



# RULE-MAKING ORDER

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

**Agency:** Department of Labor and Industries

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) January 1, 2011

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

- Yes
  - No
- If Yes, explain:

**Purpose:**

This emergency rulemaking is being made for calendar year 2011 to amend the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations, and create retrospective rating plan standard premium size ranges. Classification base rates were amended in order to base the rates on updated loss and payroll experience and the proposed decision to increase premium rates an overall average 12 percent per hour worked.

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

Repealed: See Attachment A for a list of affected rules.  
 Amended: See Attachment A for a list of affected rules.  
 Suspended: **0**  
 New: See Attachment A for a list of affected rules.

**Statutory authority for adoption:** RCW 51.16.035 (Base Rates), RCW 51.32.073 (Supplemental Pension), RCW 51.18.010 (Retrospective Rating), and RCW 51.04.020(1) (General Authority)

**Other authority :**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

**Reasons for this finding:**

The department has historically adjusted industrial insurance premium rates annually in the fall, to be in effect for the following calendar year. Currently, the department's rules price its insurance using worker hours as the basis. Initiative 1082, put to a vote of the people on November 2, 2010, would have required the department to price its insurance products using payroll rather than hours as the basis for premiums, and the section of the initiative that imposed that requirement would have been effective December 2, 2010. Now that the election is over, rates will continue to be hours based. To adopt rates effective January 1, 2011, the department must use the emergency rulemaking process. This is necessary for the protection of the general welfare, as actuarial analysis shows current rates to be inadequate to maintain the solvency of the state fund. Annual rate changes each year can also be to the benefit of employers with better than average accident prevention and claim performance.

**Date adopted:** November 16, 2010

**NAME (TYPE OR PRINT)**

Judy Schurke

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: November 16, 2010**

**TIME: 1:46 PM**

**WSR 10-23-099**

**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>1</u>	Amended	<u>10</u>	Repealed	<u>1</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	_____	Amended	_____	Repealed	_____

## **Attachment A**

### **2011 Rates**

#### **Chapter 296-17 WAC General Reporting Rules, Audit and Recordkeeping, Rates and Rating System for Washington Workers' Compensation Insurance and Chapter 296-17B WAC Retrospective Rating**

##### **Amend:**

WAC 296-17-855	Experience modification
WAC 296-17-875	Table I
WAC 296-17-880	Table II
WAC 296-17-885	Table III
WAC 296-17-890	Table IV
WAC 296-17-895	Industrial insurance accident fund base rates and medical aid base rates by class of industry
WAC 296-17-89502	Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications
WAC 296-17-89503	Farm internship program industrial insurance, accident fund and medical aid fund by class
WAC 296-17-89504	Horse racing industry industrial insurance, medical aid, and supplemental pension by class
WAC 296-17-920	Assessment for supplemental pension fund

##### **Repeal:**

296-17-86502	Medical aid experience modification limitations
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##### **New:**

296-17B-900	Retrospective rating plans standard premium size ranges
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