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For Department of State Use Only

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Emergency or Public Necessity Rule(s) Filing Form

Emergency and Public Necessity rules are effective from date of filing for a period of up to 165 days.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Employment Security
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Rule Type :

- Emergency Rule
 Public Necessity Rule

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Statement of Necessity:

Pursuant to T.C.A §§ 4-5-208, 50-7-602 and 50-7-302(c) I am promulgating emergency rules amending the methods by which employers are required to initiate first claims for partial unemployment benefits. Rule 0560-01-01-.08 of the Rules of the Tennessee Department of Labor and Workforce Development requires employers to initiate first claims for partial unemployment benefits and provides the option for such claims to be filed on a form provided by the Department, by diskette, or by other electronic method.

As a result of an extraordinary increase in the volume of unemployment claims presently being filed, the Department's resources for processing these claims have been strained beyond its capacity. This rule would require employers who are filing fifty (50) or more partial claims in any given week to utilize an available filing method that automatically processes these claims, rather than allowing them the option of filing by less efficient methods that require manual processing. This would free up substantial Departmental resources that could then be used to meet the present demands of processing other types of claims.

T. C A. § 4-5-208 provides that an agency may adopt an emergency rule if the agency finds that an immediate danger to the public health, safety or welfare exists and the nature of the danger is such that any other form of rulemaking would not adequately protect the public. The statute provides that an emergency rule may only be effective for a period of not longer than one hundred and sixty-five (165) days. The statute further provides that an agency shall not adopt the same emergency rule within one (1) calendar year from its adoption, unless the agency clearly establishes that it could not reasonably be foreseen during the initial one hundred and sixty-five (165) day period that such an emergency would continue or would likely recur during the next nine (9) months.

Although seasonal and other periodic increases in claims load are expected, the extent of this present demand for services is based upon extraordinary economic factors which could not have been reasonably foreseen. This

Department is unable to process such an increase in the volume of claims without maximizing every available resource. The failure to pay these benefits in as timely a manner as possible would have a significant adverse effect on the individual citizens of this State whose economic livelihoods depend on these benefits and upon the economy of this State in general.

I find that, given these findings, there is an emergency creating an immediate danger to the public welfare such that the use of any other form of rulemaking authorized by the Administrative Procedures Act would not adequately protect the public.

James G. Neeley
Commissioner
Tennessee Department of Labor and Workforce Development

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
0560-01-01	Benefits
Rule Number	Rule Title
0560-01-01-.08	Employer to Initiate First Claim for Partial Benefits

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0560-01-01
Benefits

Amendments

Rule 0560-01-01-.08 Employer to Initiate First Claims for Partial Benefits is amended by adding the text of paragraph (4) so that, as amended, the Rule shall read:

- (4) Any employer filing fifty (50) or more partial claims in any week shall use the Department's Automated Partial Claims System.

Authority: T. C. A. §§ 50-7-602 and 50-7-302(c)

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of emergency or public necessity rules, lawfully promulgated and adopted.



Date: 1/22/09

Signature: James G. Neeley

Name of Officer: James G. Neeley

Title of Officer: Commissioner of Labor and Workforce Development

Subscribed and sworn to before me on: 1/22/09

Notary Public Signature: Rosemary S. Cole

My commission expires on: 8-18-12

All emergency or public necessity rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper Jr
 Robert E. Cooper, Jr.
 Attorney General and Reporter
1-27-09
 Date

Department of State Use Only

Filed with the Department of State on: 1/28/09

Effective for: ~~7/12/09~~ 165 *days

Effective through: 7/12/09

* Temporary rules may be effective for up to 165 days from the date of filing.

Tre Hargett
 Tre Hargett
 Secretary of State



Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This amendment would require employers who are filing claims for fifty or more employees for partial unemployment in any week to use the Department's Automated Partial Claims System for this purpose rather than the other methods that are available for filing such claims.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Only employers who are filing claims for partial unemployment benefits for fifty or more employees in any week and who are not presently using the Department's Automated Partial Claims System would be affected by this rule. The position of such employers regarding the rule is not known. It is expected that there might be some opposition simply because it would require them to change the way they are presently filing these claims, but this resource is available without charge to them from the Department's web site.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None. The administrative costs of the program are paid with federal funds.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Don Ingram, Administrator, Employment Security Division, TDLWD

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Don Ingram, Administrator, Employment Security Division, TDLWD

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Don Ingram, Administrator, Employment Security Division, TDLWD

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.