



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 29, 2021
TIME: 9:54 AM

WSR 21-04-066

Agency: Employment Security Department

Effective date of rule:

Emergency Rules

- ☒ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- ☐ Yes ☒ No If Yes, explain:

Purpose: This emergency rule clarifies what service is considered localized as it relates specifically to the temporary physical reassignment of an employee due to the COVID-19 pandemic. Clarification is important in order to give notice and certainty to individuals and employers of paid family and medical leave (PFML) benefits eligibility and employer reporting and premium payment considerations, especially as they relate to telework performed out-of-state during the COVID-19 pandemic, and to allow consistent application of localization standards in these circumstances—protecting employees and employers.

Citation of rules affected by this order:

New: WAC 192-510-091 Localization considerations due to COVID-19.
Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 50A.05.060

Other authority: RCW 34.05.350, Governor's Proclamations 20-05 and 20-25

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: In Proclamation 20-05, Governor Inslee proclaimed a State of Emergency in Washington regarding COVID-19. The proclamation directs agencies and departments to support the Department of Health and local officials in alleviating the impacts to people, property, and infrastructure across the state. Proclamation 20-25, the Governor's Stay Home – Stay Healthy Order, amends Proclamation 20-05 with respect to certain business activities. Employees, especially those who may be or have been teleworking from out-of-state during the COVID-19 pandemic, need notice and certainty of the considerations relating to their PFML benefit eligibility. The rule provides this guidance. Further, employers need immediate clarification regarding which of their employees are considered localized to Washington and must be reported for the purposes of the PFML program. This rule is specifically related to which employees need to be reported to Washington based on their temporary work location due to the COVID-19 pandemic. Once the pandemic restrictions are lifted, employees who are considered localized may not be if the reassignment of their physical work location becomes permanent.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____

Recently enacted state statutes: New _____ Amended _____ Repealed _____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted on the agency's own initiative:

New 1 Amended _____ Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

The number of sections adopted using:

Negotiated rule making: New _____ Amended _____ Repealed _____

Pilot rule making: New _____ Amended _____ Repealed _____

Other alternative rule making: New _____ Amended _____ Repealed _____

Date Adopted: January 29, 2021

Name: April Amundson

Title: Paid Family & Medical Leave Policy & Rules Manager

Signature:

