NEW SECTION

WAC 192-460-160 Documentation requirements for exceptions to RCW 49.45.020 Notice requirement. (1) In order for an employer to establish that it is subject to an exception to the notice requirements as set forth in RCW 49.45.030 (1)(a), it shall, at the time the notice would have been required under RCW 49.45.020 or 49.45.030(2), submit sufficient documentation, in redacted form, to the department to show:

(a) At the time the notice would have been required, the employer was actively seeking capital or business; the capital or business sought, if obtained, would have enabled the employer to avoid or postpone the business closing or mass layoff; and the employer reasonably and in good faith believed that giving the notice required by RCW 49.45.020 would have precluded the employer from obtaining the needed capital or business;

(b) The mass layoff or business closing is caused by business circumstances that were not reasonably foreseeable at the time the notice would have been required. The unforeseeable business circumstances must be caused by a sudden, dramatic, and unexpected action or condition outside of the employer's control;

(c) The mass layoff or business closing is due to a natural disaster, such as a flood, earthquake, drought, storm, tornado, or similar effects of nature; or

(d) The mass layoff occurs at:

(i) A construction project and the affected employees were hired with the understanding that their employment was limited to the duration of a particular portion of that construction project; or

(ii) A multiemployer construction project and the only affected employees are subject to a full union referral or dispatch system.

(2) The documentation required by subsection (1) may include the following:

(a) Financial documentation;
(b) Banking documentation;
(c) Loan applications;
(d) Business plans;
(e) Business or work contracts;
(f) Employment contracts;
(g) Union contracts or collective bargaining agreements; and
(h) Attestations with supporting documentation.