



PROPOSED RULE MAKING

CR-102 (June 2012)

(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 13-23-077 ; or
 Expedited Rule Making--Proposed notice was filed as WSR _____ ; or
 Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

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

Title of rule and other identifying information: (Describe Subject)

WAC Chapter 296-15 Workers' Compensation Self-Insurance Rules and Regulations WAC 296-15-266 Penalties

Hearing location(s):

Department of Labor and Industries
7273 Linderson Way
Auditorium
Tumwater, WA 98501

Date: 9/30/2014 Time: 1:30 pm

Submit written comments to:

Name: Steve Reinmuth or Mike Ratko
Address: Department of Labor and Industries
PO Box 44100
Olympia, WA 98504-4100
e-mail steve.reinmuth@lni.wa.gov or
michael.ratko@lni.wa.gov
fax (360) 902-4474 by (date) 9/30/2014

Assistance for persons with disabilities: Contact

Office of Information & Assistance by 9/23/2014

TTY (360) 902-5797

Date of intended adoption: 10/21/2014

(Note: This is **NOT** the **effective** date)

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

The Self-insurance Section within the Department of Labor and Industries is proposing amendments to Section 296-15-266 WAC. The proposal will define the circumstances under which the department will consider assessing a penalty for an unreasonable delay of benefits, and the process of this penalty request.

This rule is proposed to establish general guidance and procedures as well as necessary clarifications on requesting and assessing penalties against self-insured employers for unreasonable delay of benefits, all of which are originated or required by the industrial insurance law under Title 51 RCW. The Board of Industrial Insurance Appeals in its 2012 decision expanded the definition of benefits which may lead to a penalty if medical benefits are delayed. (In re James Coston, BIIA Dec. 11 12310 (2012).

Reasons supporting proposal:

The rule will help create a level playing field for all other employers and discourage non-compliant behaviors. It will also benefit injured workers in that more timely benefit payments can be ensured for those who are entitled, which is critical for them and their families. The procedures and guidance established by this rule will help eliminate ambiguity that the department may encounter when the situation arises in the future.

Statutory authority for adoption: 51.04.020 and 51.48.017

Statute being implemented: 51.48.017

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 19, 2014

TIME: 7:34 AM

WSR 14-17-086

DATE

8/19/14

NAME (type or print)

Joel Sacks

SIGNATURE

TITLE

Director

(COMPLETE REVERSE SIDE)

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

Name of proponent: (person or organization)

- Private
 Public
 Governmental

Name of agency personnel responsible for:

| Name | Office Location | Phone |
|----------------------------------|-----------------|----------------|
| Drafting..... Steve Reinmuth | Tumwater, WA | (360) 902-6275 |
| Implementation....Steve Reinmuth | Tumwater, WA | (360) 902-6275 |
| Enforcement.... Steve Reinmuth | Tumwater, WA | (360) 902-6275 |

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: Suchi Sharma
Address: Department of Labor and Industries
PO Box 44001
Tumwater, WA 98504-4001
phone (360) 902-6744
fax (360) 902-4204
e-mail suchi.sharma@lni.wa.gov

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name: Suchi Sharma
Address: Department of Labor and Industries
PO Box 44001
Tumwater, WA 98504-4001
phone (360) 902-6744
fax (360) 902-4204
e-mail suchi.sharma@lni.wa.gov

No: Please explain: