

REASONS FOR ADOPTING THE RULE

Pursuant to RCW 34.05.325(6), the Employment Security Department (Department) hereby provides the reason the Department is adopting the rule, a description of the variances between the proposed rule and the final rule, and a summary of comments received regarding the proposed rule and responses to the comments.

In the 2020 Regular Session, the Legislature passed Engrossed House Bill 2965 (Laws of 2020, ch. 7), which, among other things, creates a COVID-19 unemployment account and appropriates funds into the account for the purposes of reducing specified benefit charges to eligible employers. Rules are necessary in order to establish which employers are eligible to apply for benefit charge reduction, which benefit charges are eligible to be reduced, and the process for how employers can apply for benefit charge reduction.

VARIANCE BETWEEN PROPOSED RULE AND FINAL RULE

There are no differences between the proposed rules and the final rules.

SUMMARY OF COMMENTS TO PROPOSED RULES AND AGENCY RESPONSE

Comment 1: The deadline for applications should be extended past September 30, 2020, in order to provide businesses with more time to apply.

The application deadline of September 30, 2020, is dictated by the enacting legislation (EHB 2965 (Laws of 2020, ch. 7), Sec. 5 (1)), which is codified at RCW 50.29.100.

Comment 2: Businesses should have the ability to appeal decisions made regarding applications.

The enacting legislation (EHB 2965 (Laws of 2020, ch. 7), Sec. 5 (4)), which is codified at RCW 50.29.100, requires the Department to provide to an employer the reasons that an application is rejected, but states that reasons for the rejection are final and non-appealable.

Comment 3: Applications should not require documents be submitted, but rather be attested as true in order to reduce the burden of applying for the program.

Under the current application process, employers are asked to attest that all information submitted is accurate and that employee benefits included on the application meet the eligibility requirements of the program. During the Department's review, a business may be required to provide supporting documents on a case-by case basis, but supporting documents are not required when submitting the application.

Comment 4: WAC 192-320-066(2)(c) is potentially in conflict with current unemployment insurance laws.

Eligibility for the program offset concerns benefits that were charged to employers in the first or second quarter of 2020. Eligibility for claims for weeks after September 26, 2020 are not impacted by WAC 192-320-066. WAC 192-320-066(2)(c) requires that otherwise eligible charged benefits for workers during the first or second quarter must have returned to work with the charged employer for those charged benefits to be eligible for the offset program, unless the worker left employment for a reason not attributable to the employer.
