

**WSR 22-04-092**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed February 1, 2022, 8:10 a.m., effective March 4, 2022]

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

Purpose: The adopted rule establishes the small employer emergency safety grant program and implements ESHB 1097, codified as RCW 51.04.180. ESHB 1097 was passed to increase worker protections from hazards in the workplace. The bill also created the safety grant program for small employers during declared states of emergency. The adopted rule:

- Includes definitions;
- Establishes how the program will be authorized which conforms with ESHB 1097;
- Defines eligibility requirements for those wishing to apply for the grant program when it is active;
- Outlines what will be on the grant program's application;
- Outlines how grants will be awarded, and how an applicant can request reconsideration of a denied grant application;
- Includes guidance on how labor and industries will prioritize grant applications; and lastly
- Outlines recordkeeping requirements when an applicant receives a grant.

Citation of Rules Affected by this Order: New WAC 296-910-001, 296-910-003, 296-910-005, 296-910-010, 296-910-015, 296-910-020, 296-910-025, and 296-910-030.

Statutory Authority for Adoption: RCW 51.04.180.

Adopted under notice filed as WSR 21-23-089 on November 16, 2021.

A final cost-benefit analysis is available by contacting Tracy West, Department of Labor and Industries, Government Affairs and Policy Division, P.O. Box 44001, Olympia, WA 98504-4001, phone 360-902-6954, fax 360-902-4202, email [tracy.west@lni.wa.gov](mailto:tracy.west@lni.wa.gov).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 8, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 0.

Date Adopted: February 1, 2022.

Joel Sacks  
Director

**OTS-3467.2**

**Chapter 296-910 WAC**  
**SMALL EMPLOYER EMERGENCY SAFETY GRANT PROGRAM**

NEW SECTION

**WAC 296-910-001 Purpose.** (1) The purpose of this chapter is to set guidance and eligibility requirements for a grant program for small employers in need of assistance during a state of emergency declared under RCW 43.06.010.

(2) The grant program provides for one-time grants to small employers for purchases of equipment, gear, or capital costs to meet any new safety and health requirements related to the emergency that are required before the small employer is permitted to continue or resume business operations.

[]

NEW SECTION

**WAC 296-910-003 Definitions.** (1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department of labor and industries.

(3) "Government" means local, state, or federal government.

(4) "Employee" means a "worker" for workers' compensation coverage purposes, as defined in RCW 51.08.180.

(5) "Employer" has the same meaning as in RCW 51.08.070.

(6) "Small employer" means:

(a) A for-profit or nonprofit employer who is not self-insured and pays workers' compensation premiums to the state fund as defined in RCW 51.08.175.

(b) An employer with a total of 25 or fewer full-time equivalent employees in all locations, and including those required to be reported under all department workers' compensation insurance subaccounts. The FTE count is to be calculated by dividing the total employee hours by 2080 hours per year.

[]

NEW SECTION

**WAC 296-910-005 Qualifying state of emergency and program authorization.** (1) The small employer emergency safety grant program will only be available when the following are met:

(a) The governor has declared a state of emergency as defined in RCW 43.06.010; and

(b) The director authorizes the use of reserve funds to activate the grant program.

(2) In order for the director to authorize the use of this grant program there must be adequate reserves in the accident fund and pension reserve fund as described in RCW 51.04.180(1).

(3) If the grant program is authorized by the director, the department will send out an announcement that the department is accepting grant applications. It will include:

(a) The new safety and health requirements that must be complied with during a declared emergency.

(b) The department may also publish a list of the types of equipment, gear, or capital improvements that could be options for meeting those requirements.

[]

#### NEW SECTION

**WAC 296-910-010 Eligibility.** The following must be met to be considered eligible for a small employer emergency safety grant:

(1) The applicant must be a small employer as defined in WAC 296-910-003.

(2) The applicant must have a need to purchase equipment, gear or make capital improvements to comply with new safety and health regulations or policies during a declared emergency, for use in the area of the declared emergency.

(3) The applicant must not have received funds for the same type of purchase or activity covered by another grant, government program, or insurance contract.

(4) The applicant must be in good standing with the department. If the applicant has debt with the department, there must be a payment plan in place that the applicant has been adhering to.

[]

#### NEW SECTION

**WAC 296-910-015 Grant application.** (1) Eligible employers must apply for a small employer emergency safety grant using the department's grant application process.

(2) The application information will include, but not be limited to:

(a) Name of employer;

(b) For businesses, name and contact information of owner(s); for other organizations, name and contact information of executive leader(s);

(c) Industry or type of business or organization;

(d) Employer address, including the address within the area of the declared emergency where employees work;

(e) Employer's federal employer identification number;

(f) Employer's Washington unified business identifier (UBI) number;

(g) Employer's workers' compensation account number;

(h) Number of FTEs;

(i) Amount of funds requested;

(j) Purpose of requested funds, including detail of the equipment, gear, or capital improvement they intend to purchase to comply with new safety and health requirements;

(k) Whether other funding has been received, is anticipated, or is being applied for from another grant, government program, or insurance contract.

[]

#### NEW SECTION

**WAC 296-910-020 Grant awards and reconsideration.** (1) The department will announce when small employer emergency grant applications are being accepted and the eligible region, based on the declared state of emergency.

(2) If an eligible employer purchased qualified safety items during a declared emergency and the grant application process later opens, the employer may apply for a grant to reimburse the costs.

(3) The department retains the option of requiring matching funding by employers in a grant funding round for certain types of expenses.

(4) Small employer emergency grants will only be available for the duration of a declared state of emergency.

(5) The grant application period may be limited in time, so grants may not be available for the full duration of the emergency.

(6) Grant amounts awarded may be less than requested by an eligible applicant.

(7) Grant amounts will be determined based on:

(a) Funds available to the department according to RCW 51.04.180;

(b) Number of eligible applicants;

(c) Amount of funds requested by applicants;

(d) Impact of the disaster or event causing the declared emergency, e.g., size of event, number of counties included in declared emergency, affiliated safety and health requirements, etc.;

(e) Type and number of employers affected; and

(f) Other important factors announced by the department.

(8) The department will notify a grant applicant whether a grant has been awarded or declined.

(9) If an application for grant funding is declined, the applicant may make a request to the department for reconsideration of their application for funding.

[]

#### NEW SECTION

**WAC 296-910-025 Grant award prioritization.** The factors the department will consider in prioritizing grant awards include, but are not limited to:

(1) Total number of employees;

(2) Total number of employees affected;

(3) Whether an employer provides critical goods or services to the affected community;

- (4) Level of impact from the disaster (e.g., proximity, degree of exposure, etc.);
- (5) Equipment, gear, or capital improvements that are required;
- (6) Amount requested.

[]

NEW SECTION

**WAC 296-910-030 Recordkeeping.** (1) Grant recipients must keep records and receipts related to an awarded small employer emergency safety grant for six years. These records must be made available for inspection upon request by the department.

(2) Upon request, grant recipients must allow the department on-site to view the purchased equipment, nondisposable gear, or capital improvements during or after the emergency, and to verify emergency use through interviews with employees.

[]