



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Labor and Industries

- Preproposal Statement of Inquiry was filed as WSR 07-03-155 ; or
 Expedited Rule Making--Proposed notice was filed as WSR _____; or
 Proposal is exempt under RCW 34.05.310(4).

- Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information: Workers' Compensation Self Insurance Rules and Regulations, Chapter 296-15 WAC. This chapter governs employers who are permitted to self-insure their workers' compensation obligation pursuant to Title 51 RCW. This filing includes modifications to existing sections for organization and clarity. It also includes new sections specifically related to experience rating of the Self Insurance Second Injury Fund for assessment purposes.

Hearing location(s):
 Department of Labor & Industries
 243 Israel Rd SE, Building 3, Room 304
 Tumwater, Washington 98501

Date: May 26, 2009 Time: 9:00 am

Submit written comments to:

Name: Margaret Conley
 Address: P.O. Box 44890
 Olympia, Washington 98504-4890
 e-mail mcgm235@Lni.wa.gov
 fax (360) 902-6977 by May 26, 2009 5:00 pm

Assistance for persons with disabilities: Contact

Margaret Conley by April 22, 2009

TTY (800) 833-6388 or (360) 902-6723

Date of intended adoption: May 29, 2009

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This rulemaking proposal will modify WAC 296-15-221 for simplification and clarity. References to self-insured assessments have been moved to new sections, leaving the content of WAC 296-15-221 to solely address reporting requirements. The proposal creates four new sections to specifically address self-insured assessments, including the Administrative Assessment, the Second Injury Fund Assessment, the Insolvency Trust Fund Assessment, and the Supplemental Pension Reimbursement Fund and Asbestosis Fund Assessments.

The new section relating to the Self Insurance Second Injury Fund Assessment also includes new requirements for experience rating fifty percent of all self-insured employers' second injury fund assessments.

Reasons supporting proposal:

This rulemaking is in response to Substitute Senate Bill 5992 (Chapter 475, Laws 2005) to establish an experience rating system for self-insurers' use of the industrial insurance second injury fund.

Statutory authority for adoption: RCW 51.14.077, 51.14.150, 51.14.160, 51.44.040, 51.44.070, and 51.44.150

Statute being implemented: RCW 51.44.040

Is rule necessary because of a:

- Federal Law? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes No
 If yes, CITATION:

DATE
 April 21, 2009

NAME (type or print)
 Judy Schurke

SIGNATURE

TITLE
 Director

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED**

**DATE: April 21, 2009
 TIME: 1:34 PM**

WSR 09-09-113

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: Department of Labor & Industries

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jean M. Vanek	243 Israel Rd SE, Tumwater, WA 98501	(360) 902-6907
Implementation....Jean M. Vanek	243 Israel Rd SE, Tumwater, WA 98501	(360) 902-6907
Enforcement..... Jean M. Vanek	243 Israel Rd SE, Tumwater, WA 98501	(360) 902-6907

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

Chapter 296-15 WAC applies only to businesses that are certified to self-insure in Washington State. Per RCW 19.85.020 (1), a business must have fifty or fewer employees to qualify as a small business under the Regulatory Fairness Act. The department reviewed the number of worker hours reported by each employer currently certified to self-insure, and no self-insured business has fewer than fifty employees. Therefore, no small business economic impact statement is required.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No: Please explain:

WAC 296-15-221, WAC 296-15-223, WAC 296-15-227, and WAC 296-15-229 are not new requirements. They are a restructuring of the content of the preexisting WAC 296-15-221.

WAC 296-15-225 describes a new method of calculating individual employers' contributions to the preexisting self-insurance second injury fund assessment. Employer who are no longer active in the self-insurance program but have existing claims from their time in the self-insurance program are now included in the assessment. Under the new methods an employer's assessment for the second injury fund might increase, decrease or stay the same. The rule does not change the methods of calculating the total amount of the assessment required to sustain the self-insured second injury fund. Therefore, this rule change does not represent an increased cost to the business community as a whole.