

DEPARTMENT OF LABOR

Notice of Intent to Adopt Regulations

In accordance with the provisions of Section 4-168(b) of the Connecticut General Statutes, as amended, notice is hereby given that the Department of Labor proposes to modify the Department's unemployment compensation regulations pertaining to Shared Work (Short-Time Compensation), under the authority of CGS §§ 31-250 and 31-274j.

Statement of Purpose: The proposed regulations are intended to update the regulations to modify current practices, align the regulations with the modifications to CGS § 31-274j of the Connecticut General Statutes pursuant to Public Act 13-66, and bring the regulations into conformity with federal law.

All interested parties who wish to submit data, views, or arguments may do so in writing within thirty (30) days following publication of this notice, via post, facsimile or email. Any such written material should be directed to:

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Additionally, any interested party may request a copy of the fiscal note from the Office of Program Policy at the above address.

A public hearing will be held on December 12, 2013 at 9:30 a.m. in Executive Wing Conference Room 201 at the Connecticut State Labor Department, 200 Folly Brook Boulevard, Wethersfield, CT 06109. Interested parties may also submit data, facts, view or arguments, orally or in writing, at this hearing.

**CONNECTICUT DEPARTMENT OF LABOR
SHORT-TIME COMPENSATION (SHARED WORK) REGULATIONS**

Section One. Section 31-250-8 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 31-250-8 Definitions

For purposes of Sections 31-250-8 to 31-250-12, inclusive, of the Regulations of Connecticut State Agencies, the following definitions apply:

(a) “Administrator” means the Labor Commissioner of the state of Connecticut, whose mailing address is 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, or [his] the Administrator’s designee.

(b) “Affected unit” means a specific department, shift or other unit of four or more employees that is designated by an employer to participate in a shared work plan.

[(c) “Contributing employer” means an employer who is assigned a percentage rate of contributions under the provisions of Sec. 31-225a of the General Statutes.]

[(d)] (c) “Fringe benefits” means health insurance, retirement benefits received under a pension plan, paid vacation days, paid holidays, sick leave and any other employee benefit that is provided by an employer.

[(e) “Full-time employment” means services required of the employee of not less than thirty-five (35) nor more than forty (40) hours per week.]

[(f)] (d) “Normal weekly hours of work” means [the lesser of forty hours or the average obtained by dividing the total number of hours worked per week during the preceding twelve-week period by the number twelve] the usual hours of work for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed forty (40) hours and not including hours of overtime work.

[(g)] (e) “Participating employee” means an employee who works a reduced number of hours under a shared work plan.

[(h)] (f) “Participating employer” means an employer who has a shared work plan in effect.

[(i)] (g) “Seasonal” means an employer who has a work base that is attached or dependent upon a particular time of year on an annual basis.

[(j)] (h) “Shared work benefit” means an unemployment compensation benefit that is payable by the Administrator [under] [Special Act 91-17] to an individual in an affected unit because the individual works a reduced number of hours under an approved shared work plan, as distinguished from the unemployment benefits otherwise payable under the unemployment compensation provisions of Chapter 567 of the Connecticut General Statutes.

[(k)] (i) “Shared work or short-time compensation plan” means a plan submitted by an employer, for approval by the Administrator, under which the employer requests the payment of short-time compensation to workers in an [program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work] affected unit of the employer to avert layoffs.

[(l)] (j) “Shared work unemployment compensation program” means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

[(m)] (k) “Unemployment compensation” means any unemployment benefits administered by the Administrator under Chapter 567 of the Connecticut General Statutes or pursuant to federal law, under agreement with the U.S. Department of Labor, including, but not limited to Extended Benefits, Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-Servicemen (UCX), Trade Readjustment Allowances (TRA), Disaster Unemployment Assistance (DUA) and Emergency Unemployment Compensation (EUC).

Sec. Two. Section 31-250-9 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 31-250-9 Application for shared work

An employer seeking to participate in a shared work [unemployment] unemployment compensation program, also known as a short-time compensation program as set forth in the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, shall submit a signed written shared work plan to the Administrator for approval. As a condition of approval, a participating employer shall agree to furnish the Administrator with such reports relating to the operation of the shared work plan as the Administrator may request. The participating employer shall monitor and evaluate the operation of the established shared work plan as directed by the Administrator.

Section Three. Section 31-250-10 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 31-250-10 Criteria for shared work plan

The Administrator may approve a shared work plan based upon compliance with the following conditions:

- (a) The shared work plan applies to and identifies a specific affected unit.
- (b) Those employees within the affected unit who have been designated as shared work plan participants are identified by name and social security number.
- (c) Prior to July 1, 2014, the [The] shared work plan reduces the normal weekly hours of work for the participating employees in the affected unit by not less than twenty percent nor more than forty percent. For shared work plans effective on or after July 1, 2014, the shared work plan reduces the normal weekly hours of work for the participating employees in the affected unit by not less than ten (10) percent nor more than sixty (60) percent.
- (d) The shared work plan shall state that: (1) fringe benefits will continue to be provided to employees in affected units as though their normal weekly hours of work had not been reduced, and (2) service credits toward seniority shall accrue during the operation of the shared work plan at a rate at least commensurate with the amount of reduced hours actually worked.
- (e) The participating employer certifies that the implementation of a shared work plan and the resulting reduction in work hours are in lieu of [temporary] layoffs that would affect at least ten (10) percent of all employees in the affected unit and would otherwise result in an equivalent reduction in work hours.
- (f) The participating employer has filed all reports required to be submitted pursuant to Sections 31-250-8 to 31-250-12, inclusive, of the Regulations of Connecticut State Agencies and either has paid all contributions due for all past and current contribution periods or has made all payments in lieu of contributions due for all past and current payments in lieu of contributions periods as required under sections 31-225 and 31-225a of the Connecticut General Statutes.
- [(g) The employer is a contributing employer, as defined in subsection (c) of Section 31-250-8.]
- (g) The participating employer certifies that participation in the shared work plan and its implementation is consistent with the employer's obligations under applicable Federal and State laws.
- (h) If any of the participating employees under a shared work plan are covered by a

collective bargaining agreement, the shared work plan must be approved in writing by the participating employees' collective bargaining representative. In the absence of any bargaining representative, the plan must contain a certification by the employer that [he] such employer has made the proposed plan, or a summary thereof, available to each employee in the affected group for inspection and comment for a period of at least seven (7) days, and copies of the memorandum to the employees and any comments received must be attached.

(i) [The] A shared work plan applies to [only] full-time and part-time permanent employees and is not implemented to subsidize seasonal employers during any off-season period[, or to subsidize employers who have traditionally used part-time employees].

Sec. Four. Section 31-250-11 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 31-250-11 Eligibility for shared work compensation

(a) An individual is eligible to receive shared work benefits with respect to any week in which the Administrator finds that:

(1) The individual is a participating employee in an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) The individual is able to work and is available for additional hours of work or full-time work with the participating employer; and

(3) For shared work plans effective prior to July 1, 2014, the [The] individual's normal weekly hours of work have been reduced by at least twenty (20) [per cent] percent but not more than forty (40) [per cent] percent, with a corresponding reduction in wages. For shared work plans effective on or after July 1, 2014, the individual's normal weekly hours of work have been reduced by at least ten (10) percent but not more than sixty (60) percent, with a corresponding reduction in wages.

(b) An individual who is eligible for shared work benefits shall be exempt from the work search requirements contained in Section 31-235 (a) of the Connecticut General Statutes and Sections 31-235-22 to 31-235-26, inclusive, of the Regulations of Connecticut State Agencies. In addition, an individual eligible for shared work benefits shall not be subject to the provisions of Section 31-229 of the Connecticut General Statutes relating to partial unemployment benefits. Wages from other than the shared work employer shall be disregarded in the calculation of the shared work benefit.

(c) For certified weekly claims effective prior to the week ending July 5, 2014, an [An]

individual who is eligible for shared work benefits shall not be eligible to receive a dependency allowance. For certified weekly claims effective on or after the week ending July 5, 2014, an individual who is eligible for shared work benefits shall be eligible to receive a dependency allowance.

(d) The Administrator shall not pay shared work benefits to an individual for any week in which the individual performs work for the participating employer in excess of the reduced hours established under the shared work plan, unless there is a corresponding modification to the plan pursuant to subsection (b) of Section 31-250-12 of the Regulations of Connecticut State Agencies.

(e) No individual shall receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total benefits payable to the claimant in a benefit year in accordance with Section 31-231b of the Connecticut General Statutes.

(f) An individual who has received all of the shared work benefits and regular unemployment compensation benefits available to [him] such individual in a benefit year is an exhaustee for purposes of Sections 31-232b to 31-232k, inclusive, of the Connecticut General Statutes and is entitled to receive extended benefits under such sections, provided the claimant is otherwise eligible for such benefits.

(g) If an individual who is eligible to receive shared work benefits has a prior overpayment which is still outstanding, the Administrator shall offset such overpayment from shared work benefits in accordance with Section 31-273 of the Connecticut General Statutes.

(h) If an individual who is eligible to receive shared work benefits has been identified as having outstanding child support obligations, the Administrator shall reduce shared work benefits in accordance with Section 31-227 (h) of the Connecticut General Statutes.

(i) Notwithstanding any other provisions of these regulations relating to availability for work and actively seeking work, the individual is available for the individual's normal hours of work with the participating employer, which may include, for purposes of this section, participating in training to enhance job skills that is approved by the Administrator such as employer-sponsored training or training funded under the Workforce Investment Act of 1998.

Sec. Five. Section 31-250-12 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 31-250-12 Program administration

(a) The Administrator will approve or deny a shared work plan, in writing, no later than thirty days after the date the shared work plan is received by the Administrator. If the Administrator denies a shared work plan, the Administrator will specify the reasons for the denial. The reasons for rejection shall be final and not subject to appeal. If rejected, the employer may submit an amended plan for approval not earlier than seven (7) days after the date of the rejection. A shared work plan shall be effective on the date it is approved by the Administrator and shall expire at the end of the twenty-sixth week after the effective date of the shared work plan. Such plan may be renewed for up to an additional twenty-six (26) weeks.

(b) An approved shared work plan may be modified after it has become operational by the employer with the acquiescence of employee representatives if, in the opinion of the Administrator, the modification is not substantial and is consistent with the purpose of the original shared work plan. The Administrator shall approve or disapprove such modifications, without changing the expiration date of the original plan. The disapproval of a modification shall be final and not subject to appeal. Where a requested modification is substantial, the employer may request that the Administrator terminate the existing plan and consider the employer's application for a new plan.

(c) The Administrator may revoke approval of a plan for good cause. The revocation order shall be in writing and shall specify the date the revocation is effective and the reasons therefor. Good cause shall include, but not be limited to, failure to comply with the assurances given in the plan, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the plan, and violation of any criteria upon which approval of the plan was based. Any revocation shall be final and shall not be subject to appeal.

(d) The Administrator shall pay to an individual who is eligible for shared work benefits a weekly amount equal to the individual's regular weekly benefit rate for a period of total unemployment as provided in Section 31-228 of the Connecticut General Statutes, multiplied by the nearest full percentage of the reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of one dollar, the Administrator shall reduce the amount to the next lowest multiple of one dollar. All shared work benefits shall be payable from the unemployment compensation fund established pursuant to Section 31-261 of the Connecticut General Statutes.

(e) An employer's chargeability under a shared work plan will be subject to the provisions of Section 31-225a of the Connecticut General Statutes. Employers liable for payments in lieu of contributions in accordance with section 31-225 of the Connecticut General Statutes shall have shared work benefits attributed to service in their employ in the same manner as unemployment compensation is attributed.

(f) An individual who does not work during a week for the shared work employer and

who is otherwise eligible for benefits shall be paid regular unemployment benefits and the week shall not be counted as a week for which shared work benefits were received.

STATEMENT OF PURPOSE: To ensure conformity of Connecticut's law with federal Unemployment Compensation law – specifically the Layoff Prevention Act of 2012 (section 2160 et. seq. of Public Law 112-96) and to implement the provisions of Public Act 13-66. Further, passage of these regulations will enable the Connecticut Department of Labor to apply for a federal grant to support the operation of the Department's Shared Work Program.

8/16/13

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