WSR 26-10-012
PROPOSED RULES
EMPLOYMENT SECURITY DEPARTMENT
[Filed April 27, 2026, 12:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-17-088.

Title of Rule and Other Identifying Information: WAC 192-460-160 Documentation requirements for exceptions to RCW 49.45.020 Notice requirement.

Hearing Location(s): On June 10, 2026, at 9:00 a.m., via Zoom at https://esd-wa-gov.zoom.us/j/85911239278?pwd=Lu24Gmn1Y9jj2Nn3RX2KHoHxiuFgO3.1, Meeting ID 859 1123 9278, Passcode 962086; or One-tap mobile +13092053325,,85911239278#,,,,*962086# US, +13126266799,,85911239278#,,,,*962086# US (Chicago).

Date of Intended Adoption: June 12, 2026.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email esdgpuirules@esd.wa.gov, fax 844-652-7096, beginning on the date of filing, by May 29, 2026, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email Teresa.eckstein@esd.wa.gov, by May 22, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESSB 5525 (2025) requires that certain employers provide notice of business closures and mass layoffs. RCW 49.45.020. ESSB 5525 includes specific exceptions to the employer layoff or closure notice requirements and states that employers must provide documentation to the employment security department (department) to establish that an exception applies. RCW 49.45.030(3). This new rule clarifies what types of documentation an employer may submit.

Reasons Supporting Proposal: RCW 49.45.070 requires the department to adopt rules including documentation requirements for the exceptions to the notice requirements set forth in RCW 49.45.030.

Statutory Authority for Adoption: RCW 49.45.070.

Statute Being Implemented: RCW 49.45.030 and 49.45.070.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, TTY relay 771 [711], email esdgpuirules@esd.wa.gov, web https://esd.wa.gov/about-us/who-we-are-and-what-we-do/rulemaking/unemployment-insurance-benefits-rules.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The rule clarifies the existing statutory documentation requirement for businesses with 50 or more employees seeking an exception to the business closure and mass layoff notice requirements. The rule does not impose any additional requirements and clari-

fies the documents that may be provided. Providing the documentation is expected to have minimal costs to small businesses.

April 27, 2026
Joy Adams, Director
Employment Security Policy and Integrity Division

RDS-6723.3

NEW SECTION

WAC 192-460-160 Documentation requirements for exceptions to RCW 49.45.020 Notice requirement. (1) In order for an employer to establish that it is subject to an exception to the notice requirements as set forth in RCW 49.45.030 (1)(a), it shall, at the time the notice would have been required under RCW 49.45.020 or 49.45.030(2), submit sufficient documentation, in redacted form, to the department to show:

(a) At the time the notice would have been required, the employer was actively seeking capital or business; the capital or business sought, if obtained, would have enabled the employer to avoid or postpone the business closing or mass layoff; and the employer reasonably and in good faith believed that giving the notice required by RCW 49.45.030 would have precluded the employer from obtaining the needed capital or business;

(b) The mass layoff or business closing is caused by business circumstances that were not reasonably foreseeable at the time the notice would have been required. The unforeseeable business circumstances must be caused by a sudden, dramatic, and unexpected action or condition outside of the employer's control;

(c) The mass layoff or business closing is due to a natural disaster, such as a flood, earthquake, drought, storm, tornado, or similar effects of nature; or

(d) The mass layoff occurs at:

(i) A construction project and the affected employees were hired with the understanding that their employment was limited to the duration of a particular portion of that construction project; or

(ii) A multiemployer construction project and the only affected employees are subject to a full union referral or dispatch system.

(2) The documentation required by subsection (1) may include the following:

(a) Financial documentation;
(b) Banking documentation;
(c) Loan applications;
(d) Business plans;
(e) Business or work contracts;
(f) Employment contracts;
(g) Union contracts or collective bargaining agreements; and
(h) Attestations with supporting documentation.