

WSR 24-08-006
PREPROPOSAL STATEMENT OF INQUIRY
EMPLOYMENT SECURITY DEPARTMENT

[Filed March 21, 2024, 9:02 a.m.]

Subject of Possible Rule Making: This rule making will amend WAC 192-140-035 What happens if I do not respond to a request for information? The rule making will correct inconsistent terminology within WAC 192-140-035. WAC 192-140-035 currently states that the employment security department (department) will presume an individual is disqualified from receiving unemployment benefits if they provide potentially disqualifying information, or fail to provide necessary information, and then they do not respond to a request for specific information. The rule then states that the department will deny benefits under RCW 50.20.010. However, RCW 50.20.010 is not a disqualification statute; rather, it sets out a claimant's eligibility for unemployment benefits.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50.12.010, 50.12.040, 50.12.042, 50.20.010, 50.20.050, 50.20.060, 50.20.066, 50.20.070, 50.20.080, 50.20.090, 50.20.095.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, WAC 192-140-035 is internally inconsistent because it sets forth a presumption of disqualification if a claimant fails to respond to a request for information. The WAC then speaks of denial of benefits under RCW 50.20.010. RCW 50.20.010 is not a disqualification statute, it is a statute that sets out a claimant's eligibility requirements for unemployment benefits. Eligibility for benefits under RCW 50.20.010 is a determination specifically addressing filing a weekly claim, while disqualification from receiving benefits is for a specific period of time.

This rule making will amend WAC 192-140-035 to clarify that unemployment benefits can be denied, either on the basis that an individual is ineligible for or disqualified from receiving unemployment benefits, when an individual fails to respond to a request for specific information.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Labor (USDOL) reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of the unemployment insurance laws so long as conformity is maintained. The proposed regulations will be shared with USDOL prior to adoption.

Process for Developing New Rule: Draft rules will be shared with the public and stakeholders. The department will solicit input from all parties and consider all comments in the development of final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lawrence Larson, P.O. Box 9046, phone 360-890-3460, fax 844-652-7096, TTY relay 711, email Rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/>.

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