
TO: THE FILE

FROM: YUANLONG GE (RDS)

SUBJECT: SMALL BUSINESS ECONOMIC IMPACT STATEMENT FOR THE SELF-INSURANCE RULES REGARDING PENALTIES

DATE: 07/24/2014

The Self-insurance Section within the Department of Labor and Industries is proposing rule changes to Chapter 296-15 WAC, Workers' Compensation Self-insurance Rules and Regulations. The proposed changes 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. Pursuant to the Regulatory Fairness Act (Chapter 19.85 RCW), the department shall prepare a small business economic impact statement (SBEIS) if: (a) the proposed rule will impose more than minor costs on businesses in an industry; or (b) requested to do so by a majority vote of the joint administrative rules review committee within 45 days of receiving the notice of proposed rulemaking under RCW 34.05.320.

To help determine whether the first condition applies to a proposed rule, the Regulatory Fairness Act also defines 1). Small business: any business entity that is owned and operated independently from all other businesses, and that has fifty or fewer employees. 2). Minor cost: a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll. It should be noted that for the purpose of SBEIS analysis, the estimated cost of a rule is interpreted and practically captured as the one that only occurs as a result of this proposed rule. Therefore, any current or potential costs resulting from the compliance with the existing statutory requirements or standards will not be taken into consideration, even if they appear, in some cases, substantial or significant from employers' perspectives.

As to the proposed rule changes to WAC 296-15-266, Condition (b) does not apply. In addition, as stated in the Cost-Benefit Analysis, this proposal will not impose more than minor costs on average on affected businesses. The rule is intended to establish general guidance and procedures as well as necessary clarifications on requesting and assessing penalties against a self-insured employer for an unreasonable delay of benefits, all of which are originated or required by the

industrial insurance law under Title 51 RCW. In light of this, the proposed rule does not create any new requirements that are above and beyond what have already been in place under the law. Furthermore, all self-insured businesses are large businesses based on the definition above, so the proposed rule will not affect the small business community. For these reasons, Condition (a) does not apply either. Therefore, the department is not required to prepare an SBEIS for this rulemaking project.