



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 10-07-127;
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: Chapter 296-17 WAC Rates and Rating System for Washington Workers' Compensation Insurance; Chapter 296-17B WAC Retrospective Rating for Workers' Compensation Insurance See Attachments 1 and 2 for the list of affected WAC numbers. We propose repealing existing retrospective rating rules now located in Chapter 296-17 WAC (Attachment 1). We propose creating a new Chapter 296-17B WAC to contain future Retrospective Rating rules (Attachment 2).

Hearing location(s):

Date: September 7, 2010, 2:00 p.m.
Department of Labor & Industries, Room S118
7273 Linderson Way SW
Tumwater, WA 98501

Date: September 8, 2010, 10:00 a.m.
Department of Labor & Industries
2806 Gateway Drive
Tukwila, WA 98168

Date: September 9, 2010, 2:00 p.m.
Holiday Inn Spokane Airport
1616 S. Windsor Drive
Spokane, WA 99224

Submit written comments to:

Name: Diane Doherty
Address: PO Box 44180
Olympia, WA 98504-4180
e-mail Dohr235@lni.wa.gov
fax (360)902-4258 by September 10, 2010

Date of intended adoption: September 21, 2010
(Note: This is NOT the effective date)

Assistance for persons with disabilities:

Contact: Diane Doherty at (350) 902-4835 or Office of Information and Assistance TTY (360) 902-5797 by September 3, 2010

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

The 2007 Legislature directed L&I to hire one or more outside experts to review and recommend changes to the Retrospective Rating (Retro) program. This rulemaking implements recommendations of the independent actuarial firm, Oliver Wyman.

Reasons supporting proposal:

Updating retrospective rating plan tables and revising formulas will improve fairness in the distribution of refunds among the participants in the Retro program, and will offer participants more choices in how they participate financially in the program. In addition, the complete chapter is being rewritten to improve the overall order and clarity.

Statutory authority for adoption:

RCW 51.18.010(2), RCW 51.04.020

Statute being implemented:

RCW 51.18. 010, RCW 51.04.020

Is rule necessary because of a:

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 04, 2010
TIME: 8:44 AM
WSR 10-16-140

DATE

August 4, 2010

NAME (type or print)

Judy Schurke

SIGNATURE

Judy Schurke

TITLE

Director

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

This rule will not change the amount of the aggregate refund distributed among retro participants. It will change the way the refund is distributed among all participants in the program based on the choices they make, premium they pay and their losses or claims costs.

**Name of proponent:** (person or organization) Department of Labor & Industries

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

| Name                           | Office Location | Phone          |
|--------------------------------|-----------------|----------------|
| Drafting.....Diane Doherty     | Tumwater, WA    | (360) 902-4835 |
| Implementation..Diane Doherty  | Tumwater, WA    | (360) 902-4835 |
| Enforcement.... Robert Malooly | Tumwater, WA    | (360)902-4209  |

**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.

RCW 19.85.025(3) does not apply to a rule described in RCW 34.05.310(4), and that subsection exempts rules that "set or adjust fees pursuant to legislative standards." These proposed rules clarify one part of the process for calculating retrospective rating premiums.

**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:

RCW 34.05.328 exempts from its requirements rules "that set or adjust fees pursuant to legislative standards." These proposed rules clarify one part of the process for calculating retrospective rating premiums.

Attachment 1  
Retrospective Rating Rules  
Proposed August 4, 2010

**Repeal the following WACs:**

- WAC 296-17-90401 Introduction.
- WAC 296-17-90402 Definitions.
- WAC 296-17-90404 Employer options.
- WAC 296-17-90405 Individual retro -- Enrollment.
- WAC 296-17-90407 Reenrollment -- Individual retro.
- WAC 296-17-90409 New group -- Requirements.
- WAC 296-17-90410 New group -- Agreement finalized.
- WAC 296-17-90411 Existing group.
- WAC 296-17-90413 Individual employer group member requirements -- Initial enrollment.
- WAC 296-17-90414 Individual employer group member requirements -- Reenrollment.
- WAC 296-17-90421 Sponsoring organization -- Retro group business and industry selection.
- WAC 296-17-90422 Retro group -- Classification assignments.
- WAC 296-17-90425 Additional groups.
- WAC 296-17-90428 Disqualification of a retro group.
- WAC 296-17-90431 Change of ownership.
- WAC 296-17-90437 Faxed, e-mail and machine-copied agreements and applications.
- WAC 296-17-90438 Application, agreements and other required documentation -- Due dates.
- WAC 296-17-90440 Cancellation of participation.
- WAC 296-17-90445 Valuation of coverage period.
- WAC 296-17-90446 Retrospective premium calculation.
- WAC 296-17-90447 Adjustments to standard premiums after the last mandatory adjustment -- Individual employer.
- WAC 296-17-90453 Disputes, protests and appeals.
- WAC 296-17-90484 Direct pay of medical bills -- Prohibited.
- WAC 296-17-90486 Impartial review of L&I decisions.
- WAC 296-17-90490 Limitation of liability -- Indemnification.
- WAC 296-17-90492 Table I.
- WAC 296-17-90493 Table II.
- WAC 296-17-90494 Table III.
- WAC 296-17-90495 Table IV.
- WAC 296-17-90496 Table V.
- WAC 296-17-90497 Table VI.

Attachment 2  
Retrospective Rating Rules  
Proposed August 4, 2010

**Create new WAC:**

WAC 296-17-901 Risk Classification Hazard Group Table.

**Create new WACs:**

WAC 296-17B-010 Introduction and Overview.  
WAC 296-17B-020 How to read these rules.  
WAC 296-17B-030 The language we use in these rules.  
WAC 296-17B-040 Which version of these rules applies to you?  
WAC 296-17B-100 Individual Retrospective Rating.  
WAC 296-17B-200 Group Retrospective Rating – Overview.  
WAC 296-17B-210 Qualifications for sponsoring organizations.  
WAC 296-17B-220 Qualifications for new groups.  
WAC 296-17B-230 Qualifications for existing groups.  
WAC 296-17B-240 Enrolling a group.  
WAC 296-17B-250 Employer qualifications for group membership.  
WAC 296-17B-260 Homogeneity.  
WAC 296-17B-270 Industry categories.  
WAC 296-17B-280 Enrolling an employer in a group.  
WAC 296-17B-300 Choosing loss limits.  
WAC 296-17B-400 Adjustments.  
WAC 296-17B-410 Calculating your retrospective rating premiums.  
WAC 296-17B-420 Premium administration expense charge.  
WAC 296-17B-430 Incurred loss and expense charge.  
WAC 296-17B-440 Net insurance charge.  
WAC 296-17B-500 Determining your standard premiums.  
WAC 296-17B-510 Assigning claims to coverage periods.  
WAC 296-17B-520 Determining your losses.  
WAC 296-17B-530 Determining case incurred losses.  
WAC 296-17B-540 Determining loss incurred for each claim.  
WAC 296-17B-550 Determining your incurred losses.

Attachment 2  
Retrospective Rating Rules  
Proposed August 4, 2010

Continued

|                 |  |
|-----------------|--|
| WAC 296-17B-560 | Determining your hazard group and size group.        |
| WAC 296-17B-600 | Performance adjustment –Overview.                    |
| WAC 296-17B-610 | How we determine the performance adjustment factor.  |
| WAC 296-17B-620 | More about the performance adjustment factor.        |
| WAC 296-17B-700 | Protest and Appeals.                                 |
| WAC 296-17B-710 | Account in good standing.                            |
| WAC 296-17B-720 | Prohibited Conduct.                                  |
| WAC 296-17B-730 | Probation.   |
| WAC 296-17B-740 | Refunds of Standard Premiums after final adjustment. |
| WAC 296-17B-750 | Notification.  |
| WAC 296-17B-760 | Coverage periods.                                    |
| WAC 296-17B-770 | Common Ownership.                                    |
| WAC 296-17B-780 | Due Dates.   |
| WAC 296-17B-810 | Loss development factors.                            |
| WAC 296-17B-820 | Discount factors.                                    |
| WAC 296-17B-830 | Expected loss ratio factors.                         |
| WAC 296-17B-840 | Claim types.   |
| WAC 296-17B-910 | Hazard Group 1 Tables.                               |
| WAC 296-17B-920 | Hazard Group 2 Tables.                               |
| WAC 296-17B-930 | Hazard Group 3 Tables.                               |
| WAC 296-17B-940 | Hazard Group 4 Tables.                               |
| WAC 296-17B-950 | Hazard Group 5 Tables.                               |
| WAC 296-17B-960 | Hazard Group 6 Tables.                               |
| WAC 296-17B-970 | Hazard Group 7 Tables.                               |
| WAC 296-17B-980 | Hazard Group 8 Tables.                               |
| WAC 296-17B-990 | Hazard Group 9 Tables.                               |