WSR 26-15-062
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Order 25-22—Filed July 14, 2026, 9:13 a.m., effective August 15, 2026]

Effective Date of Rule: August 15, 2026.

Purpose: The purpose of this rule making is to implement HB 1275, which ensures decertified self-insurers remain liable for their self-insured claims and reimburse the department of labor and industries (L&I) for all payments made. HB 1275 also directs L&I to adopt rules regarding continuing obligations of decertified self-insured employers and methods of how the self-insured employer shall meet financial obligations.

Citation of Rules Affected by this Order: New WAC 296-15-184; and amending WAC 296-15-121, 296-15-123, and 296-15-151.

Statutory Authority for Adoption: RCW 51.44.145 and 51.44.150 (chapter 57, Laws of 2025).

Adopted under notice filed as WSR 26-09-075 on April 14, 2026.

A final cost-benefit analysis is available by contacting Starla Treznoski, L&I, Insurance Services, Self-Insurance, P.O. Box 44890, Olympia, WA 98504-4890, phone 360-902-5668, fax 360-902-6900, email Starla.Treznoski@Lni.wa.gov, website https://www.lni.wa.gov/rulemaking-activity/?query=296-15&cardNo=AO25-22.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 14, 2026.

Joel Sacks
Director

RDS-7097.1

AMENDATORY SECTION (Amending WSR 24-11-121, filed 5/21/24, effective 7/1/24)

WAC 296-15-121 Surety for a self-insurance program. (1) **What is surety?** Surety is the legal financial guarantee each self-insurer must provide to the department for its self-insured workers' compensation program. Failure to provide surety in the amount required by the department will result in the withdrawal of the self-insurer's certification. If a self-insurer defaults, the department will use its surety to cover these costs.

(a) Surety for all entities must be provided on the department's form. The original will be kept by the department. Surety must cover all self-insurance claims liabilities associated with the claims occurring during the time an employer functions as a self-insurer. ((~~Excluding public entities and groups.~~)) Surety amounts for public entities and groups are covered by WAC 296-15-151 and 296-15-161 respectively.

(b) Surety may not be used by a self-insurer to:

(i) Pay its workers' compensation benefits; or

(ii) Serve as collateral for any other banking transactions.

(c) Surety is not an asset of the self-insurer and will not be released by the department if the self-insurer files a petition for dissolution or relief under bankruptcy laws.

(d) The department will determine the amount of surety each self-insurer must provide annually. Surety can also be determined by an independent qualified actuary (associate or fellow of the casualty actuarial society). The surety estimate is subject to the approval of the department's actuary.

(e) Surety may be increased by a maximum of 25 percent of the estimated claim liabilities. These increases will be based on the self-insurer's credit rating or the director's discretion.

(f) Surety for privately held entities are required to submit audited financial reports prepared by a certified public accountant annually. Failure to provide timely updates will result in increased surety requirements. If the latest financial reports are older than 12 months past their fiscal year, surety will be increased by 10 percent over the required surety calculated by the department. If the latest financial reports are older than 24 months, surety will be increased by 25 percent over the required surety calculated by the department and the department will proceed to decertify the employer from self-insurance.

(2) **What types of self-insurance surety will the department accept?** The department will accept the following types of surety:

(a) Cash, corporate, or governmental securities deposited with a department approved escrow agent and administered by a written agreement L&I form F207-039-000 between the department, self-insurer and escrow agent. Use L&I form F207-137-000 for any rider/amendment to the escrow account.

An escrow account may not be used by the self-insurer to satisfy any other obligation to the bank which maintains the escrow account.

(b) A bond on L&I form F207-068-000 written by a company approved to transact surety business in Washington. Use L&I form F207-134-000 for any rider/amendment to the bond.

(c) An irrevocable standby letter of credit (LOC) on L&I form F207-112-000 if the self-insurer has a net worth of at least $500,000,000. Use L&I form F207-111-000 for any rider/amendment. LOCs are subject to acceptance by the department. Acceptance includes, but is not limited to, approval of the financial condition of the issuing or confirming bank.

(i) The issuing or confirming bank must have a location in Washington. The bank must provide the department with an audited financial statement or call report made to the banking regulatory agencies for the most recent fiscal year. An audited statement/call report is due at LOC issuance and annually while the LOC is in effect.

(ii) The self-insurer must provide the department a memorandum of understanding on L&I form F207-113-000 showing the self-insurer's agreement with the following conditions:

(A) The department will automatically extend an LOC for an additional year unless notified otherwise by registered mail at least 60 days prior to expiration.

(B) If the department is notified an LOC will not be replaced, and the self-insurer fails to provide acceptable replacement surety within 30 days of notice:

(I) The department will draw the full value of the LOC. All proceeds of the LOC will be deposited with the department;

(II) Accrued interest in excess of the surety requirement will be returned semiannually to the self-insurer; and

(III) If acceptable replacement surety is later provided, the proceeds of the LOC and accrued interest will be returned to the self-insurer.

(C) If the self-insurer defaults on the payment of workers' compensation benefits and has failed to provide acceptable replacement surety for an expired LOC:

(I) The title to the proceeds will be transferred to the department; and

(II) The proceeds and accrued interest will be used to pay the self-insurer's workers' compensation benefits.

(D) If the self-insurer defaults on the payment of workers' compensation benefits and has an LOC in force:

(I) The department will draw the full value of the LOC. All proceeds of the LOC will be deposited with the department; and

(II) The proceeds and accrued interest will be used to pay the self-insurer's workers' compensation benefits.

(iii) If the self-insurer provides another acceptable type of surety in the amount required by the department, the department's interest in the LOC will be released.

(iv) All legal proceedings regarding a self-insurer's LOC will be subject to Washington laws and courts.

(3) **When could a self-insurer's surety level change?**

(a) Surety will be maintained at the current level unless the department's estimate or an independent qualified actuary's estimate of the self-insurer's outstanding claim liabilities changes by more than $100,000.

(b) Surety changes are due by July 1st of each year.

(4) **How does the department determine the required surety level?** The department analyzes each self-insurer's loss history using incurred development, paid development or other department approved actuarial methods of loss development.

(5) **What is considered reinsurance?** For the purposes of Title 51 RCW, excess insurance and reinsurance mean the same thing.

(6) **May a self-insurer reinsure part of its liability?**

(a) A self-insurer may reinsure up to 80 percent of its liability under Title 51 RCW.

(b) The reinsuring company and its personnel are prohibited from participating in the administration of the responsibilities of the self-insurer.

(c) Reinsurance policies issued after July 1, 1975, must include endorsements which state (a) and (b) of this subsection.

(d) The self-insurer must:

(i) Notify the department of the name of the insurance carrier, the extent and coverage period of the policy; and

(ii) Submit copies of all reinsurance policies in force including all modifications and renewal provisions.

(e) The department may accept a certificate of insurance on L&I form F207-095-000 in place of the policy if the certificate certifies all coverage conditions and exceptions and that the reinsurance company and its personnel do not participate in the administration of the responsibilities of the self-insurer under Title 51 RCW.

(7) **What if a self-insurer ends its self-insured workers' compensation program?** If a self-insurer voluntarily surrenders certification or has its certificate involuntarily withdrawn by the department, the former self-insurer must continue to do all of the following:

(a) Manage and pay benefits on claims incurred during its period of self-insurance. Claim reopenings and new claims filed for occupational diseases incurred during the period of self-insurance remain the obligation of the former self-insurer.

(b) File quarterly and annual reports as long as quarterly reporting is required; and submit audited financial reports prepared by a certified public accountant annually. A former self-insurer may ask the department to release it from quarterly reporting after it has had no claim activity with the exception of pension or death benefits for a full year.

(c) Provide surety at the department required level. The department may require an increase in surety based on annual reports as they continue to be filed. Surety will not be reduced from the last required level (while self-insured) any sooner than three full calendar years after the certificate was terminated. A bond may be canceled for future obligations, but it continues to provide surety for claims occurring prior to its cancellation.

(d) Pay insolvency trust assessments for three years after surrender or withdrawal of certificate.

(e) Pay all expenses for a final audit of its self-insurance program.

(8) **When could the department consider releasing surety to a former self-insurer or its successor?**

(a) The department may consider releasing surety to a former self-insurer or its successor when all of the following have occurred:

(i) All claims against the self-insurer are closed; and

(ii) The self-insurer has been released from quarterly reporting for at least 10 years.

(b) If the department releases surety, the former self-insurer remains responsible for claim reopenings and new claims filed for occupational disease incurred during the period of self-insurance.

AMENDATORY SECTION (Amending WSR 21-13-136, filed 6/22/21, effective 7/23/21)

WAC 296-15-123 Monitoring certification. (1) To maintain certification, a self-insured employer must remain in good standing with department reporting requirements and payment of assessments, and continue to demonstrate they have the ability to promptly provide benefits to its injured workers based on an analysis of the audited financial statements and related information for that employer.

(2) Credit rating evaluation for financial monitoring.

(a) Credit rating equal to or below B+/B1: Self-insurer must increase their surety by ((~~ten~~)) 10 percent of ((~~estimated claim~~)) total outstanding liabilities.

(b) Credit rating equal to or below CCC+/Caa1: Self-insurer must increase their surety by ((~~twenty-five~~)) 25 percent of ((~~estimated claim~~)) total outstanding liabilities.

(c) Credit rating equal to or below CCC-/Caa3: Self-insurer will be placed on corrective action for one year. If no improvement in credit rating, then certification may be withdrawn.

(d) To assess an employer's ability to promptly provide any and all required benefits to its injured workers, the department will utilize these and other financial information. The department may also utilize industry standards and other relevant information in its analysis.

(e) In addition to the actions and other relevant information utilized in (a) through (d) of this subsection, the department, with the director's discretion, may consider general economic conditions to evaluate whether a self-insurer's certification may be maintained or withdrawn.

AMENDATORY SECTION (Amending WSR 21-13-136, filed 6/22/21, effective 7/23/21)

WAC 296-15-151 Surety for a public entity's self-insurance program. (1) Surety for public entities must be secured either through a bond or escrow account consistent with WAC 296-15-121, or placed in a designated reserve fund and provided on a department developed form ((~~consistent with WAC 296-15-121(2)~~)). The original will be kept by the department. Required surety must cover at a minimum ((~~one hundred twenty-five~~)) 125 percent of the expected workers' compensation claim costs occurring in the next calendar year or ((~~five hundred thousand dollars~~)) $500,000, whichever is higher. The surety required may be increased up to the total outstanding liabilities associated with claims occurring during the time an employer functions as a self-insurer based on either the employer's compliance with Title 51 RCW or its credit rating ((~~of the employer~~)) as follows:

(a) Credit rating equal to or below CCC+/Caa1: Self-insurer must increase their surety to 50 percent of total outstanding liabilities associated with claims occurring during the time an employer functions as a self-insurer.

(b) Credit rating equal to or below CCC-/Caa3: Self-insurer must increase their surety to 100 percent of total outstanding liabilities associated with claims occurring during the time an employer functions as a self-insurer.

(2) Public entities must provide a public entity surety certification which will provide an estimate of the next calendar year's expected claim costs and the current estimate of the outstanding claim liabilities.

(3) Credit rating evaluation for financial monitoring.

(a) For entities with acceptable credit ratings above B+/B1, the surety requirement will be ((~~one hundred twenty-five~~)) 125 percent of the next calendar year's expected claim costs or ((~~five hundred thousand dollars~~)) $500,000, whichever is higher.

(b) For entities with credit ratings at or below B+/B1, the surety requirement will be the highest of the above amount, but not less than ((~~fifty~~)) 50 percent of the current estimate of outstanding claim liabilities.

(c) For entities with credit ratings at or below CCC+/Caa1, the surety requirement will be the highest of the above amount, but not less than ((~~one hundred~~)) 100 percent of the current estimate of outstanding claim liabilities.

(d) In addition to the actions and other relevant information utilized in (a) through (c) of this subsection, the department, with the director's discretion, may consider general economic conditions to evaluate whether a self-insurer's certification may be maintained or withdrawn.

NEW SECTION

WAC 296-15-184 Liability for reimbursement following decertification of self-insured public entities and groups. (1) A self-insured public entity, or group authorized under RCW 51.14.150, that has its self-insured status terminated by the director pursuant to RCW 51.14.080, shall have its obligations under this title fulfilled by the department including paying compensation. This does not apply to employers who are found to be in default under WAC 295-15-125.

(2) The department will fulfill the decertified self-insured employer's obligations under Title 51 RCW from the decertified self-insured employer's deposit or from other funds provided under Title 51 RCW for the satisfaction of claims against the decertified self-insured employer. The decertified self-insured employer's obligations may be met from the following options:

(a) If the decertified self-insured employer has provided security through a bond or escrow account consistent with WAC 296-15-151, the department makes demand upon the security provided by that decertified employer for the full amount. The recovered security will be deposited with the department and accrue interest that will be retained to provide benefits to injured workers of the decertified employer.

(b) The decertified employer shall pay to the department an initial deposit equal to six-months of claim payments and any additional costs as determined by the department within 30 days of notice of decertification.

(i) The six-month deposit will be recalculated every two years beginning March 31st following decertification.

(ii) The department shall be reimbursed for all such payments from the decertified employer through periodic charges every 90 days.

(iii) The department shall transfer the balance of any decertified employer's deposit back to the employer when the following have occurred:

(A) All claims against the decertified employer are closed;

(B) There has been at least 10 years since the decertified employer has received any billing for at least four consecutive quarters; and

(C) If the department releases the deposit, the decertified employer remains liable to the department for claim reopenings and new claims filed for occupational disease incurred during the period of self-insurance.

(3) If a self-insured public entity, or group authorized under RCW 51.14.150 is in default or the director has withdrawn the certification, and a permanent total disability (pension) or fatality claim is granted, the claim will be administered under WAC 296-15-171.

(4) An order by the department awarding benefits shall become effective and benefits due on the date issued. Any appeal or request for stay of benefits is subject to RCW 51.52.050.