for each distinct work project.

(29) "Work release" means a program of partial confinement in which eligible individuals under department jurisdiction are employed or engaged as students in a regular course of study at school.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-020, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-020, filed 9/24/15, effective 1/1/16. Statutory Authority: RCW 72.01.090. WSR 07-12-073, § 137-80-020, filed 6/5/07, effective 7/6/07; WSR 03-21-088, § 137-80-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. WSR 82-18-042 (Order 82-11), § 137-80-020, filed 8/27/82.]

WAC 137-80-030 Establishment of work programs. In order to provide a comprehensive work program the department, in following the

recommendation of the legislature, has adopted the following classes of work programs and made variations thereof:

- (1) Class I: Free venture industries;
- (2) Class II: Tax reduction industries;
- (3) Class III: Institutional support industries;
- (4) Class IV: Community work crews; and
- (5) Class V: Community restitution, work release and community supervision or custody.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-030, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-030, filed 9/24/15, effective 1/1/16. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. WSR 82-18-042 (Order 82-11), § 137-80-030, filed 8/27/82.]

WAC 137-80-031 Class I: Free venture industries. (1) The employer model industries in this class shall be operated and managed in total or in part by any for-profit or nonprofit corporation pursuant to an agreement between the corporation and the department. The corporation shall produce goods or services for sale to both the public and private sector.

(2) The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers.

(3) The department shall review these proposed industries, including any potential new Class I industries work program or the significant expansion of an existing Class I industries work program, before the department contracts to provide such products or services. The review shall include the analysis required under RCW 72.09.115 to determine if the proposed correctional industries work program will compete with any Washington business. An agreement for a new Class I correctional industries work program, or an agreement for a significant expansion of an existing Class I correctional industries work program, that unfairly competes with any Washington business is prohibited.

(4) The department shall supply appropriate security and custody services without charge to the participating firms.

(5) Incarcerated individuals who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the program director of correctional industries. If the program director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

(6) An incarcerated individual who is employed in the Class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-031, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-031, filed 9/24/15, effective 1/1/16.]

WAC 137-80-032 Class II: Tax reduction industries. (1) The department may establish Class II industry work programs that are closely patterned after private sector industries but are designed primarily to reduce the cost of goods and services. Goods produced and services provided by Class II work programs shall be provided at a reduced cost and only be available to the department, other tax-supported agencies and nonprofit corporations.

(a) The industries selected for development within this class shall, as much as possible, match the available pool of worker skills and aptitudes with the work opportunities in the free community. Incarcerated individuals working in Class II work programs do so of their own free choice.

(b) Except as provided in RCW 39.26.251 and this section, the products and services of this class, including purchased products and services necessary for a complete product line, may be sold by the department to the following:

(i) Public agencies;

(ii) Nonprofit corporations;

(iii) Private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit corporation;

(iv) An employee and immediate family members of an employee of the department;

(v) An individual under the supervision of the department and his or her immediate family members; and

(vi) A licensed health professional for the sole purpose of providing eyeglasses to enrollees of the state medical program at no more than the health professional's cost of acquisition.

(c) The secretary may issue guidance governing the type and quantity of items that may be purchased for other than resale purpose and sold under (b)(iv) and (v) of this subsection.

(d) Clothing manufactured by an industry in this class may be donated to public benefit nonprofit corporations that provide clothing free of charge to low-income persons, but under no circumstance shall uniforms to be worn by correctional officers employed with the department be made or assembled by workers under the custody of the department.

(2) Security and custody services shall be provided at state expense by the department.

(3) The department may establish Class II work programs operated and managed in partnership with a public benefit nonprofit corporation pursuant to a contract between the corporation and the department to provide goods and/or services. The work programs may provide job training to incarcerated individuals and may allow those who have successfully completed a public benefit nonprofit corporation's job training program to request work assignment to the work program.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-032, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-032, filed 9/24/15, effective 1/1/16.]

WAC 137-80-033 Class III: Institutional work programs. (1) Class III work programs are operated by the department to support internal prison operation and maintenance needs and if possible, offset tax and other public support costs. Incarcerated individuals are assigned to Class III work programs.

(2) A contract is not required for Class III programs.

(3) Each prison will determine its own Class III work programs.

(4) Whenever possible, Class III programs will provide forty hours per week of basic work, or work training and experience, to help participants to qualify for better prison work programs and/or work in the community upon release.

(5) With approval of the secretary, a facility may, by written contract, partner with a public benefit nonprofit corporation to provide job specific training and work to incarcerated individuals within the prison. Work performed must be designed to produce goods or services for public agencies and/or public benefit nonprofit corporations at a reduced cost.

After completion of training, individuals may request assignment to the Class III program in the prison in which they received job specific training. Individuals assigned to such Class III programs may be required by the program to fulfill occasional job related work requirements outside of the prison. Individuals approved for such occasional off-site Class III work will be:

(a) Approved, in advance, by the prison superintendent or designee, to leave the prison grounds;

(b) Escorted by, and under the supervision of, a correctional officer at all times;

(c) Required to return to the prison the same day. Overnight absences will not be permitted; and

(d) Covered by the department offender health plan in the event of illness or injury while away from the prison.

(6) The department will:

(a) Screen and select individuals in Class III programs based upon eligibility criteria developed by the department;

(b) At state expense, provide the management, work supervision, security and custody services required for all Class III programs; and

(c) Compensate individuals for Class III work:

(i) In accordance with a payment scale established by the department for Class III work; and

(ii) At the same rates across all prisons for work that utilizes the same or similar job descriptions.

(7) Incarcerated individuals working in Class III work programs are not eligible for industrial insurance benefits. (See RCW 72.60.102.)

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-033, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-033, filed 9/24/15, effective 1/1/16.]

WAC 137-80-034 Class IV: Community work crews. Incarcerated individuals in Class IV work status reside in facilities contracted for, owned or licensed by the department, and participate in programs that have both education and work components.

(1) Class IV services may be provided to both 501(c)(3) public charity and 501(c)(4) social welfare nonprofit organizations and to public agencies. Two types of Class IV services are available. The first or standard type (standard), will constitute the majority of Class IV work and is paid for by the recipient of the services. The second type of Class IV service, a "goodwill service," is paid for by the department.

(2) Class IV services may be initiated by the department or provided at the request of an eligible recipient. Allowable Class IV

services are limited to those included in the Class IV Project Matrix, as now existing or hereafter revised.

(3) Class IV services are performed in the community, generally in the county in which the facility is located.

(4) Incarcerated individuals who perform Class IV work will be compensated at gratuity rates specifically established for the type of work performed. Class IV gratuity rates will be established by the department and contained in the Class IV Project Matrix as now existing or hereafter revised.

(5) Class IV services do not require skilled labor, are not performed on private property, unless owned or operated by an eligible nonprofit corporation, and have minimal negative impact on existing private industries or the labor force in the county where the service is provided.

(6) For standard Class IV services:

(a) The department requires:

(i) A master agreement, written with program input in the department's office of contracts and legal affairs and signed by the department secretary or contracts administrator and an authorized representative of the recipient;

(ii) A work project description that is signed by the authorized representative of each party. The work project description operates under the master agreement to detail the responsibilities of each party for each project. Work may not begin until both a fully signed master agreement and a work project description for the particular project are signed by the parties.

(b) The recipient of work crew services will:

(i) Not request work determined by the department to be unsafe and thus included on its Class IV prohibited work list as now existing or hereafter revised;

(ii) Provide workers with relevant job specific and location specific safety training as well as instruction in the use of any specialized equipment necessary for the particular work;

(iii) Provide all workers with any specialized personal protective equipment (PPE) necessary for the particular work;

(iv) Pay the department's invoiced charges including, but not limited to:

(A) The cost of all workers' compensation premiums payable by the department to L&I on the recipient's behalf;

(B) Worker gratuities at the rate specified in the Class IV Project Matrix for the specific services provided;

(C) Mileage at the then current state mileage rate, for transporting workers to and from the work location;

(D) The salary and benefits of any additional correctional officer(s), needed by the department at the work location.

(c) The department will:

(i) Provide one correctional officer to supervise workers for safety and security;

(ii) Pay workers' compensation premiums directly to L&I on behalf of the recipient, at the rates assigned to the department by L&I;

(iii) Provide an invoice to the recipient monthly for all costs incurred during the previous month.

(d) Supervision of the work:

(i) For Level 1 and 2 projects. At the recipient's request, the department will supervise workers to complete the requested work. Depending upon the project scope and working conditions, DOC at its own discretion, may determine that additional officers are necessary at

the work location. DOC may also collaborate with the recipient to determine whether constant and continuous or periodic on-site supervision of the work is required.

(ii) For Level 3 projects, which are more complex and may involve additional risk, the recipient will supervise workers to completion of the requested work. The recipient will determine, whether constant and continuous or periodic on-site supervision of the work is required.

(7) For Class IV goodwill services:

(a) The secretary or designee will determine the goodwill criteria.

(b) The goodwill criteria, applications and service agreements will be available at prison facilities for distribution to eligible nonprofit recipients. Those recipients will sign and submit their completed applications to the facility from which services, if approved, will be provided.

(c) Every facility will:

(i) Assess applications based upon the Class IV goodwill services criteria developed by the department;

(ii) Have all approved goodwill service agreements signed by the prison superintendent or designee and the recipient's authorized representative before starting any work;

(iii) Email a copy of each signed goodwill service agreement to the department's office of contracts and legal affairs within two calendar days after signature by the second of both parties; and

(iv) Pay all costs associated with approved goodwill services including worker gratuities and workers' compensation premiums. Recipients will not reimburse the department for such costs.

(d) For goodwill services a facility may, at its own discretion conduct the advance hazardous conditions and/or materials inspection itself or waive the requirement. Any waiver of the requirement will be based upon facility experience with the work location or the work to be performed.

(8) For all Class IV services:

(a) The department will:

(i) Screen and select the workers based upon eligibility criteria developed by the department;

(ii) Immediately suspend work when/if hazardous materials or conditions are discovered at a work location and inform the recipient so that it can make appropriate notifications for further assessment;

(iii) Transport workers to and from work locations;

(iv) Provide custody and security supervision of the workers;

(v) Provide or coordinate the educational components of the program;

(vi) Not reimburse any recipient, for any liability insurance costs associated with services provided by incarcerated individuals;

(vii) Adhere to the Class IV Project Matrix Level 1 through 3 designations, gratuity rates and types of work as now existing or hereafter revised.

(b) The parties will jointly, except at the department's discretion for goodwill services, conduct a hazardous conditions and materials assessment of the work location. Based upon the written assessment, the recipient will determine, with department concurrence, the specific personal protective equipment that must be provided to workers to perform the requested services. The department will determine whether the recipient must perform site remediation before workers can begin to work at any given location.

(9) Class IV correctional industries programs operated in work camps established pursuant to RCW 72.64.050 are managed under separate intergovernmental and local agreements and are exempt from these requirements.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-034, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-034, filed 9/24/15, effective 1/1/16.]

WAC 137-80-035 Class V: Community restitution, work release, and community supervision or custody. (1) Individuals in this class reside in the community. They are:

- (a) In court ordered community restitution programs;
- (b) In work release status; or
- (c) Under community supervision or custody.

(2) Class V services may be initiated by the department or provided at the request of an eligible recipient; a 501(c)(3) public charity, a 501(c)(4) social welfare nonprofit organization, a public agency or a cemetery registered and authorized by the IRS as 501(c)(13) Cemetery Companies. Allowable Class V services are limited to those included in the Class V Project Matrix, as now existing or hereafter revised.

(3) Two types of Class V services are available. The first or standard (standard) service is paid for by the recipient. The second, a "goodwill service," (service) is paid for by the department.

(4) Class V services are performed in the community, generally in the county in which the workers reside.

(5) Standard Class V services:

(a) Require a master agreement, written in the department's office of contracts and legal affairs and signed by the department secretary or contracts administrator and the recipient's authorized representative. The master agreement must be signed by both parties before a work project description, which operates under the master agreement to detail the responsibilities of each party for each project, is signed and services may begin.

(b) May be operated by the department or by another public agency. The department may, by written contract, operate Class V crews that include individuals under the jurisdiction of other governmental entities. The department's temporary authority over such individuals is limited to that which is necessary for those individuals to participate on department Class V community restitution crews.

(c) When Class V community restitution crews are operated by the department, the department will:

(i) Transport workers to and from work locations;

(ii) Provide one correctional officer to supervise workers for security and public safety;

(iii) Provide supervision of the work for Level 1 and Level 2 work projects and determine, at its own discretion, whether additional officers are necessary at the work location to supervise;

(iv) Immediately suspend work when/if hazardous materials or conditions are discovered at a work location and inform the recipient so that it can make appropriate notifications for further assessment;

(v) Pay L&I workers' compensation premiums on behalf of the recipient at the rates assigned to the department by L&I;

(vi) Invoice the recipient monthly for all costs associated with each project.

(6) The recipient of standard Class V services will:

(a) Provide workers with relevant job specific and site specific safety training, instruction in the use of any specialized equipment and instruction in the proper use of personal protective equipment;

(b) At no cost to the department, supervise the work and direct the workers performing Project Matrix - Level 3 work which is more complex and may involve additional risk;

(c) Pay the department monthly for the services provided during the previous month. Invoiced costs include, but may not be limited to, mileage at the then current state mileage rate, for transporting workers to and from the work location; L&I workers' compensation premiums; supplies and materials; and other costs negotiated between the parties which may include the salary and benefits of additional correctional officer(s) needed by the department at the work location;

(d) Not request any type of work determined by the department to be unsafe and included on its Class V prohibited work list as now existing or hereafter revised.

(7) Jointly, both parties to the agreement will conduct a hazardous conditions and materials assessment of the work location. Based upon the written assessment, the recipient will determine, with department concurrence, the specific personal protective equipment that must be provided to workers to perform the requested services or whether the recipient must perform site remediation before work can begin.

(8) For Class V goodwill services:

(a) The secretary or designee will determine the goodwill criteria. The criteria, applications and service agreements will be provided to each community corrections location which will: Require eligible nonprofit recipients to sign and submit a completed application to the location from which services, if approved, will be provided. Every location will assess applications based upon the Class V goodwill services criteria developed by the secretary or designee;

(b) Approved goodwill service agreements must be signed by the authorized DOC signatory or designee and the recipient's authorized representative before work may begin;

(c) A copy of each signed goodwill service agreement will be emailed to the department contracts and legal affairs office within two calendar days after signature by the second of both parties;

(d) The department will pay for all costs associated with approved goodwill services including mileage, equipment, staff time and workers' compensation premiums. Recipients will not reimburse the department for such costs; and

(e) A community corrections location may, at its own discretion, conduct the advance hazardous conditions and/or materials inspection itself or waive the requirement. Any waiver of the requirement will be based upon experience with the work location or the work to be performed.

(9) For all Class V services:

(a) The department will:

(i) Screen and select the workers for crews based upon eligibility criteria developed by the department;

(ii) Immediately suspend work if hazardous materials or conditions are discovered at a work location and inform the recipient so that it can make appropriate notifications for further assessment and remediation;

(iii) Transport workers to and from work location;

(iv) Provide custody and security supervision of the workers;

(v) Provide or coordinate any educational components of the program;

(vi) Except at the department's discretion for goodwill services, the parties will jointly conduct a hazardous conditions and materials assessment of the work location. Based upon the written assessment, the recipient will determine, with department concurrence, the specific personal protective equipment that must be provided to workers to perform the requested services. The department will determine whether the recipient must perform site remediation before workers can begin to work at a given work location.

(b) The department will not reimburse any recipient, for liability insurance costs associated with the services provided.

(c) The department will adhere to the Class V Project Matrix level designations and limit the types of work performed to those included in the Class V Project Matrix as now existing or hereafter revised.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-035, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-035, filed 9/24/15, effective 1/1/16.]

WAC 137-80-040 Sale of goods. (1) The director or his/her designee may sell all articles, materials, and supplies authorized by statute to be produced or manufactured in correctional institutions to any state agency, political subdivision of the state or as otherwise authorized by statute.

(2) The secretary shall require those institutions under his/her direction to give preference to those articles, materials, and supplies produced or manufactured by correctional industries when purchases are made for institution needs.

(3) The director may cause to be prepared annually, at such times he/she may determine, lists containing the descriptions of all articles and supplies manufactured and produced in state correctional institutions; copies of such list shall be sent to the supervisor of purchasing and to all departments, institutions and agencies of the state of Washington.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 15-20-010, § 137-80-040, filed 9/24/15, effective 1/1/16. Statutory Authority: RCW 72.01.090. WSR 03-21-088, § 137-80-040, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. WSR 82-18-042 (Order 82-11), § 137-80-040, filed 8/27/82.]

WAC 137-80-050 Proceeds of sale. Except for any sum recommended by the committee to be returned to the state general fund, all net profits from institutional industries shall be placed in a special revolving fund (Class II account) and shall be used exclusively, without appropriation, in the expansion and improvement of Class II industries.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 15-20-010, § 137-80-050, filed 9/24/15, effective 1/1/16. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. WSR 82-18-042 (Order 82-11), § 137-80-050, filed 8/27/82.]

WAC 137-80-060 Inmate job opportunities. (See RCW 72.09.120.)

The director shall cause to be periodically prepared and distributed to a central location in each facility a list of correctional industries' and programs' job opportunities. This list shall include, but not be limited to, job descriptions and the educational and skill requirements of each job and shall be made available to facility personnel, institutional industries and incarcerated individuals.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-060, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-060, filed 9/24/15, effective 1/1/16. Statutory Authority: RCW 72.01.090. WSR 03-21-088, § 137-80-060, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. WSR 82-18-042 (Order 82-11), § 137-80-060, filed 8/27/82.]

WAC 137-80-070 Safety and health. (1) As required by the state

division of occupational safety and health (DOSH), individuals in work programs will be provided a safe and healthy workplace free from recognized hazards.

(2) All correctional industries and programs will adhere to relevant federal and state safety laws as well as to departmental safety policies and requirements.

(3) The department, as the custodial authority, will determine whether or not it is safe for individuals to perform the requested services in Classes IV and V. The department's determination may be based upon previous experience with the work location, the work requested and the recipient, or the results of a hazardous conditions and materials assessment performed by the department and the recipient together or at the department's discretion, by the department alone.

(4) Workers in Classes IV and V shall receive work and safety training and any necessary personal protective equipment, in accordance with the master agreement, associated work project descriptions, goodwill service agreement and chapter 296-800 WAC, Safety and health core rules.

(5) Incarcerated individuals participating in Class III programs are not considered "employees" for DOSH purposes.

(6) For DOSH purposes, incarcerated individuals participating in Class V programs may be considered "employees" or "workers."

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-070, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-070, filed 9/24/15, effective 1/1/16.]

WAC 137-80-080 Industrial insurance. (1) No incarcerated individual

compensated for work in correctional industries shall be considered as an employee, or to be employed by the state or the department.

(2) Incarcerated individuals working in Classes I, II, and IV of correctional industries are eligible for industrial insurance benefits as provided by Title 51 RCW.

(3) Incarcerated individuals performing Class V community restitution work will be made eligible for industrial insurance benefits as provided for by RCW 51.12.045.

(4) Incarcerated individuals working in Class III industries are ineligible for industrial insurance benefits.

(5) The department will pay the department of labor and industries all workers' compensation premiums due under Title 51 RCW for workers providing services in Classes IV and V. Recipients must reimburse the department for all such workers' compensation premiums under Title 51 RCW. Except that, recipients will not pay the department for any L&I premiums paid for workers providing goodwill services.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-080, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-080, filed 9/24/15, effective 1/1/16.]

WAC 137-80-090 Work crew costs and responsibilities. (1) Nothing in this chapter shall be construed as limiting the regulatory authority of the department of labor and industries in determining health and safety compliance and employer status for purposes of DOSH and Title 51 RCW, the issuance or review of citations or corrective actions related to health and safety compliance in the workplace provided the community or community restitution work crew, or in determining responsibility for payment of fees due under Title 51 RCW.

It is understood that the responsible divisions within the department of labor and industries shall act independently in any review of claims or citations. Public agencies and public benefit nonprofit corporations that contract with the department for work crew services will be responsible for safety and health conditions at the work location, will have the responsibility and the authority for ensuring that any hazardous condition is corrected, and as applicable, reimburse the department for the cost of worker industrial insurance coverage. For standard Class IV services only, recipients will also be responsible for paying worker gratuities.

(2) The department will provide at least one correctional officer for the security and custody supervision of workers at all work crew locations to fulfill its mission to improve public safety and to maintain custody as required by state law.

(3) Any specific worker personal protective equipment that is required will be detailed in the work project description for each Class IV or Class V work crew project or in the services agreement for any goodwill service. The party(ies) responsible for providing such personal protective equipment will also be designated in the work project description.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-090, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-090, filed 9/24/15, effective 1/1/16.]

WAC 137-80-100 Application limited to this chapter. The powers and authority conferred by this chapter shall be construed as limited to this chapter and nothing herein shall be construed as applying to any other incarcerated individuals' work programs authorized by federal law or Washington state law. Neither shall anything contained herein be construed as limiting any other powers or authority of any public agency.

[Statutory Authority: RCW 72.01.090 and 72.09.100. WSR 20-13-054, § 137-80-100, filed 6/12/20, effective 7/13/20; WSR 15-20-010, § 137-80-100, filed 9/24/15, effective 1/1/16.]