



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: October 06, 2023

TIME: 2:35 PM

WSR 23-21-035

Agency: Employment Security Department

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

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

- Yes No If Yes, explain: The Department began permanent rulemaking on the included topics by filing a Pre-proposal Statement of Inquiry on June 27, 2023, as WSR 23-14-051.

Purpose: The Employment Security Department is adopting emergency rules concerning blanket overpayment waivers for Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, Federal Pandemic Unemployment Compensation, and Mixed Earner Unemployment Compensation. The Department is also adopting rules concerning waivers for conditional benefits paid for the week beginning February 2, 2020, through the week ending September 4, 2021, and the process for requesting overpayment waivers for overpaid benefits for the weeks ending February 2, 2020, through the week ending September 4, 2021 for all federal and state unemployment compensation programs.

These emergency rules were originally adopted on March 29, 2023, as WSR 23-08-024. These emergency rules were adopted again on June 27, 2023, as WSR 23-14-052.

Citation of rules affected by this order:

- New: WAC 192-220-018
- Repealed:
- Amended: WAC 192-220-017 and WAC 192-220-080
- Suspended:

Statutory authority for adoption: RCW 50.20.190, RCW 50.24.020, RCW 50.12.010 and RCW 50.12.040

Other authority: Unemployment Insurance Program Letter Number 20-21, Change 1 (February 7, 2022)

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

The Department initially adopted emergency rules related to overpayment waivers (WSR 23-08-024) due to the drastic rise in unemployment insurance claims during the COVID-19 pandemic, which resulted in more than 137,000 claimants with overpayments accounting for more than \$1.2 billion that accrued from February 2, 2020, through September 4, 2021. In May 2023, the Department began processing blanket waivers approved by the USDOL for pandemic era overpayments using those emergency rules. The Department also began accepting waiver requests for claimants with overpayments accrued during the pandemic. The Department has processed many of these waivers but will not be able to complete the work prior to the expiration of the adopted emergency rules. Therefore, the Department has begun permanent rulemaking regarding overpayment waivers, which has not yet been completed. Readopting these emergency rules will allow this work to continue until permanent rulemaking can be completed.

**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	<u>1</u>	Amended	<u>2</u>	Repealed	___
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The number of sections adopted on the agency's own initiative:


New	___	Amended	___	Repealed	___
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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: October 6, 2023	Signature: 
Name: Joy Adams	
Title: Employment Security Policy Director	