



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: June 02, 2022

TIME: 9:01 AM

WSR 22-13-007

Agency: Employment Security Department

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The Employment Security Department is adopting rules to transition emergency rules adopted during the COVID-19 response to permanent rules. These rules provide flexibility for employers and claimants in the event of a declared public health emergency, allow for greater access to standby and shared work so that more employers and employees can benefit from those programs, and protects the integrity of the unemployment trust fund by temporarily pausing the payment of benefits on potentially fraudulent claims.

Citation of rules affected by this order:

New: WAC 192-140-098; and WAC 192-100-901

Repealed: WAC 192-250-015

Amended: WAC 192-110-015; WAC 192-110-095; WAC 192-140-090; WAC 192-150-055; WAC 192-180-005; WAC 192-180-025; WAC 192-180-040; WAC 192-270-065; WAC 192-310-030; WAC 192-250-020; WAC 192-250-045; WAC 92-320-082; 192-170-050; and 192-270-035

Suspended:

Statutory authority for adoption: RCW 50.12.010 and RCW 50.12.040 provide general rulemaking authority to the Employment Security Department. RCW 50.04.030 allows the Commissioner to backdate an initial application for good cause. Under RCW 50.20.010(1)(a), an individual is required to register and report for work at an employment office as the Commissioner may prescribe, except that the Commissioner may by regulation waive those requirements in situations that are inconsistent with the purpose of the Employment Security Act. RCW 50.20.010(1)(e) requires an individual to participate in reemployment services unless the Commissioner determines there is justifiable cause for the claimant's failure to participate in such services. Under RCW 50.20.050(1)(b)(ii) and (2)(b)(ii), it is good cause to leave work voluntarily if the separation was necessary because of the illness or disability of a member of the claimant or the claimant's immediate family. RCW 50.20.240 requires the Department to implement job search monitoring. Under RCW 50.20.010(1)(c), an individual must be actively seeking work. Under RCW 50.20.044, if an otherwise eligible individual fails without good cause, as determined by the Commissioner under rules prescribed the Commissioner, to attend a job search workshop or a training or retraining course when directed by the department and such workshop or course is available at public expense, such individual shall not be eligible for benefits with respect to any week in which such failure occurred. Under RCW 50.22.155(2)(d), in order for a claimant to continue their eligibility for training benefits, they must make satisfactory progress in the training as defined by the commissioner and certified by the educational institution. RCW 50.12.220(6) authorizes the Commissioner to waive penalties for good cause if the failure to file timely, complete, or correctly formatted reports or pay timely contributions was not due to the employer's fault. Under RCW 50.60.030, the Commissioner shall approve a shared work compensation plan if certain criteria are met; the Commissioner may also take into account any other factors which may be pertinent. Certain contribution paying base year employers may receive relief of benefit charges under RCW 50.29.021(3)(a)(iii) if the benefit charges result from payment to an individual who is unemployed as a result of closure of the employer's worksite for reasons directly attributable to a catastrophic occurrence. RCW 50.29.021(5) authorizes the Commissioner to determine whether an employer has good cause for failing to respond timely or adequately to a written request of the department for information relating to claims. RCW 50.20.010 addresses the availability requirements for certain individuals under quarantine or isolation. Under RCW 50.20.050(3), it is good cause to quit if during a public health emergency, the claimant worked at a health care facility, was directly involved in the delivery of health services, and left work for the period of quarantine because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency. RCW 50.20.010 sets forth benefit eligibility conditions. RCW 50.20.160 establishes the

circumstances in which the Department may issue a redetermination, including in the case of fraud. Under RCW 50.20.170, benefits shall be paid through employment offices in accordance with such regulations as the commissioner may prescribe. RCW 50.20.190 requires individuals to repay benefits they are paid to which they are not entitled. Under RCW 50.22.155(2)(b)(iv), the Department has authority to waive training program deadlines established under RCW 50.22.155(2)(b)(i) and (ii) for reasons deemed by the Commissioner to be good cause. Under RCW 50.20.100, in determining whether work is suitable for an individual, the commissioner shall consider factors the commissioner may deem pertinent.

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-05-100 on February 16, 2022 (date).

Describe any changes other than editing from proposed to adopted version:

The Department will not be adopting proposed WAC 192-320-078, defining catastrophic occurrence for the purposes of RCW 50.29.021(3)(a)(iii). ESSB 5061 (2021) amended RCW 50.29.021(3)(a)(iii) to reflect the changes made in proposed WAC 192-320-078, making the adoption of such a rule unnecessary.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Josh Dye

Address: P.O. Box 9046, Olympia, WA 98507-9046

Phone: 360.890.3472

Fax: 844.652.7096

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Web site: <https://esd.wa.gov/newsroom/ui-rule-making/>

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	<u>2</u>	Amended	14	Repealed	<u>1</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: June 2, 2022

Signature:

Name: Dan Zeitlin

Title: Employment System Policy Director

