WSR 26-18-069
PREPROPOSAL STATEMENT OF INQUIRY
EMPLOYMENT SECURITY DEPARTMENT

[Filed September 1, 2026, 6:44 a.m.]

Subject of Possible Rule Making: The purpose of this rule making is to clarify that work search activities are required for claimants who are receiving unemployment insurance benefits due to a strike in accordance with the United States Department of Labor's (USDOL) interpretation of 42 U.S.C. § 503. USDOL has warned the employment security department (department) that its current approach to work search for claimants who are on strike is out of conformity with federal law and must be immediately remedied or the department may lose federal funding for administration of the unemployment insurance program and employers in Washington state may lose their tax credits under the Federal Unemployment Tax Act (FUTA).

Currently, WAC 192-180-010 (1)(a) states that claimants must be actively seeking work unless they are attached to an employer as defined in WAC 192-180-005(1). WAC 192-180-005 (1)(a)(iii) states claimants who are unemployed because they are on strike are considered to be attached to an employer. This rule making is updating WAC 192-180-005 (1)(a) to remove claimants who are on strike from the definition of "attached to an employer," with the result being that those claimants will be required to perform approved work search activities in order to be eligible for unemployment insurance benefits.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.230, and 50.20.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: USDOL has warned the department that its current approach to work search for claimants who are on strike is out of conformity with federal law and must be immediately remedied or the department may lose federal funding for administration of the unemployment insurance program, and employers may lose their tax credits under FUTA. The department adopted an emergency rule on this topic, and is now pursuing permanent rule making.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDOL reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of the unemployment insurance laws so long as conformity is maintained. The proposed regulations will be shared with USDOL prior to adoption.

Process for Developing New Rule: Draft rules will be shared with the public and stakeholders. The department will solicit input from all parties and consider all comments in the development of final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Stephanie Frazee, P.O. Box 9046, phone 425-465-0313, fax 844-652-7096, TTY 711, email stephanie.frazee@esd.wa.gov, website https://esd.wa.gov/newsroom/rulemaking/.

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