

WSR 23-17-045

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed August 9, 2023, 4:26 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The purpose of this rule making is to update the employment security department's (department) rules to reflect the changes implemented by SSB 5176 (2023). SSB 5176 amended RCW 50.04.310 to expand the availability of unemployment benefits to officers of three types of employee-owned cooperative businesses.

Citation of Rules Affected by this Order: Amending WAC 192-310-190.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the department. RCW 50.04.310 governs the circumstances under which officers of employee cooperative corporations, cooperative associations, and limited cooperative associations are considered to be unemployed.

Adopted under notice filed as WSR 23-11-073 on May 16, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 9, 2023.

Joy E. Adams, Acting Director  
Employment System Policy and Integrity Division

OTS-4565.2

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

**WAC 192-310-190 When is a corporate officer with at least ~~((ten))~~ 10 percent ownership considered unemployed?** (1) This section applies if your claim for benefits is based on wages from a corporation that are ~~((twenty-five))~~ 25 percent or more of your total covered base year wages and you are an officer of that corporation who:

(a) Owns ~~((ten))~~ 10 percent or more of the outstanding stock or shares of the corporation; or

(b) Has a family member who is also a corporate officer who owns ~~((ten))~~ 10 percent or more of the outstanding stock or shares of the corporation. For purposes of this section, a "family member" is a person related by blood or marriage or domestic partnership as parent,

stepparent, grandparent, spouse or domestic partner, child, brother, sister, stepchild, adopted child, or grandchild.

(2) At any time during the benefit year of your claim, you are a corporate officer under subsection (1) of this section even if you are not paid wages during that time.

(3) You are considered unemployed and potentially eligible for benefits for weeks after:

(a) The corporation dissolves; or

(b) You permanently resign or are permanently removed as a corporate officer under the articles of incorporation or bylaws.

For purposes of this section, "permanently" means for a period of indefinite duration, but expected to extend at least through the claimant's benefit year end date.

(4) You will be ineligible for benefits and liable for repayment of all benefits paid during that benefit year if you take a position as a corporate officer as defined under subsection (1) of this section at any time during your claim.

(5) For purposes of this section, the department will consider a corporation dissolved when the corporation has provided the department with at least two of the following documents:

(a) A business licensing service change form requesting closure of the corporate account;

(b) A department of revenue clearance certificate;

(c) Articles of dissolution of a Washington profit corporation filed with the secretary of state; or

(d) A court order dissolving the corporation.

(6) A corporation must provide notice to the department in a format approved by the department when the ownership percentage of a corporate officer increases to become (~~ten~~) 10 percent or more or decreases to become less than (~~ten~~) 10 percent. The notice is due by the time the next quarterly tax and wage report is due from the corporation.

(7) Subsection (1) of this section does not apply to officers of an employee cooperative corporation organized under chapter 23.78 RCW, a cooperative association organized under chapter 23.86 RCW, or a limited cooperative association organized under chapter 23.100 RCW. An officer of an employee cooperative corporation organized under chapter 23.78 RCW, a cooperative association organized under chapter 23.86 RCW, or a limited cooperative association under chapter 23.100 RCW will not be considered to be performing services by acting only as an officer for the entity.