

WSR 23-15-031

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 10, 2023, 2:15 p.m., effective August 10, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule making will update the cross-reference in WAC 192-300-170 (2)(b) from a repealed statute to the current statute.

Citation of Rules Affected by this Order: Amending WAC 192-300-170.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 23-10-007 on April 24, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 5, 2023.

Joy E. Adams

Interim Director

Employment System Policy and Integrity Division

OTS-4526.1

AMENDATORY SECTION (Amending WSR 13-24-068, filed 11/27/13, effective 12/29/13)

WAC 192-300-170 Requirements for election of unemployment insurance coverage. The department applies RCW 50.04.165 and 50.24.160 to establish the election of coverage for unemployment insurance by employers where personal services are not considered employment under the law:

(1) RCW 50.24.160 allows any employing unit to request unemployment insurance coverage for personal services that are not covered as employment:

(a) The request must be in writing to the department;

(b) The department must approve the request for election of coverage in writing; and

(c) The request must be signed by someone legally authorized to bind the business.

(2) RCW 50.04.165 allows a corporation to elect to cover the personal services of all or none of its corporate officers for unemployment insurance purposes.

(a) A corporation must submit a written request for voluntary election coverage signed by a person authorized to legally bind the corporation.

(i) When establishing voluntary coverage for an existing account, the written request will be considered timely if received within (~~thirty~~) 30 days before the end of the quarter in which the change is made.

(ii) When establishing voluntary coverage for a new account, the written request will be considered timely if received within (~~thirty~~) 30 days from the end of the quarter the employer is requesting coverage to begin.

(b) "Corporate officer" is defined in RCW (~~23A.08.470~~) 23B.08.400;

(c) Personal services provided by corporate officers appointed under RCW 23B.08.400, other than those covered by chapters 50.44 and 50.50 RCW, are not considered services in employment unless the corporation elects coverage of all its corporate officers under RCW 50.24.160.

(d) All services performed by corporate officers are exempt until the date the election of coverage is approved.

(3) All changes in elected coverage remain in effect for at least two calendar years. The business may terminate coverage only at the end of a calendar year. To terminate coverage, the employer must send a written request to the department by January 15th.

(4) The department reserves the right to disapprove a request for coverage because:

(a) The applicant is not liable for federal unemployment taxes (FUTA);

(b) The occupation or industry is seasonal; or

(c) Other reasons apply.

(5) The department reserves the right to cancel unemployment insurance coverage for a voluntary election employer because:

(a) Of nonpayment of unemployment insurance taxes or failure to file an unemployment insurance tax and wage report;

(b) Of misrepresentation of facts;

(c) Coverage is not used for involuntary unemployment as outlined in RCW 50.01.010; or

(d) Other reasons apply.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 13-24-068, § 192-300-170, filed 11/27/13, effective 12/29/13; WSR 07-23-127, § 192-300-170, filed 11/21/07, effective 1/1/09; WSR 00-05-064, § 192-300-170, filed 2/15/00, effective 3/17/00.]