



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Department of Labor & Industries

<input checked="" type="checkbox"/> <b>Preproposal Statement of Inquiry</b> was filed as <b>WSR 13-22-072</b> ; or	<input type="checkbox"/> <b>Original Notice</b>
<input type="checkbox"/> <b>Expedited Rule Making--Proposed notice</b> was filed as <b>WSR _____</b> ; or	<input type="checkbox"/> <b>Supplemental Notice to WSR _____</b>
<input type="checkbox"/> <b>Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).</b>	<input type="checkbox"/> <b>Continuance of WSR _____</b>

**Title of rule and other identifying information:**

Chapter 296-17B WAC Retrospective Rating for Workers' Compensation Insurance

**Hearing location(s):**

Department of Labor & Industries  
7273 Linderson Way SW, Room S117  
Olympia WA 98504

**Date:** May 6, 2014    **Time:** 10:00 AM

**Submit written comments to:**

Name: Jessica Nau  
Address: PO Box 44180  
Olympia WA 98504-4180

e-mail [Jessica.Nau@LNI.wa.gov](mailto:Jessica.Nau@LNI.wa.gov)  
Fax (360) 902-4258 by (date) 5:00 PM May 6, 2014.

**Assistance for persons with disabilities:** Contact  
Office of Information and Assistance by April 29, 2014  
TTY (360) 902-5797

**Date of intended adoption:** May 30, 2014  
(Note: This is **NOT** the **effective** date)

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

The purpose of this rule proposal is to modify a formula in an existing rule that allowed a small number of retro participating employers to receive refunds or larger refunds inconsistent with the intent of the Retrospective Rating program, when their loss ratio (claim costs divided by standard premium) exceeds the maximum loss limit they had chosen.

This rule will amend WAC 296-17B-440 Net insurance charge. With this change, the department proposes removing the Performance Adjustment Factor (PAF) from the calculation of insurance charges for those retro participants whose insurance charges are based on standard premium paid.

**Reasons supporting proposal:**

Rules for the Retrospective Rating (retro) program were rewritten for enrollment beginning in January 2011. Tables were updated to increase fairness in the distribution of retro refunds and to offer participants more choices in how they participate financially in the program. Changes included the assessment of insurance charges based on hazard, and were based on historic performance of groups and employers enrolled in the retro program.

**Statutory authority for adoption:**  
RCW 51.18.010 (Retrospective Rating) and  
RCW 51.04.020(1) (General Authority)

**Statute being implemented:**  
RCW 51.18.010, RCW 51.04.020

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**DATE** April 1, 2014

**NAME** (type or print)  
Joel Sacks

**SIGNATURE**

**TITLE**  
Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** April 01, 2014

**TIME:** 10:11 AM

**WSR 14-08-081**

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

**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) 902-5903
Implementation.... Tim Smolen	Tumwater, WA	(360) 902-4835
Enforcement..... Victoria Kennedy	Tumwater, WA	(360) 902-4777

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal 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.