



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Department of Labor and Industries

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** 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 from the independent actuarial firm, Oliver Wyman.

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 ensure both retro and non-retro pay for the same percentage of their losses after refunds are distributed. These formulas determine the cost of claims and the calculation of Retro premium, which determine the amount of premium refunded or additional premium assessed to participants. These rules offer participants more choices in how they participate financially in the program. In addition, the complete chapter is being rewritten to better conform to the statute, chapter 51.18 RCW, and to improve the overall order and clarity.

**Citation of existing rules affected by this order:**

- Repealed: See Attachment 1
- Amended:
- Suspended:
- New: See Attachment 2

**Statutory authority for adoption:** RCW 51.16.035, RCW 51.16.100, RCW 51.04.020(1), 51.18.010

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 10-16-140 on August 4, 2010.  
Describe any changes other than editing from proposed to adopted version:

Changes were made after the initial proposal: change the time for submission of group applications from 60 to 30 days prior to the start of a new plan year; remove the words "and hazard group" for purposes of determining the premium size group; correct a word in the hazard group example; revise the application of the expected loss ratio factor in the calculation of case incurred losses; added requirements for the department to evaluate the retrospective rating plan tables every five years; and to repeat the studies that underlie these rules by March 1, 2012.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**Date adopted:**

October 19, 2010

**NAME**

Judy Schurke

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: October 19, 2010**  
**TIME: 3:45 PM**

**WSR 10-21-086**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>53</u>	Amended	_____	Repealed	<u>31</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>53</u>	Amended	_____	Repealed	<u>31</u>

Attachment 1  
Retrospective Rating Rules  
Adoption October 19, 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  
Adoption October 19, 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  
Adoption October 19, 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.