

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-005 Definitions. For purposes of this chapter:

(1) (~~"Full time employment" means paid time of thirty five to forty hours each week.~~

~~(2))~~ "General economic downturn" means a regional slowdown in work within an industry that is not due to factors that are typical for the industry or occupation.

~~((3))~~ (2) "Permanent basis" means an employment relationship that is steady, stable, and not intentionally meant to be work of a temporary nature.

(3) "Seasonal employment" is defined in WAC 192-100-040.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-010 What is the shared work program and who can participate? (1) The shared work program is a voluntary program that offers Washington employers an alternative to laying off skilled employees during periods of general economic downturn.

(2) An employer may reduce an employee's (~~full-time~~) usual weekly (~~work~~) hours of work from ten to fifty percent and the employee can receive the same percentage of unemployment benefits. For example, an eligible employee who (~~normally~~) usually works forty hours each week is reduced to thirty hours per week, a reduction of twenty-five percent. The employee is eligible to receive twenty-five percent of his or her weekly benefit amount, regardless of the wages earned that week.

(3) Both public and private sector employers are eligible to participate in the program.

(4) An employer or employers' association must submit a signed shared work plan application to the commissioner for approval. A plan that meets the approval criteria listed in RCW 50.60.030 and this chapter will be approved for a maximum of fifty-two weeks.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-015 When is an employer eligible to participate in the shared work program? A business must be legally registered in the state of Washington for at least six months (one hundred eighty days) before applying for the shared work program. "Registration" includes being issued an employment security (~~(ES) reference~~) department (ESD) number as well as a unified business identifier (UBI) number.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-020 What ((is)) are the criteria for having a shared work plan approved? In addition to the criteria listed in RCW 50.60.030, employers must:

(1) Be current in the payment of all unemployment insurance taxes required under Title 50 RCW, or ((have)) be current on an approved deferred payment contract on file with the department;

(2) Include their ((ES-reference)) ESD number on the plan application; and

(3) Designate a representative to be a liaison between the department and the employees who participate in the shared work plan.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-025 What are the requirements for employers with an approved shared work plan? (1) What information am I responsible for providing to my employees? When your shared work plan is approved, you are responsible for telling your affected employees:

(a) They are approved for participation in the shared work program;

(b) How to apply for shared work benefits; and

(c) How to file their weekly claims.

(2) **What employee fringe benefits do I have to provide while participating in the shared work program?**

(a) You must continue to provide your affected employees with health benefits ((and)) as though their weekly benefits had not been reduced.

(b) You must continue to provide your affected employees with retirement benefits for defined contribution and defined benefit pension plans under ((Section 3(35) of the Employee Retirement Income Security Act of 1974)) the Internal Revenue Service code. You must maintain these benefits for your shared work employees as though their weekly hours had not been reduced.

((b)) (c) You must continue to provide paid vacation, holiday, and sick leave ((on)) to your affected basis under the same ((basis)) terms and conditions as before their hours were reduced.

((c)) (d) If health, retirement, or leave benefits change for your other employees, you can change them for your shared work employees as well.

(e) Other benefits offered to your employees, such as long-term disability and life insurance, are optional. You may choose to provide these benefits but they are not a requirement for participation in the shared work program.

(3) **What is required if the business name is changed?** You must report any change in your business name to the shared work program unit within ten working days.

(4) **What is required if the designated employer representative is changed?** You must notify the shared work unit of the change within ten working days.

(5) **Can I modify an approved shared work plan?** (~~((Answering "yes" to plan modification on your application allows))~~) You may request to add additional employees or units of your business ((to be added)) after the approved plan start date. ((You may also modify the number of hours an employee works during a week according to the needs of your business.)) Adding new employees or units to an approved plan is subject to the same eligibility review that applied to the original plan. You must notify the shared work unit of any change to the information on your application in writing within ten working days.

(6) (~~**Can I change the definition of full-time work for my employees?**~~ No. Once you have established the number of hours that are full-time for the worker on the original application, this number may not be modified.

(7)) **What other information am I responsible for giving the department?** In addition to the application for participation in the program, you are responsible for verifying the information on the (~~(report of))~~) shared work payments report sent by the department. You must report any discrepancies to the shared work unit in writing within ten working days.

(8)) **(7) How many shared work plans may I have?**

(a) You may have (~~(two))~~) more than one shared work (~~(plans within a three year period beginning with the effective date of the first))~~) plan. We will review each shared work plan application to see if it meets the eligibility requirements. Even if a previous plan was approved, this does not mean subsequent plans are automatically approved.

(b) (~~(You will not be eligible for a new plan until at least twelve months after the expiration date of the second approved plan.~~

(c) A plan may be approved for up to twelve months from the effective date. Plans approved for fewer than twelve months still count as one plan.

(d)) If your business is approved for a shared work plan, but your employees do not claim shared work benefits during the life of the plan, it will still be treated as one plan.

(e)) (c) The commissioner may, (~~(in individual cases and))~~) at his or her discretion, (~~(waive the twelve month waiting period in subsection (b))~~) deny approval of subsequent plans.

(9)) **(8) What if my ((ES reference)) ESD number changes?** You must report the change to the shared work unit within ten working days. A change in ((ES reference)) ESD number represents a change in employer and the existing shared work plan will be canceled. The successor employer may submit a new shared work plan application to the department for review.

AMENDATORY SECTION (Amending WSR 06-22-004, filed 10/19/06, effective 11/19/06)

WAC 192-250-030 What are the grounds for revoking a shared work plan?—RCW 50.60.070. The department may revoke a shared work plan for good cause. In addition to the factors listed in RCW 50.60.070, "good cause" includes, but is not limited to:

(1) An employer's failure within ten working days to:

(a) Report a change in their ((ES reference)) ESD number.

(b) Report an impending sale or transfer of the business or company.

(c) Report a change in the designated employer representative.

(d) Provide wage and hour reports, documents, or other information needed by the shared work unit to decide if the employer or employee(s) is eligible for participation in the shared work program.

(e) Verify the information on the employer's shared work payments report, and notify the shared work unit of any discrepancies in writing.

(2) An employer's failure to maintain employee fringe benefits as required by WAC 192-250-025(2) while participating in the program.

AMENDATORY SECTION (Amending WSR 09-13-057, filed 6/12/09, effective 7/13/09)

WAC 192-250-035 Information for employees participating in an approved shared work plan. ~~(1) ((What are the requirements for participating in my employer's plan? You must have at least four hundred sixty hours of work with this employer in the calendar quarter before the quarter in which your employer's application is submitted.~~

~~(2))~~ **When do I apply for benefits?** Your employer representative will tell you if you need to apply for benefits and how to do so. If you have a current valid claim, you do not need to apply again.

~~((3))~~ **(2) How do I file my weekly claim for benefits?** See WAC 192-140-005 for instructions on filing weekly claims. You must also report the number of hours you were paid for holidays, vacations, or sick leave. You must report hours and gross earnings for part-time and second jobs, plus your hours and net earnings from any self-employment. You can file weekly claims by telephone or over the internet.

~~((4))~~ **(3) What happens if the total number of hours worked is not a whole number?** If the total number of hours you worked in a week includes a fraction of an hour, the department will round the total down to the next whole number. This rounded number will be compared to your usual hours of work to calculate your shared work benefit payment for the week. For example: You work 28.5 hours of a ~~((normal))~~ usual 40-hour work week. The 28.5 hours is rounded down to 28 hours and then divided by 40, meaning you worked 70 percent of the available hours. Your shared work payment would be 30 percent of your regular weekly benefit amount.

~~((5))~~ **(4) What happens if I don't work all scheduled hours for my shared work employer?**

(a) You are not eligible for shared work benefits for any week that you do not work all hours you have been scheduled by your shared work employer.

(b) You must be available for additional hours of work, up to ~~((full-time))~~ your usual weekly hours of work, with the shared work employer. If your employer gives you at least twenty-four hours' notice that additional work is available and you do not work those additional hours, you are not eligible for shared work benefits for that week.

(c) When you are not eligible for shared work benefits in any week claimed, your claim will be processed as a regular unemployment claim.

~~((+6))~~ (5) Do I have to look for work while participating in the shared work program? No. You are not required to look for work while participating in the shared work program.

~~((+7))~~ (6) Is there a minimum or maximum number of hours I can work in a week and still receive shared work benefits? You must ~~((have twenty to thirty six hours of paid time during a week))~~ work between ten percent and fifty percent of your usual weekly hours to receive shared work benefits. In any week you ~~((are paid for fewer than twenty hours or more than thirty six hours))~~ work less than or more than that amount, your claim will be processed as a regular unemployment claim.

~~((+8))~~ (7) How long can I receive shared work benefits? You can receive shared work payments up to the maximum benefit entitlement established under Title 50 RCW, plus state or federal benefit extensions under chapter 50.22 RCW.

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-250-045 Who is not eligible for participation in the shared work program? (1) The following employees are not eligible for participation in the shared work program:

(a) Employees paid on any basis other than hourly wage. This includes, but is not limited to, employees paid on a piece rate, mileage rate, job rate, salary, or commission basis. The commissioner may waive this provision for employees paid ~~((on a piece rate basis))~~ as listed above if an hourly rate of pay can be established, except that salaried employees may participate only if they are eligible for paid overtime.

(b) Officers of the corporation that is applying for participation.

(c) Seasonal employees during the off season.

(2) The following businesses are not eligible for participation in the shared work program:

(a) For weeks of benefits paid before July 1, 2012, and after June 28, 2015, businesses with a tax rate of 5.4 percent or more, not including the social cost factor rate and taxes under RCW 50.24.010 and 50.24.014.

(b) Nonqualified employers, meaning employers who have reported no payroll for four consecutive quarters.

(c) Employers not registered in Washington for six months prior to application.