

REASONS FOR ADOPTING THE RULE

WAC 192-510-050 How will the department assess the size of new employers?

The amendments clarify that new employer size remains in effect for a calendar year following the determination made by the department. The amendments align with RCW 50A.10.030 and remove a subsection reference to ensure the rule accurately references sections of statute.

WAC 192-560-010 Which businesses are eligible for small business assistance grants?

The amendments clarify premium payment requirements for employers that receive small business assistance grants and make grammatical and clarifying changes to increase readability and understanding. RCW subsection references were removed to ensure the rule accurately references sections of statute.

WAC 192-610-090 What is an illegal act for the purposes of benefit disqualification?

The new rule defines “illegal act” for the purposes of benefit disqualification under RCW 50A.15.060.

WAC 192-620-020 What information will the department request from an employee when filing for weekly benefits and WAC 192-620-035 When will a weekly benefit amount be prorated?

The amendments to these sections clarify that an employee must establish that hours were worked for wages when filing for weekly benefits, or for the purposes of benefit amount proration.

WAC 192-700-006 What hours are considered worked for the purposes of an employee's eligibility for employment restoration?

The new rule references the definition of “hours worked” for the purposes of employment restoration to language in the federal Family and Medical Leave Act for employer convenience and clarity.

WAC 192-700-007 Employment restoration requirements for predecessor and successor employers.

The new rule clarifies that an employer deemed as a “successor in interest” as defined by the federal Family and Medical Leave Act must count hours worked for the previous employing entity for the purposes of employment restoration.

WAC 192-800-045 Can an appeal be withdrawn?

The amendments establish that an appeal will be withdrawn when a redetermination has been made in an aggrieved party's favor unless such withdrawal is contested within thirty days of the redetermination.

WAC 192-800-155 When are proceedings open to the public, and what information from a proceeding before the appeal tribunal or commissioner is publicly disclosable?

The new rule outlines what hearing information is publicly disclosable and clarifies that all hearings will be closed to the public unless an open hearing is agreed upon by all parties. This is consistent with the privacy protections established under chapter 50A.25 RCW.

VARIANCE BETWEEN PROPOSED RULE AND FINAL RULE

No changes were made between the proposed rules and the final rules.

SUMMARY OF COMMENTS TO PROPOSED RULES AND AGENCY RESPONSE

A public hearing on a previous version of the rules was held on February 9, 2021. After consideration of comments received, the rules were changed which required an additional public hearing on April 7, 2021. Two comments were received during the April 7, 2021 public rules hearing and are summarized below. No written comments were received.

Referenced rule	Commenter	Source of comment	Comment	Agency response
WAC 192-610-090	Marilyn Watkins	Public Hearing	Thanked the department for responding to comments on the earlier proposal and making improvements that will help the program be more equitable going forward.	No agency response necessary.
WAC 192-620-035	Marilyn Watkins	Public Hearing	Instructions to employees need to very clear regarding implementation of this rule.	The agency will review instructions on our website to ensure they are clear.

For transparency, comments from the previous version of the proposed rules filed as WSR # 21-02-088 that were not adopted are summarized below (February 9, 2021 hearing).

Referenced rule	Commenter	Source of comment	Comment	Agency response
WAC 192-700-007	Annessa Loveless, Ali Schaafsma, Keely Butters	Email and public testimony	Several commenters expressed concern that current employers do not have access to hours worked from previous employers and would therefore be unable	This is not an accurate representation of the effect of the rule. The rule only applies to an employer that is deemed a "successor in interest" to the previous employer. Successors in

			to assess employment restoration rights under this rule.	interest would have access to work logs, timesheets, etc. regarding hours worked for the previous employing entity. The rule was clarified with an example in the subsequent proposed rule.
WAC 192-610-090	Marilyn P. Watkins, Joe Kendo, Maggie Humphreys, Samantha Grad, Brenda Wiest	Email	Several commenters expressed concern regarding the threshold of the illegal act that would result in benefit disqualification. Specifically, the fact that a failure to disperse in a timely manner during a peaceful protest is considered a misdemeanor in Washington State was referenced.	These concerns were addressed by raising the threshold of the disqualifying illegal act to include <i>gross</i> misdemeanors and above in the subsequent proposed rule.
WAC 192-620-020	Marilyn P. Watkins, Joe Kendo, Maggie Humphreys, Samantha Grad, Brenda Wiest, Ali Schaafsma	Email and public hearing	Including “physically” in 192-620-020 (1)(a) and 192-620-035 (1) adds ambiguity and needless confusion to the terms “worked for wages” or “worked.” Someone well might wonder, for example, if they need to deduct time they were on brief breaks from the time they were “physically” working, or if time doing virtual intellectual work qualifies as “physically” working. We recommend removing the word “physically”.	This rule was changed to reflect the suggested language in the subsequent proposed rule.