WSR 26-19-030
PERMANENT RULES
EMPLOYMENT SECURITY DEPARTMENT
[Filed September 9, 2026, 6:59 a.m., effective October 10, 2026]

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

Purpose: 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 the documentation requirements and provides examples of the types of documentation an employer may submit to the department to establish an exemption to the notice requirements.

Citation of Rules Affected by this Order: New WAC 192-460-160.

Statutory Authority for Adoption: RCW 49.45.020, 49.45.030, and 49.45.070.

Adopted under notice filed as WSR 26-10-012 on April 27, 2026.

Changes other than editing from proposed to adopted version: A typographical error was corrected. The reference to RCW 49.45.030 in subsection (1)(a) of the rule was corrected to reference RCW 49.45.020.

A final cost-benefit analysis is available 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 stephanie.frazee@esd.wa.gov, website https://esd.wa.gov/about-us/who-we-are-and-what-we-do/rulemaking/unemployment-insurance-benefits-rules/protecting-workers-facing-unemployment-due-businesses-closing-or-mass-layoffs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: September 9, 2026.

Lekha Fernandes, Director
Employment System Policy and Integrity Division

RDS-6723.4

NEW SECTION

WAC 192-460-160 Documentation requirements for exceptions to RCW 49.45.020 Notice requirement. (1) In order for an employer to estab-

lish 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 49.45.020 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.