



Concise Explanatory Statement COVID 19 Emergency Rules – Phase 1

Introduction

Pursuant to RCW 34.05.325(6), the Employment Security Department (Department) hereby provides the Department’s reasons for adopting the rules, a description of the variances between the proposed rules and the final rules, and a summary of comments received regarding the proposed rules and responses to the comments

Reasons for adopting the rules

In February of 2020, Governor Inslee proclaimed a State of Emergency in Washington regarding COVID-19. The Department filed a series of emergency rules in order to support the state’s emergency response. The Department is adopting permanent rules to add the protections and flexibilities provided by the emergency rules to the Washington Administrative Code. The proposed rules at issue in the COVID 19 Emergency Rules – Phase 1 rulemaking 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 setting forth the Department’s process for addressing claims potentially impacted by imposter fraud.

Variance between proposed rules and final rules

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 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.

The repeal of WAC 192-250-015 has been added to the rulemaking. There are two spots in WAC Chapter 192-250 where employers who have been registered in Washington for six months or less are excluded from participating in the Shared Work program: the entirety of WAC 192-250-015 and WAC 192-250-045(2)(c). The rule as proposed deletes WAC 192-250-045(2)(c) but failed to repeal WAC 192-250-015. By adding a repeal of WAC 192-250-015, the Department is following through with the policy that employers who have been registered employers for six months or less can still participate in Shared Work, thereby leaving that program open to more employers and their employees.

Summary of comments to proposed rules and agency response

Public Comment	Agency Response
<p>Anne Paxton, Unemployment Law Project</p> <p>The Unemployment Law Projects supports the proposed rule. The rule provides a needed update of archaic and overbroad language which places difficult conditions on unemployed workers seeking a job. It also adapts state law to family and workplace realities. In addition, it complies with federal law in adopting policies supported by the U.S. Department of Labor, and it carries out the explicit purpose of Title 50 RCW to ease the burden of unemployment on workers.</p>	<p>The Employment Security Department is adopting the rules as proposed, except for WAC 192-320-078, which is unnecessary due to the adoption of ESSB 5061 (2021).</p>
