

WAC 296-15-021 Self-insurance qualifications. (1) What factors does the department consider whether an employer qualifies for self-insurance certification? The department will consider whether:

(a) An employer satisfactorily demonstrates:

(i) **Stability:** Has been in business for three years prior to applying for self-insurance without substantial changes in principle ownership, structure, or operations.

(ii) **Safety:** Has a written accident prevention program in place in accordance with DOSH standards in Washington state for at least six months prior to making application.

(iii) **Sufficiency:** Has net worth of twenty-five million dollars, or revenue of fifty million dollars, or annual workers compensation premium payments or loss costs of one million dollars, to be adjusted once every five years as indexed to the U.S. Consumer Price Index beginning in 2025. This subsection does not apply to cities and counties, or groups, authorized under RCW 51.14.150.

(b) Credit ratings of investment grade or higher, or, in the case of authorized groups, an actuarially determined low likelihood of default:

(i) A publicly traded business' credit analysis shows a credit rating of investment grade or higher (Moody's Baa3 or higher, Standard and Poor's BBB- or higher), and carries excess insurance.

(ii) A privately held business' credit analysis shows a credit rating of investment grade or higher as determined by self-insurance credit rating procedures, and carries excess insurance.

(iii) A public entity, such as a county or city, that shows a credit rating of investment grade or higher as determined by self-insurance credit rating procedures, has adequate monetary reserves as determined under accepted actuarial practices, and carries excess insurance.

(iv) An authorized group such as a hospital district, or an educational service district, has adequate monetary reserves as determined under accepted actuarial practices, and carries excess insurance.

(c) In addition, other factors can be considered to establish, to the director's satisfaction, the employer has the ability to make certain the prompt payment of all compensation under Title 51 RCW, and all assessments that may become due to the department from the employer. For publicly traded companies, this may require providing up to one hundred twenty-five percent of the initial surety amount when credit ratings are below investment grade.

(2) What factors does the department consider when determining whether an employer qualifies for self-insurance if there are special circumstances with principle ownership, structure, or operations? If there are special circumstances, the department will consider the factors in subsection (1)(a) through (c) of this section, and an analysis that includes the following for:

(a) **Joint venture:** A joint venture is defined as two or more employers that have signed a contractual agreement to operate as a single unit for a specified period of time for the completion of a specific task. The department will consider a joint venture's application for self-insurance if the joint venture is sponsored by a current self-insurer. Applications must include:

(i) The name of a sponsoring party. The sponsoring party must be a certified self-insurer in good standing with the department and have a majority financial interest in the assets and profits of the joint venture.

(ii) A list of named participants. Each named participant must also demonstrate that it has at least twenty percent interest in the joint venture.

(iii) Submit three years' worth of audited financial statements prepared by certified independent accountants.

(iv) A written acknowledgment from each named participant of its joint and several liability for continuing compensation if any participant of the joint venture defaults. This responsibility continues until the department grants a written release to the joint venture or the remaining participant(s) of the joint venture. A written release from the department is granted only after the contract has been completed and final settlement of the joint venture account has been made.

(v) A written description of the obligations of each participant for the industrial insurance program of the joint venture.

(vi) A written acknowledgment of the sponsoring party's responsibilities for the management of all claims and payment of all compensation incurred during the period of the joint venture's self-insurance certification and after the joint venture is dissolved. This acknowledgment must include the sponsor's continuation of benefits if the joint venture or any of the other parties of the joint venture defaults.

(b) **Employee stock ownership program (ESOP):** An employee stock ownership program is defined as a firm in which the employees have purchased a majority of the financial interest. If the employees purchase an existing self-insured company, that company would be required to return to the state industrial insurance fund for a minimum of one year before the department would consider its application for self-insurance.

(c) **Partnership:** A partnership is defined as a business operation between two or more individuals who share management and profits. Applications must include:

(i) A copy of the partnership agreement; and

(ii) An explanation of allowed withdrawal of funds by partners.

(d) **Group:** A group is defined as a group of employers authorized under chapter 51.14 RCW to form self-insurance groups. Applications must include:

(i) A copy of the group's bylaws;

(ii) A current audited consolidated financial statement of the group (if the group exists at the time of the application);

(iii) An indemnity agreement jointly and severally binding the group and each member to comply with the provisions of Title 51 RCW; and

(iv) A detailed budget of all projected administrative revenues and expenses for the first year of operation.

(e) When the application for a group is tentatively approved, the applicant must submit the following:

(i) Initial surety, established at one hundred twenty-five percent of the standard industrial insurance premiums; and

(ii) A copy of the excess insurance coverage policy and a copy of any aggregate stop loss coverage policy.

[Statutory Authority: RCW 51.14.020 and 51.14.020(7). WSR 21-13-136, § 296-15-021, filed 6/22/21, effective 7/23/21. Statutory Authority: RCW 51.14.110. WSR 09-01-177, § 296-15-021, filed 12/23/08, effective 1/23/09. Statutory Authority: RCW 51.04.020, 51.14.020, 51.32.190, 51.14.090, and 51.14.095. WSR 06-06-066, § 296-15-021, filed 2/28/06,

effective 4/1/06. Statutory Authority: RCW 51.14.077, 51.14.120(7), 51.14.150(4), 51.14.160, 51.44.040(3), 51.44.070 and 51.44.150. WSR 99-23-107, § 296-15-021, filed 11/17/99, effective 12/27/99.]