

192-08-143	Review by commissioner. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-330	Depositions upon interrogatories—Submission of interrogatories. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-150	Subpoenas—Where provided by law—Form. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-340	Depositions upon interrogatories—Interrogation. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-160	Subpoenas—Issuance to parties. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-350	Depositions upon interrogatories—Attestation and return. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-170	Subpoenas—Service. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-360	Depositions upon interrogatories—Provisions of deposition rule. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/70.] Repealed by Order 2602, filed 4/24/70.
192-08-180	Subpoenas—Fees. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-370	Official notice—Matters of law. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-181	Subpoenas—Cost bills. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-380	Official notice—Material facts. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-190	Subpoenas—Proof of service. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-390	Presumptions. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-200	Subpoenas—Quashing. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-400	Stipulations and admissions of record. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-210	Subpoenas—Enforcement. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-410	Form and content of decisions in contested cases. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-220	Subpoenas—Geographical scope. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-420	Definition of issues before hearing. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-221	Withdrawal of appeal. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-430	Prehearing conference rule. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-230	Depositions and interrogatories in contested cases—Right to take. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-440	Prehearing conference rule—Record of conference action. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-240	Depositions and interrogatories in contested cases—Scope. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-450	Submission of documentary evidence in advance. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-250	Depositions and interrogatories in contested cases—Officer before whom taken. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-460	Excerpts from documentary evidence. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-260	Depositions and interrogatories in contested cases—Authorization. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-470	Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-270	Depositions and interrogatories in contested cases—Protection of parties and deponents. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-480	Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-280	Depositions and interrogatories in contested cases—Oral examination and cross-examination. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-490	Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-290	Depositions and interrogatories in contested cases—Recordation. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-500	Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 192-08-470 or 192-08-480. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-300	Depositions and interrogatories in contested cases—Signing attestation and return. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-510	Continuances. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-310	Depositions and interrogatories in contested cases—Use and effect. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.	192-08-511	Informal disposition of hearing. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
192-08-320	Depositions and interrogatories in contested cases—Fees of officers and deponents. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.		

- 192-08-520 Rules of evidence—Admissibility criteria. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- 192-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- 192-08-540 Petitions for rule-making, amendment or repeal—Who may petition. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- 192-08-550 Petitions for rule-making, amendment or repeal—Requirements. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- 192-08-560 Petitions for rule-making, amendment or repeal—Agency must consider. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- 192-08-570 Petitions for rule-making, amendment or repeal—Notice of disposition. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- 192-08-580 Declaratory rulings. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- 192-08-590 Forms. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] Repealed by Order 2602, filed 4/24/70.
- Chapter 192-09**
PRACTICE AND PROCEDURE
- 192-09-010 Promulgation. [Order 2602, § 192-09-010, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-020 Promulgation. [Order 2602, § 192-09-020, filed 4/24/70. Formerly WAC 192-08-001.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-030 Preamble. [Statutory Authority: RCW 50.12.010 and 50.12.040. 89-03-070 (Order 3-89), § 192-09-030, filed 1/18/89. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-030, filed 8/14/78; Order 2602, § 192-09-030, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-035 Predetermination procedure—Separation issue. [Order 2-72, § 192-09-035, filed 7/6/72.] Repealed by 89-20-064 (Order 4-89), filed 10/4/89, effective 10/9/89. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-040 Interested parties defined. [Statutory Authority: RCW 50.12.010 and 50.12.040. 85-11-038 (Order 1-85), § 192-09-040, filed 5/15/85. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-040, filed 8/14/78; Order 2602, § 192-09-040, filed 4/24/70.] Repealed by 89-20-064 (Order 4-89), filed 10/4/89, effective 10/9/89. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-050 Appearance—Who may appear. [Order 2602, § 192-09-050, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-060 Appeals—Right to notice of. [Statutory Authority: Chapter 50.04 RCW, RCW 50.29.020, 50.12.010 and 50.12.040. 85-21-023 (Order 5-85), § 192-09-060, filed 10/10/85. Statutory Authority: RCW 50.12.010 and 50.12.040. 85-11-038 (Order 1-85), § 192-09-060, filed 5/15/85. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-060, filed 8/14/78; Order 2602, § 192-09-060, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-062 Appeals—Payments under federal programs. [Order 2-72, § 192-09-062, filed 7/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-063 Appeals—Who may appeal—Time limitation. [Statutory Authority: RCW 50.12.010 and 50.12.040. 89-03-070 (Order 3-89), § 192-09-063, filed 1/18/89; 85-11-038 (Order 1-85), § 192-09-063, filed 5/15/85; Order 2602, § 192-09-063, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-065 Appeals—Time computation. [Order 2602, § 192-09-065, filed 4/24/70. Formerly WAC 192-08-070.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-070 Appeals—Withdrawal of. [Order 2602, § 192-09-070, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-100 Hearings—Notice requirement. [Order 2-73, § 192-09-100, filed 11/15/73; Order 2602, § 192-09-100, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-105 Hearings—Scheduling—Location. [Order 2602, § 192-09-105, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-110 Hearings—Special scheduling—Postponement. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-110, filed 8/14/78; Order 2602, § 192-09-110, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-115 Hearings—Open to public—Exceptions. [Order 2602, § 192-09-115, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-120 Hearings—Representation—Cross-examination. [Order 2602, § 192-09-120, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-125 Hearings—Pleadings and papers to be served. [Order 2602, § 192-09-125, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-130 Hearings—Duty of examiner. [Order 2602, § 192-09-130, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-135 Hearings—Evidence. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-135, filed 8/14/78; Order 2602, § 192-09-135, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-140 Hearings—Disposition of motions and objections. [Order 2602, § 192-09-140, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-145 Hearings—Objections to be specified. [Order 2602, § 192-09-145, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-150 Hearings—Admissibility of evidence. [Order 2602, § 192-09-150, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-155 Hearings—Stipulations. [Order 2602, § 192-09-155, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-160 Hearings—Continuance. [Order 2602, § 192-09-160, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-165 Hearings—Consolidated cases. [Order 2602, § 192-09-165, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-170 Hearings—Separate locations. [Order 2602, § 192-09-170, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-200 Subpoenas—Procedure for issuance. [Order 2602, § 192-09-200, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-205 Subpoenas—Form. [Order 2602, § 192-09-205, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-210 Subpoenas—Service. [Order 2602, § 192-09-210, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.

- 192-09-215 Subpoenas—Proof of service. [Order 2602, § 192-09-215, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-220 Subpoenas—Attendance fees—How computed. [Order 2602, § 192-09-220, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-225 Subpoenas—Fees—Certification. [Order 2602, § 192-09-225, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-230 Subpoenas—Procedure to quash. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-230, filed 8/14/78; Order 2602, § 192-09-230, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-235 Subpoenas—Judicial enforcement. [Order 2602, § 192-09-235, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-240 Subpoenas—Geographical scope. [Order 2602, § 192-09-240, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-300 Decisions—Contents. [Order 2602, § 192-09-300, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-305 Decisions—Preparation and service. [Order 2602, § 192-09-305, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-310 Decisions—Disposition by other than decision on the merits—Petition from. [Order 2602, § 192-09-310, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-315 Decisions—Petition for review. [Statutory Authority: RCW 50.12.010 and 50.12.040. 89-03-070 (Order 3-89), § 192-09-315, filed 1/18/89. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-315, filed 8/14/78; Order 2602, § 192-09-315, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-400 Special proceedings—Prehearing conference—Purpose. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-400, filed 8/14/78; Order 2602, § 192-09-400, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-405 Special proceedings—Prehearing conference—Examiner's order. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-405, filed 8/14/78; Order 2602, § 192-09-405, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-410 Special proceedings—Depositions and interrogatories. [Order 2602, § 192-09-410, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-415 Special proceedings—Reopening of a closed case. [Order 2602, § 192-09-415, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-420 Special proceedings—Challenge of examiner—Bias or interest. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-420, filed 8/14/78; Order 2602, § 192-09-420, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-425 Special proceedings—Challenge of commissioner—Bias or interest. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-09-425, filed 8/14/78; Order 2602, § 192-09-425, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-430 Petition for rule making, amendment or repeal—Who may petition. [Order 4-72, § 192-09-430, filed 11/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-435 Petition for rule making, amendment or repeal—Requirements. [Order 4-72, § 192-09-435, filed 11/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-440 Petition for rule making, amendment or repeal—Form. [Order 4-72, § 192-09-440, filed 11/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-445 Petition for rule making, amendment or repeal—Consideration. [Order 4-72, § 192-09-445, filed 11/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-450 Petition for rule making, amendment or repeal—Disposition. [Order 4-72, § 192-09-450, filed 11/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-455 Declaratory ruling—Who may petition—Scope. [Order 4-72, § 192-09-455, filed 11/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-09-460 Declaratory ruling—Form. [Order 4-72, § 192-09-460, filed 11/6/72.] Repealed by 89-24-030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.

Chapter 192-10

HEARING AND REVIEW UNDER THE WORK INCENTIVE PROGRAM

- 192-10-010 Hearings and review under the work incentive program. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-010, filed 8/14/78; Order 4-72, § 192-10-010, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-015 Computation of time. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-015, filed 8/14/78.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-020 Purpose and scope. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-020, filed 8/14/78; Order 4-72, § 192-10-020, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-030 Hearings—Requests—Time limitations. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-030, filed 8/14/78; Order 4-72, § 192-10-030, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-040 Hearings—Requests—How made. [Order 4-72, § 192-10-040, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-050 Hearings—Preparation and service. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-050, filed 8/14/78; Order 4-72, § 192-10-050, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-060 Hearings—Notice requirements. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-060, filed 8/14/78; Order 4-72, § 192-10-060, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-070 Hearings—Scheduling—Location. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-070, filed 8/14/78; Order 4-72, § 192-10-070, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-080 Parties and presentation of the case. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-080, filed 8/14/78; Order 4-72, § 192-10-080, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-090 Duties of the examiner. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-090, filed 8/14/78; Order 4-72, § 192-10-090,

- filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12-010 and 50.12.040.
- 192-10-100 Testimony and examination of witnesses. [Order 4-72, § 192-10-100, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-110 Recording of testimony. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-110, filed 8/14/78; Order 4-72, § 192-10-110, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12-010 and 50.12.040.
- 192-10-120 Access to records. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-120, filed 8/14/78; Order 4-72, § 192-10-120, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12-010 and 50.12.040.
- 192-10-130 Admissibility of evidence. [Order 4-72, § 192-10-130, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12-010 and 50.12.040.
- 192-10-140 Documentary evidence. [Order 4-72, § 192-10-140, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12-010 and 50.12.040.
- 192-10-150 Stipulations. [Order 4-72, § 192-10-150, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-160 Deposition and interrogatories. [Order 4-72, § 192-10-160, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-170 Subpoenas—Procedure for issuance. [Order 4-72, § 192-10-170, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-180 Subpoenas—Service. [Order 4-72, § 192-10-180, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-190 Subpoenas—Proof of service. [Order 4-72, § 192-10-190, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-200 Subpoenas—Attendance fees. [Order 4-72, § 192-10-200, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-210 Procedure to quash subpoenas. [Order 4-72, § 192-10-210, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-220 Judicial enforcement. [Order 4-72, § 192-10-220, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-230 Geographical scope. [Order 4-72, § 192-10-230, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-240 Medical evaluation. [Order 4-72, § 192-10-240, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-250 Continuances. [Order 4-72, § 192-10-250, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-260 Disposition by decision on the merits. [Order 4-72, § 192-10-260, filed 11/6/72.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 74.22.110 and 74.23.120.
- 192-10-265 Decision of appeals examiner. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-265, filed 8/14/78.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-270 Disposition by decision other than on the merits. [Order 4-72, § 192-10-270, filed 11/6/72.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 74.22.110 and 74.23.120.
- 192-10-280 Decisions—Preparation and service. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-280, filed 8/14/78; Order 4-72, § 192-10-280, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-290 Certification of novel questions of law or policy. [Order 4-72, § 192-10-290, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-300 Petition for review by the commissioner. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-300, filed 8/14/78; Order 4-72, § 192-10-300, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-310 Commissioner's review procedure. [Statutory Authority: RCW 74.22.110 and 74.23.120. 78-09-027 (Order 1-78), § 192-10-310, filed 8/14/78; Order 4-72, § 192-10-310, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-320 Withdrawal of request for hearing and of petition for review. [Order 4-72, § 192-10-320, filed 11/6/72.] Repealed by 94-22-043, filed 10/28/94, effective 11/28/94. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-10-330 Representation. [Order 4-72, § 192-10-330, filed 11/6/72.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.

Chapter 192-14 PUBLIC DISCLOSURE

- 192-14-010 Purpose. [Order 2-73, § 192-14-010, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-010.
- 192-14-020 Definitions. [Order 2-73, § 192-14-020, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-020.
- 192-14-030 Description of central and field organization of employment security department. [Order 2-73, § 192-14-030, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-030.
- 192-14-040 Operations and procedures. [Order 2-73, § 192-14-040, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.
- 192-14-050 Public records available. [Order 2-73, § 192-14-050, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.
- 192-14-060 Public records officer. [Order 2-73, § 192-14-060, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.
- 192-14-070 Office hours. [Order 2-73, § 192-14-070, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-120.
- 192-14-080 Requests for public records. [Order 2-73, § 192-14-080, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.
- 192-14-090 Copying. [Order 2-73, § 192-14-090, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-120.
- 192-14-100 Exemptions. [Order 2-73, § 192-14-100, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.
- 192-14-110 Review of denials of public records requests. [Order 2-73, § 192-14-110, filed 11/15/73.] Repealed by 78-09-

- 027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.
- 192-14-120 Protection of public records. [Order 2-73, § 192-14-120, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.
- 192-14-130 Records index. [Order 2-73, § 192-14-130, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-150.
- 192-14-140 Responsible addressee. [Order 2-73, § 192-14-140, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-160.
- 192-14-150 Forms. [Order 2-73, § 192-14-150, filed 11/15/73.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.13.030, 74.22.110 and 74.23.120. Later promulgation, see WAC 192-15-170.
- Chapter 192-18**
EMPLOYEE CONFLICT OF INTEREST
- 192-18-010 No outside compensation for performing official duties. [Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-18-010, filed 6/12/80.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-18-012 Security of personal identification number (PIN). [Statutory Authority: RCW 50.12.010 and 50.12.040, 88-16-076 (Order 7-88), § 192-18-012, filed 8/2/88.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-18-020 Use of influence or position to aid individuals or organizations. [Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-18-020, filed 6/12/80.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-18-030 Limitations on outside employment—Potential conflict of duties. [Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-18-030, filed 6/12/80.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-18-040 Limitation on outside employment—Working hours—Use of state resources prohibited—Procedures. [Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-18-040, filed 6/12/80.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-18-050 Limitations on transacting business with friends, relatives or co-workers. [Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-18-050, filed 6/12/80.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-18-060 Definitions—Friend, relatives, co-workers. [Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-18-060, filed 6/12/80.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-18-070 Violations—Sanctions. [Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-18-070, filed 6/12/80.] Repealed by 98-14-031, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- Chapter 192-20**
OLD-AGE AND SURVIVORS INSURANCE
- 192-20-010 Due dates for submission of reports and contributions—Interest on delinquent contributions. [Statutory Authority: RCW 41.48.050 (3)(a) and 50.12.010, 83-23-102 (Order 4-83), § 192-20-010, filed 11/23/83. Statutory Authority: RCW 50.12.010, 80-07-026 (Order 2-80), § 192-20-010, filed 6/12/80.] Repealed by 98-14-032, filed 6/23/98, effective 7/24/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- Chapter 192-24**
CLAIMANT INFORMATION
- 192-24-001 Information for claimants. [Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-24-001, filed 6/18/84.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-24-010 Claimant information booklet. [Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-24-010, filed 6/18/84.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-24-020 Presentation of benefit rights. [Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-24-020, filed 6/18/84.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-24-030 Claimant directive. [Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-24-030, filed 6/18/84.] Repealed by 99-13-002, filed 6/3/99, effective 7/4/99. Statutory Authority: RCW 50.12.010 and 50.12.040.
- Chapter 192-28**
RECOVERY OF BENEFIT OVERPAYMENTS
- 192-28-100 Recovery of benefit overpayment—General provisions. [Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040, 85-21-024 (Order 6-85), § 192-28-100, filed 10/10/85.] Repealed by 95-09-085, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010.
- 192-28-105 Recovery of benefit overpayment—Notification to individual. [Statutory Authority: RCW 50.12.010 and 50.12.040, 96-20-051, § 192-28-105, filed 9/25/96, effective 10/26/96; 88-10-021 (Order 4-88), § 192-28-105, filed 4/29/88; 86-17-023 (Order 3-86), § 192-28-105, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040, 85-21-024 (Order 6-85), § 192-28-105, filed 10/10/85.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-28-110 Recovery of benefit overpayment—Fault provisions. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010, 95-09-085, § 192-28-110, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010 and 50.01.040 [50.12.040], 88-10-021 (Order 4-88), § 192-28-110, filed 4/29/88; 86-17-023 (Order 3-86), § 192-28-110, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040, 85-21-024 (Order 6-85), § 192-28-110, filed 10/10/85.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-28-115 Recovery of benefit overpayment—Equity and good conscience provisions. [Statutory Authority: RCW 50.12.010 and 50.12.040, 90-17-103, § 192-28-115, filed 8/21/90, effective 9/21/90; 86-17-023 (Order 3-86), § 192-28-115, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040, 85-21-024 (Order 6-85), § 192-28-115, filed 10/10/85.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-28-120 Recovery of benefit overpayment—By repayment or offset against past or future benefits. [Statutory Authority: RCW 50.12.010 and 50.12.040, 96-20-051, § 192-28-120, filed 9/25/96, effective 10/26/96. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010, 95-09-085, § 192-28-120, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010 and 50.01.040 [50.12.040], 88-10-021 (Order 4-88), § 192-28-120, filed 4/29/88; 86-17-023 (Order 3-86), § 192-28-120, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040, 85-21-024 (Order 6-85), § 192-28-120, filed 10/10/85.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-28-122 Application of offsets or cash repayments. [Statutory Authority: RCW 50.12.010 and 50.12.040, 90-17-105, § 192-28-122, filed 8/21/90, effective 9/21/90.] Repealed by 07-23-128, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010.
- 192-28-125 Recovery of benefit overpayment—Notification of right to appeal. [Statutory Authority: RCW 50.12.010 and 50.12.040, 86-17-023 (Order 3-86), § 192-28-125, filed 8/12/86. Statutory Authority: RCW 50.20.190, 50.12.010 and 50.12.040, 85-21-024 (Order 6-85), § 192-28-125, filed 10/10/85.] Repealed by 07-23-128, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010.

- 192-28-130 Minimum payment calculation. [Statutory Authority: RCW 50.12.010 and 50.12.040. 90-17-103, § 192-28-130, filed 8/21/90, effective 9/21/90; 88-10-021 (Order 4-88), § 192-28-130, filed 4/29/88.] Repealed by 07-23-128, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010.
- 192-28-135 Recovery of benefit overpayment—Overpayment collection and maximum benefit payable. [Statutory Authority: RCW 50.12.010 and 50.12.040. 89-20-065 (Order 5-89), § 192-28-135, filed 10/4/89, effective 11/4/89.] Repealed by 07-23-128, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010.
- 192-28-145 Overpayment subject to interest charges. [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-10-044, § 192-28-145, filed 5/2/94, effective 5/2/94; 90-17-105, § 192-28-145, filed 8/21/90, effective 9/21/90.] Repealed by 07-23-128, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010.
- 192-28-150 Benefit overpayment interest charges—Definitions. [Statutory Authority: RCW 50.12.010 and 50.12.040. 90-17-105, § 192-28-150, filed 8/21/90, effective 9/21/90.] Repealed by 07-23-128, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010.
- Chapter 192-30**
MARGINAL LABOR FORCE ATTACHMENT
- 192-30-010 Marginal labor force attachment definitions. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-010, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-020 Responsibilities of the department in determining MLFA status. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-020, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-030 Suspension of marginal labor force attachment requirements for claimants unemployed due to government action. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-030, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-040 Suspension of marginal labor force attachment requirements for claimants unemployed due to economic distress. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-040, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-100 Modification of marginal labor force attachment work search requirements for economic conditions within a labor market area. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-100, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-200 Work search responsibilities for MLFA claimants. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-200, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-210 Job service center work search activity plans for MLFA claimants. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-210, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-220 Work search models—Purpose and description. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-220, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-30-230 Work search model—Definition of terms. [Statutory Authority: RCW 50.20.015, 50.20.016, 50.20.017, 50.12.010 and 50.12.040. 85-22-071 (Order 8-85), § 192-30-230, filed 11/6/85.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- Chapter 192-32**
TIMBER RETRAINING BENEFITS
- 192-32-001 Scope of chapter. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-32-001, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-001, filed 9/20/91, effective 10/21/91.] Repealed by 98-05-042, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090.
- 192-32-010 Definitions. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-010, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-32-010, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-010, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
- 192-32-015 Interpretive rule—Effective date of RCW 50.22.090. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-32-015, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-015, filed 9/20/91, effective 10/21/91.] Repealed by 98-05-042, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090.
- 192-32-025 Post training benefits. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-32-025, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-025, filed 9/20/91, effective 10/21/91.] Repealed by 98-05-042, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090.
- 192-32-035 Residence in rural natural resources impact area at time of last separation from employment. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-035, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-035, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
- 192-32-040 Employment in the forest products industry. [Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-040, filed 9/20/91, effective 10/21/91.] Repealed by 99-24-136, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.22.090.
- 192-32-045 Unlikely to return to employment. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-045, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-32-045, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-045, filed 9/20/91, effective 10/21/91.] Repealed by 99-24-136, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.22.090.
- 192-32-050 Benefits payable only to workers enrolled in approved training. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-050, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-050, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.
- 192-32-055 Training program deadlines. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-055, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-055, filed 9/20/91,

	effective 10/21/91.] Repealed by 99-24-136, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.22.090.		
192-32-065	Training program application requirements. [Statutory Authority: 50.12.010, 50.12.040, 50.20.010 and 50.22-090. 98-05-042, § 192-32-065, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12-040 and 1991 c 315 § 4. 91-20-012, § 192-32-065, filed 9/20/91, effective 10/21/91.] Repealed by 99-24-136, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.22.090.		
192-32-075	Occupation in demand outside labor market. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-075, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-075, filed 9/20/91, effective 10/21/91.] Repealed by 99-24-136, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.22.090.		
192-32-085	Full-time training. [Statutory Authority: 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-085, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-085, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.		
192-32-095	Certification of satisfactory progress. [Statutory Authority: 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-095, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-095, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.		
192-32-100	Modifying a training plan. [Statutory Authority: 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-100, filed 2/11/98, effective 3/14/98.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.		
192-32-105	Interstate claims. [Statutory Authority: RCW 50.12-010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-105, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-105, filed 9/20/91, effective 10/21/91.] Repealed by 99-24-136, filed 12/1/99, effective 1/1/00. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.22.090.		
192-32-115	Out-of-state training. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-115, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315 § 4. 91-20-012, § 192-32-115, filed 9/20/91, effective 10/21/91.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.		
192-32-120	Forest products workers. [Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315. 92-05-051, § 192-32-120, filed 2/13/92, effective 3/15/92.] Repealed by 98-05-042, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090.		
192-32-125	Dislocated workers in timber impact areas. [Statutory Authority: RCW 50.12.010, 50.12.040 and 1991 c 315. 92-05-051, § 192-32-125, filed 2/13/92, effective 3/15/92.] Repealed by 98-05-042, filed 2/11/98, effective 3/14/98. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090.		
192-32-130	Five weeks for work search following training. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-130, filed 2/11/98, effective 3/14/98.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.		
192-32-135	Thirteen weeks for remedial education. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.22.090. 98-05-042, § 192-32-135, filed 2/11/98, effective 3/14/98.] Repealed by 05-13-155, filed 6/21/05, effective 7/22/05. Statutory Authority: RCW 50.12.010, 50.12.040.		
			Chapter 192-36 SHARED WORK
		192-36-010	Information for employees participating in an approved shared work plan. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.60.901. 96-11-141, § 192-36-010, filed 5/22/96, effective 6/22/96.] Repealed by 06-22-004, filed 10/19/06, effective 11/19/06. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901.
		192-36-015	Criteria for approving a shared work plan. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.60.901. 96-11-141, § 192-36-015, filed 5/22/96, effective 6/22/96.] Repealed by 06-22-004, filed 10/19/06, effective 11/19/06. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901.
		192-36-020	Information for employers with an approved shared work plan. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.60.901. 96-11-141, § 192-36-020, filed 5/22/96, effective 6/22/96.] Repealed by 06-22-004, filed 10/19/06, effective 11/19/06. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901.
		192-36-025	Are corporate officers eligible for participation in the shared work program? [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.60.901. 96-11-141, § 192-36-025, filed 5/22/96, effective 6/22/96.] Repealed by 06-22-004, filed 10/19/06, effective 11/19/06. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901.
			Reviser's note: Later promulgation, see chapter 192-250 WAC.
			Chapter 192-42 FAMILY INDEPENDENCE PROGRAM EMPLOYMENT, TRAINING, AND EDUCATION RULES
		192-42-005	Duration of program. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-005, filed 5/31/88, effective 7/1/88.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.
		192-42-010	Definitions. [Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW. 90-01-014, § 192-42-010, filed 12/11/89, effective 1/11/90. Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-010, filed 5/31/88, effective 7/1/88.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.
		192-42-020	FIP employment and training. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-020, filed 5/31/88, effective 7/1/88.] Repealed by 90-01-014, filed 12/11/89, effective 1/11/90. Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW.
		192-42-021	Orientation. [Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW. 90-01-014, § 192-42-021, filed 12/11/89, effective 1/11/90.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.
		192-42-030	Employability plan. [Statutory Authority: RCW 50.12-010, 50.12.040 and chapter 74.21 RCW. 90-01-014, § 192-42-030, filed 12/11/89, effective 1/11/90. Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-030, filed 5/31/88, effective 7/1/88.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.
		192-42-040	Job search allowance. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-040, filed 5/31/88, effective 7/1/88.] Repealed by 90-01-014, filed 12/11/89, effective 1/11/90. Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW.
		192-42-050	Funding criteria. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-050, filed 5/31/88, effective 7/1/88.] Repealed by 90-01-014, filed 12/11/89, effective 1/11/90. Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW.
		192-42-056	Criteria for approval of employment and training activities and funding. [Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW. 90-01-014, § 192-42-056, filed 12/11/89, effective 1/11/90.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.

192-42-057	Notice of decisions. [Statutory Authority: RCW 50.12.-010, 50.12.040 and chapter 74.21 RCW. 90-01-014, § 192-42-057, filed 12/11/89, effective 1/11/90.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.
192-42-058	Job search allowance. [Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW. 90-01-014, § 192-42-058, filed 12/11/89, effective 1/11/90.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.
192-42-060	Labor dispute. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-060, filed 5/31/88, effective 7/1/88.] Repealed by 96-18-035, filed 8/28/96, effective 9/28/96. Statutory Authority: RCW 50.12.010 and 50.12.040.
192-42-070	Grievance procedure and appeals—Administrative review. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-070, filed 5/31/88, effective 7/1/88.] Repealed by 90-01-014, filed 12/11/89, effective 1/11/90. Statutory Authority: RCW 50.12.010, 50.12.-040 and chapter 74.21 RCW.
192-42-080	Dispute resolution process. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-080, filed 5/31/88, effective 7/1/88.] Repealed by 90-01-014, filed 12/11/89, effective 1/11/90. Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW.
192-42-081	Dispute resolution process. [Statutory Authority: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW. 90-01-014, § 192-42-081, filed 12/11/89, effective 1/11/90.] Repealed by 95-05-048, filed 2/10/95, effective 3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040.

Chapter 192-04 WAC

PRACTICE AND PROCEDURE

WAC

192-04-010	Adoption of model rules.
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192-04-040	Interested parties.
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192-04-150	Decisions—Contents.
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192-04-190	Petition for reconsideration—Filing—Consideration—Disposition—Judicial review.
192-04-200	Declaratory orders.
192-04-210	Petitions for judicial review—Service on agency.

WAC 192-04-010 Adoption of model rules. The model rules of procedure contained in chapter 10-08 WAC, as they exist now or may be hereafter amended, are, to the extent they are not inconsistent with the rules contained in this chapter, adopted as the rules of procedure before this agency. The rules contained in this chapter will, to the extent of any conflict with the model rules of procedure, be deemed

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to supersede the conflicting provisions of the model rules of procedure. The model rules of procedure will be included in the departmental publication provided for in RCW 50.12.-160.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-010, filed 11/30/89, effective 1/1/90.]

WAC 192-04-020 Definitions. Unless the context in this chapter clearly indicates otherwise, the following terms and phrases shall have these meanings:

(1) "Appeal" means a request for a hearing before and decision by the office of administrative hearings in a matter involving unemployment insurance benefits.

(2) "Petition for hearing" means a request for hearing before and decision by the office of administrative hearings in a matter involving unemployment insurance taxes.

(3) "Petition for review" means a request directed to the commissioner for a review of the proceedings held and decision issued by the office of administrative hearings.

(4) "Advisement order" means an order issued by the commissioner on his or her own motion assuming jurisdiction over a matter heard and/or decided by the office of administrative hearings.

(5) "Commissioner" means the commissioner's review office of the employment security department.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-020, filed 11/30/89, effective 1/1/90.]

WAC 192-04-030 Appeals—Petitions for review—Payments under federal programs. When the applicable federal law, regulations or guidelines for any federal program administered by the employment security department provides for the right of appeal, petition for hearing or petition for review from a determination or decision of the employment security department or the office of administrative hearings, the procedures outlined in Title 50 RCW, Title 34 RCW, and chapter 192-04 WAC shall, to the extent that said procedures are consistent with the federal law, regulations and guidelines, be utilized for the disposition of such appeals or petitions for review.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-030, filed 11/30/89, effective 1/1/90.]

WAC 192-04-040 Interested parties. In all cases adjudicated under Title 50 RCW the employment security department is an interested party. Other interested parties are:

(1) **Benefit appeals.**

(a) The claimant;

(b) Any employer entitled to notice under WAC 192-130-060, and

(c) An interested employer as defined in WAC 192-28-125, in cases involving the payment or recovery of benefits, including but not limited to the entitlement to, eligibility for or qualification for waiting period credit or benefits.

(2) **Tax appeals.** Employers whose contributions, experience rating, benefit charges, or rate of contribution are affected by:

(a) An assessment for contributions;

(b) A denial of a claim for refund of contributions, interest, penalties;

(c) A denial of a request for relief of benefit charges made to their account; or

(d) Their determined or redetermined rate of contribution.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-04-040, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040, 89-20-064 (Order 4-89), § 192-04-040, filed 10/4/89, effective 10/9/89.]

WAC 192-04-050 Appeals—Petitions for hearing—Right to notice. Notice of appeal or petition for hearing rights shall be set forth on the face of, or as an attachment to, each of the following:

(1) Redetermination of an initial monetary determination.

(2) Determination of allowance or denial of waiting period credit or benefits.

(3) Redetermination of allowance or denial of waiting period credit or benefits.

(4) An overpayment assessment or a denial of a request for waiver of an overpayment.

(5) Order and notice of assessment of contributions, interest, or penalties.

(6) Denial of a claim for refund of contributions, interest, or penalties.

(7) Denial of a request for relief of benefit charges made to an employer's account.

(8) Denial of a redetermination or adjustment of an employer's determined or redetermined rate of contribution.

(9) Denial of approval or extension of standby status.

(10) Denial of a request for commissioner approved training or training benefits.

(11) Notice to separating employer of liability for all benefits paid on a claim as provided in RCW 50.29.021 (2)(c).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-04-050, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040, 89-24-030, § 192-04-050, filed 11/30/89, effective 1/1/90.]

WAC 192-04-060 Appeals—Petitions for hearing—Petitions for review—Time limitation—Forms. (1) **Appeals and petitions for hearing.** Any interested party who is aggrieved by any decision of the department set forth in WAC 192-04-050 may file a written appeal or petition for hearing by mailing it or sending it via electronic telefacsimile to the unemployment claims telecenter indicated on the determination notice or order and notice of assessment.

The appeal or petition for hearing shall be filed within thirty days of the date the decision is delivered or mailed, whichever is the earlier. The appeal and/or petition for hearing shall be filed in accordance with the provisions of RCW 50.32.025.

(2) **Petitions for review.** Any interested party who is aggrieved by a decision of the office of administrative hearings, other than an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order, or an interim order, may file a written petition for review in accordance with the provisions of WAC 192-04-170. The petition for review shall be filed within thirty days of the date of delivery or mailing of the decision of the

office of administrative hearings, whichever is the earlier. The petition for review shall be filed in accordance with the provisions of RCW 50.32.025.

(3) **Forms.** At the request of an interested, aggrieved party, the employment security department shall furnish forms for the filing of a notice of appeal, petition for hearing, or petition for review, but the use of such forms is not a jurisdictional requirement.

[Statutory Authority: RCW 50.20.010 and 50.12.040, 99-15-069, § 192-04-060, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. 95-18-055, § 192-04-060, filed 8/31/95, effective 10/1/95. Statutory Authority: RCW 50.12.010 and 50.12.040, 89-24-030, § 192-04-060, filed 11/30/89, effective 1/1/90.]

WAC 192-04-063 Aggrieved party. An aggrieved party is a claimant or an employer who receives an adverse decision of the department set forth in WAC 192-04-050 or an adverse decision of the office of administrative hearings.

[Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. 95-18-055, § 192-04-063, filed 8/31/95, effective 10/1/95.]

WAC 192-04-070 Mailing addresses—Obligations of parties. Once an appeal or petition for hearing has been filed, any interested party must notify the office of administrative hearings of any change of mailing address.

Once a petition for review has been filed, any interested party must notify the commissioner's review office of any change of mailing address.

Any interested party who fails to comply with this regulation will not be deemed to have good cause for failure to appear at a hearing or for late filing of a petition for review or untimely submission of a reply or petition for reconsideration.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 89-24-030, § 192-04-070, filed 11/30/89, effective 1/1/90.]

WAC 192-04-080 Appeals—Petitions for hearing—Petitions for review—Advisement orders—Time computation. The time within which an appeal, a petition for hearing, a petition for review, or advisement order is to be perfected, under the provisions of the Employment Security Act (Title 50 RCW, as amended) shall be computed by excluding the day of delivery or mailing of the determination, redetermination, denial, order and notice of assessment, or decision and including the last day. If the last day is a Saturday or Sunday or a holiday, as defined in RCW 1.16.050, the appeal, petition for hearing, petition for review or advisement order must be perfected no later than the next business day.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 89-24-030, § 192-04-080, filed 11/30/89, effective 1/1/90.]

WAC 192-04-090 Untimely appeals—Petitions for hearing or petitions for review—Good cause. (1) The following factors shall be considered in determining whether good cause exists under RCW 50.32.075 for the late filing of an appeal, petition for hearing or petition for review:

(a) The length of the delay,

(b) The excusability of the delay, and

(c) Whether acceptance of the late filed appeal, petition for hearing, or petition for review will result in prejudice to other interested parties, including the department.

(2) In determining the excusability for the late filing of an appeal, petition for hearing or petition for review, the office of administrative hearings or the commissioner's review office shall take into account any physical, mental, educational or linguistic limitations of the appealing or petitioning party, including any lack of facility with the English language.

[Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. 95-18-055, § 192-04-090, filed 8/31/95, effective 10/1/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-090, filed 11/30/89, effective 1/1/90.]

WAC 192-04-100 Appeals—Petitions for hearing or petitions for review—Withdrawal of. Any interested party may withdraw his or her appeal, petition for hearing or petition for review at any time prior to a decision thereon, in which case the previous determination, redetermination, denial, order and notice of assessment or decision shall be final in accordance with the provisions of the Employment Security Act. Such withdrawal shall, however, be subject to the approval of the office of administrative hearings in the case of an appeal or petition for hearing, or of the commissioner in the case of a petition for review.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-100, filed 11/30/89, effective 1/1/90.]

WAC 192-04-110 Hearings—Representation—Cross-examination. Any interested party, or his or her legally authorized representative, shall have the right to give testimony and to examine and cross-examine any other interested party and/or witnesses with respect to facts material and relevant to the issues involved.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-110, filed 11/30/89, effective 1/1/90.]

WAC 192-04-120 Hearings—Postponements—Continuances. Any party to a hearing may request a postponement of a hearing at any time prior to the actual convening of the hearing. The granting or denial of the request will be at the discretion of the presiding administrative law judge.

The presiding administrative law judge may in the exercise of sound discretion grant a continuance of a hearing at any time at the request of any interested party or on his or her own motion.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-120, filed 11/30/89, effective 1/1/90.]

WAC 192-04-130 Discovery—Depositions and interrogatories. At the discretion of the presiding administrative law judge he or she may cause to be taken depositions or interrogatories on his or her own motion, or at the request of any interested party.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-130, filed 11/30/89, effective 1/1/90.]

WAC 192-04-140 Consolidated cases. The presiding administrative law judge may hear individual matters on a consolidated record if there is a substantial identity of issues and the rights of no party will be adversely affected thereby. Such procedure should provide for the hearing of additional or unique issues relating to individual cases.

(2009 Ed.)

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-140, filed 11/30/89, effective 1/1/90.]

WAC 192-04-150 Decisions—Contents. Every decision issued by the office of administrative hearings, other than an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order, or an interim order, and every decision issued by the commissioner pursuant to RCW 50.32.080, other than an interim order or an order granting or denying a motion for reconsideration or a stay, shall:

(1) Be correctly captioned as to the name of the agency and name of the proceeding;

(2) Designate all parties and representatives participating in the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

(5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

(6) Contain an initial or final order disposing of all contested issues;

(7) Be accompanied by or contain a statement of petition for review or petition for judicial review rights.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-150, filed 11/30/89, effective 1/1/90.]

WAC 192-04-160 Decision of commissioner—Incorporation. A decision of the commissioner issued pursuant to RCW 50.32.080 may incorporate by reference any portion of the decision under review. Such incorporation shall be deemed to meet the requirements of WAC 192-04-150.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-160, filed 11/30/89, effective 1/1/90.]

WAC 192-04-170 Decision of commissioner—Petition for review—Filing—Reply. (1) The written petition for review shall be filed by mailing it to the Agency Records Center, Employment Security Department, Post Office Box 9046, Olympia, WA 98507-9046, within thirty days of the date of mailing or delivery of the decision of the office of administrative hearings, whichever is the earlier.

(2) Any written argument in support of the petition for review must be attached to the petition for review and be filed contemporaneously therewith. The commissioner's review office will acknowledge receipt of the petition for review by assigning a review number to the case, entering the review number on the face of the petition for review, and setting forth the acknowledgement date on the petition for review. The commissioner's review office will also mail copies of the acknowledged petition for review and attached argument in support thereof to the petitioning party, nonpetitioning party and their representatives of record, if any.

(3) Any reply to the petition for review and any argument in support thereof by the nonpetitioning party shall be mailed to the Commissioner's Review Office, Employment Security Department, Post Office Box 9046, Olympia, WA 98504-9046. The reply must be received by the commissioner's review office within fifteen days of the date of mailing of the acknowledged petition for review. An informa-

tional copy shall be mailed by the nonpetitioning party to all other parties of record and their representatives, if any.

(4) The petition for review and argument in support thereof and the reply to the petition for review and argument in support thereof shall:

(a) Be captioned as such, set forth the docket number of the decision of the office of administrative hearings, and be signed by the party submitting it or by his or her representative.

(b) Be legible, reproducible and five pages or less.

(5) Arrangements for representation and requests for copies of the hearing record and exhibits will not extend the period for the filing of a petition for review, argument in support thereof, or a reply to the petition for review.

(6) Any argument in support of the petition for review or in reply thereto not submitted in accordance with the provisions of this regulation shall not be considered in the disposition of the case absent a showing that failure to comply with these provisions was beyond the reasonable control of the individual seeking relief.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-04-170, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.12.010, [50.12.]040 and 34.05.310 et seq. 95-18-055, § 192-04-170, filed 8/31/95, effective 10/1/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-170, filed 11/30/89, effective 1/1/90.]

WAC 192-04-175 Advise ment order. On behalf of the commissioner, the commissioner's review office may prevent finality of any decision of the office of administrative hearings and take jurisdiction of the proceedings for review thereof by issuing an order so providing and mailing a copy of the advise ment order to the parties of record and their representatives within the same period allowed for the filing of a petition for review. The parties of record will be given fifteen days to submit argument in support of or in opposition to the decision of the office of administrative hearings, as well as in response to any departmental memorandum suggesting to the commissioner's review office that it consider taking a decision of the office of administrative hearings under advise ment. That argument and/or response from the parties of record must be hand delivered or mailed to the commissioner's review office and received by that office within fifteen days from the date of mailing of the order taking the decision of the office of administrative hearings under advise ment.

[Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. 95-18-055, § 192-04-175, filed 8/31/95, effective 10/1/95.]

WAC 192-04-180 Decisions—Disposition other than by hearing on the merits—Petition for review. The presiding administrative law judge may dispose of any appeal or petition for hearing by an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order or an order of default. There shall be no petition for review rights from an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing or a consent order.

Any interested party aggrieved by the entry of an order of default may file a petition for review from such order by complying with the filing requirements set forth in WAC 192-04-170: Provided, however, That the default of such

party shall be set aside by the commissioner only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, the commissioner shall remand the matter to the office of administrative hearings for hearing and decision.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-180, filed 11/30/89, effective 1/1/90.]

WAC 192-04-190 Petition for reconsideration—Filing—Consideration—Disposition—Judicial review. (1) A written petition for reconsideration and argument in support thereof may be filed within ten days of the date of mailing or delivery of the decision of the commissioner, whichever is the earlier. It shall be mailed to the Commissioner's Review Office, Employment Security Department, Post Office Box 9046, Olympia, WA 98507-9046, and to all other parties of record and their representatives.

(2) No matter will be reconsidered by the commissioner unless it clearly appears from the face of the petition for reconsideration and the argument submitted in support thereof that (a) there is obvious material, clerical error in the decision or (b) the petitioner, through no fault of his or her own, has been denied a reasonable opportunity to present argument or respond to argument pursuant to WAC 192-04-170.

(3) A petition for reconsideration shall be deemed to have been denied if, within twenty days from the date the petition for reconsideration is filed, the commissioner does not either (a) dispose of the petition for reconsideration or (b) mail or deliver to the parties a written notice specifying the date by which he or she will act on the petition for reconsideration. If no action is taken by the date specified in such written notice, the petition will be deemed to have been denied.

(4) A petition for reconsideration does not stay the effectiveness of the decision of the commissioner. The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review. An order denying reconsideration or a written notice specifying the date upon which action will be taken on the petition for reconsideration is not subject to judicial review.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-04-190, filed 4/5/99, effective 5/6/99; 89-24-030, § 192-04-190, filed 11/30/89, effective 1/1/90.]

WAC 192-04-200 Declaratory orders. The commissioner will not issue a declaratory order on any matter that may be adjudicated under any statute, regulation or other provision of law. No declaratory order will be issued which is merely an advisory opinion.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-200, filed 11/30/89, effective 1/1/90.]

WAC 192-04-210 Petitions for judicial review—Service on agency. Delivery pursuant to RCW 34.05.542(4) shall be deemed to have been made when a copy of the petition for judicial review has been received by the: Agency Records Center at 212 Maple Park Drive, Olympia, WA 98504.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-04-210, filed 11/30/89, effective 1/1/90.]

Chapter 192-12 WAC
SUBSTANTIVE RULES

WAC

- 192-12-142 Claims, appeals, petitions—Filing not to be refused.
- 192-12-151 Benefit payments—Not a determination of allowance.
- 192-12-153 Payment of benefits—Initial allowance—Employer appeal.
- 192-12-154 Payment of benefits by appeals tribunal—Claimant appeal.
- 192-12-155 Payment of benefits by commissioner—Petition to court.
- 192-12-156 Overpayment of benefits—Credit to employers' account.
- 192-12-160 Withdrawals from trust fund.
- 192-12-170 Unemployment compensation administration fund.
- 192-12-173 Federal programs—Maintenance of regulations and guidelines.
- 192-12-365 Interpretive regulation—Definition of suitable work as it applies to agricultural labor.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 192-12-005 Adequate notice and opportunity to be heard defined. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-12-005, filed 5/28/87, effective 8/30/87.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-12-010 General definitions and use of terms. [Regulation 1, adopted 6/10/53, effective 6/20/53.] Repealed by 99-20-125, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.12.010.
- 192-12-011 Continued claim definitions. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-12-011, filed 5/28/87, effective 8/30/87.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-012 Conditional payment of continued claim recipients when eligibility is questioned. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-12-012, filed 5/28/87, effective 8/30/87.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-015 Definitions relating to RCW 50.04.145 and 50.24.130. [Statutory Authority: RCW 50.12.010 and 50.12.040. 82-17-052 (Order 6-82), § 192-12-015, filed 8/17/82.] Repealed by 99-20-126, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW, RCW 50.04.145 and 50.24.130.
- 192-12-017 Definitions relating to use of shop facilities contingent upon compensation—Other consideration—RCW 50.04.225. [Statutory Authority: RCW 50.12.010 and 50.12.040. 82-17-052 (Order 6-82), § 192-12-017, filed 8/17/82.] Repealed by 92-14-047, filed 6/24/92, effective 7/25/92. Statutory Authority: RCW 50.12.010 and 51.12.040.
- 192-12-018 Definitions relating to musicians—Conditions for exemption of musicians and entertainers under chapter 50.04 RCW (section 1, chapter 47, Laws of 1985). [Statutory Authority: RCW 50.12.010, 50.12.040, chapter 50.04 RCW and 1985 c 47 § 1. 85-22-045 (Order 7-85), § 192-12-018, filed 11/1/85.] Repealed by 99-23-100, filed 11/17/99, effective 12/18/99. Statutory Authority: Chapters 34.05 and 50.12 RCW.
- 192-12-019 Employer request for benefit charge relief. [Statutory Authority: RCW 50.12.010 and 50.12.040. 88-16-077 (Order 8-88), § 192-12-019, filed 8/2/88. Statutory Authority: Chapter 50.04 RCW, RCW 50.29.020, 50.12.010 and 50.12.040. 85-21-023 (Order 5-85), § 192-12-019, filed 10/10/85.] Repealed by 92-14-047, filed 6/24/92, effective 7/25/92. Statutory Authority: RCW 50.12.010 and 51.12.040.
- 192-12-020 Week defined. [Regulation 2, adopted 6/10/53, effective 6/20/53.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05.

- 192-12-025 Requirements of corporations electing coverage of corporate officers. [Statutory Authority: RCW 50.04.165, 50.12.010 and 50.12.040. 89-03-068 (Order 1-89), § 192-12-025, filed 1/18/89. Statutory Authority: RCW 50.04.165, 50.12.010, 50.12.040 and 1986 c 110. 86-14-031 (Order 2-86), § 192-12-025, filed 6/26/86. Statutory Authority: RCW 50.04.165, 50.12.010 and 50.12.040. 83-23-034 (Order 3-83), § 192-12-025, filed 11/9/83. Statutory Authority: RCW 50.04.165, 50.04.320, 50.12.010 and 50.12.040. 81-23-010 (Order 4-81), § 192-12-025, filed 11/10/81.] Repealed by 00-05-064, filed 2/15/00, effective 3/17/00. Statutory Authority: RCW 50.12.010, 50.12.040.
- 192-12-030 Reports required of persons or entities for whom personal services are performed as provided by RCW 50.12.070 and 50.20.150. [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-12-030, filed 10/28/94, effective 11/28/94. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-12-030, filed 8/14/78; Order 2602, § 192-12-030, filed 4/24/70; Regulation 3, filed 12/1/65, effective 1/1/66; Regulation 3, adopted 5/31/55, effective 7/3/55.] Repealed by 98-14-068, filed 6/30/98, effective 7/31/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-035 Registration of political subdivisions and instrumentalities thereof. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-12-035, filed 8/14/78.] Repealed by 99-20-118, filed 10/6/99, effective 11/6/99.
- 192-12-040 Contributions by employers. [Statutory Authority: RCW 50.12.010 and 50.12.040. 85-11-038 (Order 1-85), § 192-12-040, filed 5/15/85; Order 2602, § 192-12-040, filed 4/24/70; Regulation 4, adopted 6/10/53, effective 6/20/53.] Repealed by 98-14-068, filed 6/30/98, effective 7/31/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-041 Application of payments. [Statutory Authority: RCW 50.12.010 and 50.12.040. 80-10-052 (Order 4-80), § 192-12-041, filed 8/6/80. Statutory Authority: RCW 50.12.010. 80-02-034 (Order 1-80), § 192-12-041, filed 1/10/80.] Repealed by 98-14-068, filed 6/30/98, effective 7/31/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-042 Reports and contributions subject to penalty. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-21-002 (Order 5-87), § 192-12-042, filed 10/8/87. Statutory Authority: RCW 50.12.010. 80-02-034 (Order 1-80), § 192-12-042, filed 1/10/80.] Repealed by 98-14-068, filed 6/30/98, effective 7/31/98. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-043 Definition of student for purpose of RCW 50.44.040(8). [Order 2-72, § 192-12-043, filed 7/6/72.] Repealed by 99-23-099, filed 11/17/99, effective 12/18/99. Statutory Authority: Chapters 34.05 and 50.04 RCW.
- 192-12-050 Records. [Statutory Authority: RCW 50.12.010 and 50.12.040. 90-08-028, § 192-12-050, filed 3/29/90, effective 4/29/90. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-12-050, filed 8/14/78; Regulation 5, adopted 6/10/53, effective 6/20/53.] Repealed by 00-01-164, filed 12/21/99, effective 1/21/00. Statutory Authority: Chapters 34.05 and 50.12 RCW. Later promulgation, see WAC 192-310-050 and 192-310-055.
- 192-12-060 Joint accounts. [Order 2602, § 192-12-060, filed 4/24/70; Regulation 6, adopted 6/10/53, effective 6/20/53.] Repealed by 99-20-128, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.24.170.
- 192-12-066 Tips as wages—Remuneration. [Statutory Authority: RCW 50.04.320, 50.12.010 and 50.12.040. 87-01-026 (Order 5-86), § 192-12-066, filed 12/11/86.] Repealed by 99-20-129, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.04.320.
- 192-12-070 Cash value of certain remunerations. [Statutory Authority: RCW 50.12.010 and 50.12.040. 85-11-038 (Order 1-85), § 192-12-070, filed 5/15/85. Statutory Authority: RCW 50.04.165, 50.04.320, 50.12.010 and 50.12.040. 81-23-010 (Order 4-81), § 192-12-070, filed 11/10/81. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-12-070, filed 8/14/78; Rule 1, filed 12/1/65, effective 1/1/66; Rule 1, adopted 11/21/49, effective 10 days after filing with secretary of state and

- publication.] Repealed by 99-20-130, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.04.320.
- 192-12-072 Predecessor-successor relationship defined. [Statutory Authority: RCW 50.12.010 and 50.12.040. 92-14-047, § 192-12-072, filed 6/24/92, effective 7/25/92; 85-11-038 (Order 1-85), § 192-12-072, filed 5/15/85.] Repealed by 00-05-068, filed 2/15/00, effective 3/17/00. Statutory Authority: RCW 50.12.010, 50.12.040.
- 192-12-074 Predecessor-successor transfers through intermediaries. [Statutory Authority: RCW 50.12.010 and 50.12.040. 85-11-038 (Order 1-85), § 192-12-074, filed 5/15/85.] Repealed by 99-20-131, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW, RCW 50.04.320 and 50.29.062.
- 192-12-076 Delinquent predecessor contributions. [Statutory Authority: RCW 50.12.010 and 50.12.040. 85-11-038 (Order 1-85), § 192-12-076, filed 5/15/85.] Repealed by 00-01-165, filed 12/21/99, effective 1/21/00. Statutory Authority: Chapters 34.05, 50.12 RCW and portion of RCW 50.29.062. Later promulgation, see WAC 192-320-060.
- 192-12-080 Workers to procure Social Security account numbers. [Regulation 7, adopted 6/10/53, effective 6/20/53.] Repealed by 99-20-119, filed 10/6/99, effective 11/6/99.
- 192-12-090 Employer elections to cover individuals performing personal services in more than one state. [Order 2602, § 192-12-090, filed 4/24/70; Regulation 8, adopted 6/10/53, effective 6/20/53.] Repealed by 99-20-132, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.12.060.
- 192-12-100 Posting of notices by employers. [Regulation 9, adopted 6/10/53, effective 6/20/53.] Repealed by 99-20-133, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.20.140.
- 192-12-110 Employing unit's liability for contributions due from contractors or subcontractors. [Order 2-73, § 192-12-110, filed 11/15/73; Regulation 10, adopted 6/10/53, effective 6/20/53.] Repealed by 99-20-120, filed 10/6/99, effective 11/6/99.
- 192-12-115 Bonding and deposit requirements, nonprofit organizations. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-23-002 (Order 6-87), § 192-12-115, filed 11/5/87. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-12-115, filed 8/14/78.] Repealed by 99-20-121, filed 10/6/99, effective 11/6/99.
- 192-12-120 Secrecy of information. [Order 2-73, § 192-12-120, filed 11/15/73; Regulation 11, adopted 6/10/53, effective 6/20/53.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.12.010.
- 192-12-130 Unemployment benefits for interstate claimants. [Statutory Authority: RCW 50.12.010, [50.12.]040, 50.20.-010, [50.20.]140 and 50.12.050. 95-18-107, § 192-12-130, filed 9/6/95, effective 10/7/95; Rule 12, adopted 6/10/53, effective 6/20/53.] Repealed by 99-15-069, filed 7/19/99, effective 8/19/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-12-131 Pending of benefit claims—Notice. [Statutory Authority: RCW 50.12.010 and 50.12.040. 84-02-061 (Order 1-84), § 192-12-131, filed 1/4/84.] Repealed by 84-13-050 (Order 4-84), filed 6/18/84. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-132 Pending of benefit claims—Notice—Advice on rights. [Statutory Authority: RCW 50.12.010 and 50.12.040. 84-02-061 (Order 1-84), § 192-12-132, filed 1/4/84.] Repealed by 84-13-050 (Order 4-84), filed 6/18/84. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-134 Overpayments—Offsets—Right to hearing. [Statutory Authority: RCW 50.12.010 and 50.12.040. 84-02-061 (Order 1-84), § 192-12-134, filed 1/4/84.] Repealed by 87-01-026 (Order 5-86), filed 12/11/86. Statutory Authority: RCW 50.04.320, 50.12.010 and 50.12.040.
- 192-12-140 Registration and claims for benefits. [Order 2-72, § 192-12-140, filed 7/6/72; Regulation 13, effective 5/15/58.] Repealed by Order 2-77, filed 9/2/77.
- 192-12-141 Applying for unemployment benefits. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.20.140. 98-06-097, § 192-12-141, filed 3/4/98, effective 4/4/98. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.140 and 50.12.050. 95-18-107, § 192-12-141, filed 9/6/95, effective 10/7/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 93-10-025, § 192-12-141, filed 4/28/93, effective 5/29/93; 87-12-021 (Order 2-87), § 192-12-141, filed 5/28/87, effective 8/30/87; Order 2-75, § 192-12-141, filed 2/10/75.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-12-150 Payment of benefits to partially unemployed persons and stand-by workers as provided by RCW 50.04.310, 50.20.010, and 50.20.130. [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-12-150, filed 10/28/94, effective 11/28/94. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-12-150, filed 8/14/78; Regulation 14, adopted and effective 5/15/58.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-12-157 Recovery of benefit payments. [Order 2-73, § 192-12-157, filed 11/15/73.] Repealed by 85-21-024 (Order 6-85), filed 10/10/85. Statutory Authority: RCW 50.20.-190, 50.12.010 and 50.12.040.
- 192-12-158 Belltown Job Service Center services. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-03-006 (Order 1-87), § 192-12-158, filed 1/9/87.] Repealed by 93-20-037, filed 9/28/93, effective 10/29/93. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-180 Training defined. [Statutory Authority: RCW 50.12.-010 and 50.12.040. 93-16-053, § 192-12-180, filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 50.20.043, 50.12.010 and 50.12.040. 89-03-069 (Order 2-89), § 192-12-180, filed 1/18/89; Order 2-73, § 192-12-180, filed 11/15/73.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-182 Training—Approval by commissioner. [Statutory Authority: RCW 50.12.010 and 50.12.040. 93-16-053, § 192-12-182, filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 50.20.043, 50.12.010 and 50.12.040. 89-03-069 (Order 2-89), § 192-12-182, filed 1/18/89. Statutory Authority: RCW 50.12.010 and 50.12.040. 80-10-052 (Order 4-80), § 192-12-182, filed 8/6/80; Order 2-73, § 192-12-182, filed 11/15/73.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-12-184 Training—Unemployment benefits while pursuing training. [Statutory Authority: RCW 50.12.010, 50.12.-040 and 50.20.010. 95-09-085, § 192-12-184, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 93-16-053, § 192-12-184, filed 7/29/93, effective 8/29/93; 80-10-052 (Order 4-80), § 192-12-184, filed 8/6/80; Order 2-73, § 192-12-184, filed 11/15/73.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-186 Training—Commissioner approval or denial of training. [Statutory Authority: RCW 50.12.010 and 50.12.040. 93-16-053, § 192-12-186, filed 7/29/93, effective 8/29/93; Order 2-73, § 192-12-186, filed 11/15/73.] Repealed by 07-23-129, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012.
- 192-12-190 Directive to attend job search workshop or training or retraining course according to RCW 50.20.044. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-12-190, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.20.-044. 84-24-061 (Order 6-84), § 192-12-190, filed 12/5/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-300 Mailing addresses for notice to employer. [Statutory Authority: RCW 50.12.010 and 50.12.040. 96-16-018, § 192-12-300, filed 7/26/96, effective 8/26/96; 91-19-007, § 192-12-300, filed 9/6/91, effective 9/8/91; 89-20-064 (Order 4-89), § 192-12-300, filed 10/4/89, effective 10/9/89.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-305 Claimant responsibility for providing accurate employer address. [Statutory Authority: RCW 50.12.010 and 50.12.040. 91-19-007, § 192-12-305, filed 9/6/91, effective 9/8/91; 89-20-064 (Order 4-89), § 192-12-305, filed 10/4/89, effective 10/9/89.] Repealed by 96-16-018, filed 7/26/96, effective 8/26/96. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-12-310 Notice to employer. [Statutory Authority: RCW 50.12.-010 and 50.12.040. 91-19-007, § 192-12-310, filed 9/6/91, effective 9/8/91; 89-20-064 (Order 4-89), § 192-

- 12-310, filed 10/4/89, effective 10/9/89.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-320 Mailing of determination notices under RCW 50.20-180. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-12-320, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 91-19-007, § 192-12-320, filed 9/6/91, effective 9/8/91; 89-20-064 (Order 4-89), § 192-12-320, filed 10/4/89, effective 10/9/89.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-330 Predetermination procedure—Separation issue. [Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-12-330, filed 4/5/99, effective 5/6/99; 91-19-007, § 192-12-330, filed 9/6/91, effective 9/8/91; 89-20-064 (Order 4-89), § 192-12-330, filed 10/4/89, effective 10/9/89.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-340 Discharges for misconduct for felony or gross misdemeanor—Responsibility for providing information. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-12-340, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 89-20-064 (Order 4-89), § 192-12-340, filed 10/4/89, effective 10/9/89.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-12-350 Interpretive regulation—Inclusion of farm labor contractor. [Statutory Authority: RCW 50.12.010 and 50.12.040. 90-08-028, § 192-12-350, filed 3/29/90, effective 4/29/90.] Repealed by 99-20-122, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05 and 50.12 RCW.
- 192-12-355 Interpretive regulation—Clarification of agricultural liability. [Statutory Authority: RCW 50.12.010 and 50.12.040. 90-08-028, § 192-12-355, filed 3/29/90, effective 4/29/90.] Repealed by 99-20-123, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05 and 50.12 RCW.
- 192-12-360 Interpretive regulation—Inclusion of immediate family members of partners. [Statutory Authority: RCW 50.12.010 and 50.12.040. 90-08-028, § 192-12-360, filed 3/29/90, effective 4/29/90.] Repealed by 99-20-127, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.04.150.
- 192-12-380 Definitions relating to RCW 50.04.140. [Statutory Authority: RCW 50.12.010 and 50.12.040. 91-24-056, § 192-12-380, filed 11/27/91, effective 1/1/92.] Repealed by 99-20-124, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05 and 50.12 RCW.
- 192-12-400 Employer request for benefit charge relief. [Statutory Authority: RCW 50.12.010 and 50.12.040. 92-14-047, § 192-12-400, filed 6/24/92, effective 7/25/92.] Repealed by 00-01-167, filed 12/21/99, effective 1/21/00. Statutory Authority: Chapter 34.05 RCW and RCW 50.20.020(2).
- 192-12-405 Conditions for relief of benefit charges. [Statutory Authority: RCW 50.12.010 and 50.12.040. 92-14-047, § 192-12-405, filed 6/24/92, effective 7/25/92.] Repealed by 00-05-069, filed 2/15/00, effective 3/17/00. Statutory Authority: RCW 50.12.010, 50.12.040.

WAC 192-12-142 Claims, appeals, petitions—Filing not to be refused. No employee or agent of the employment security department shall refuse to accept for filing any claim, appeal, or petition relating to any program administered by the department regardless of his or her personal evaluation of the efficacy of such action.

[Order 2-72, § 192-12-142, filed 7/6/72.]

WAC 192-12-151 Benefit payments—Not a determination of allowance. Benefit payments which are identified as "conditional payments" in the message portion of the mailer will not be deemed determinations of allowance under RCW 50.20.160(3).

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[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-12-151, filed 6/18/84.]

WAC 192-12-153 Payment of benefits—Initial allowance—Employer appeal. A determination of allowance of benefits shall result in the prompt payment of any benefits due. The filing of an appeal by the employer shall not serve to stay the payment of benefits.

[Order 2-72, § 192-12-153, filed 7/6/72; General Order 2, § 192-12-153, filed 12/9/70.]

WAC 192-12-154 Payment of benefits by appeals tribunal—Claimant appeal. To the extent that any appeals decision allows benefits by reversing or modifying a local office determination such benefits shall be promptly paid. The filing of a petition for the commissioner's review shall not operate to stay the effect of the appeals tribunal decision.

[Order 2-72, § 192-12-154, filed 7/6/72; General Order 2, § 192-12-154, filed 12/9/70.]

WAC 192-12-155 Payment of benefits by commissioner—Petition to court. To the extent that any commissioner's decision allows benefits by reversing or modifying an appeal tribunal decision, such benefits shall be promptly paid. The filing of a petition for judicial review shall not operate to stay the effect of the commissioner's decision.

[Order 2-72, § 192-12-155, filed 7/6/72; General Order 2, § 192-12-155, filed 12/9/70.]

WAC 192-12-156 Overpayment of benefits—Credit to employers' account. Benefits paid pursuant to WAC 192-12-153 through 192-12-155 shall be recoverable to the extent allowable pursuant to RCW 50.20.190 in the event that the decision allowing benefits is ultimately modified or reversed. Such ultimate reversal or modification shall not affect previous benefit charges based thereon; however, benefit credits in an amount equal to the erroneous charges shall be applied to the employers' account for the calendar year in which the decision is ultimately modified or reversed.

[Order 2-72, § 192-12-156, filed 7/6/72; General Order 2, § 192-12-156, filed 12/9/70.]

WAC 192-12-160 Withdrawals from trust fund. Section 62 of the act (RCW 50.16.030) provides: "Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and repayment of loans from the federal government to guarantee solvency of the unemployment compensation fund in accordance with regulations prescribed by the commissioner. * * *"

The commissioner accordingly prescribes: Moneys may be requisitioned from the unemployment trust fund from time to time when it shall be necessary for the payment of benefits upon requisitions signed by either the commissioner, the deputy commissioner, the supervisor of the unemployment compensation division or the treasurer of the unemployment compensation fund. Requisitions signed by any of the foregoing persons shall be deemed to be requisitions of the commissioner.

[Regulation 17, filed 12/1/65, effective 1/1/66; Regulation 17, adopted 6/10/53, effective 6/20/53.]

WAC 192-12-170 Unemployment compensation administration fund. Section 64 of the act (RCW 50.16.-050) provides: " * * * The unemployment compensation administration fund shall consist of all moneys received from the United States of America or any department or agency thereof, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed by the treasurer of the unemployment compensation fund under rules and regulations of the commissioner and none of the provisions of section 5501 of Remington's Revised Statutes, as amended, shall be applicable to this revolving fund * * * ."

The commissioner accordingly prescribes: The treasurer shall deposit in, administer and disburse from the unemployment compensation administration fund in accordance with the terms of part IV (Fiscal management) of the Employment Security Manual, United States Department of Labor, Bureau of Employment Security, as it now is or as it may hereafter be amended.

[Regulation 18, adopted 6/10/53, effective 6/20/53.]

WAC 192-12-173 Federal programs—Maintenance of regulations and guidelines. The employment security department shall maintain a compilation of the federal law, regulations and guidelines governing the operations of federal programs administered by this agency. The compilation will be available at each local office and at the central office in Olympia. Each office shall have at least one person available to assist individuals seeking information on such programs.

[Order 2-72, § 192-12-173, filed 7/6/72.]

WAC 192-12-365 Interpretive regulation—Definition of suitable work as it applies to agricultural labor. RCW 50.20.100 requires that:

" . . . for individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets the conditions in RCW 50.20.110 or the commissioner finds elements of specific work opportunity unsuitable for a particular individual."

For the purposes of determining the suitability of agricultural labor, the commissioner may consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's skill level, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors that are pertinent to the individual's capacity to perform the work.

As it applies to suitable work, the department will use the definition of agricultural labor in RCW 50.04.150.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 90-08-028, § 192-12-365, filed 3/29/90, effective 4/29/90.]

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Chapter 192-15 WAC

PUBLIC DISCLOSURE AND PRIVACY OF INFORMATION

WAC

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WAC 192-15-010 Purpose. The purpose of this chapter is to insure compliance by the employment security department with the provisions of RCW 42.17.250 through 42.17.-320 concerning disclosure of public records, and to interpret and implement the provisions of chapter 50.13 RCW concerning the privacy and confidentiality of information or records held by the employment security department.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-010, filed 8/14/78.]

WAC 192-15-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-020, filed 8/14/78.]

WAC 192-15-030 Description of central and field organization of employment security department. (1) The employment security department is a public service agency. The administrative office of the employment security department and its staff are located at 212 Maple Park, Olympia, Washington 98504.

(2) The employment security department is headed by a commissioner appointed by the governor. Under the commissioner are an executive assistant, three deputy commissioners, and a limited number of special staff that report directly to him. There are also assistant attorneys general assigned to

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the department who provide legal services in all agency matters.

(a) Under the executive assistant to the commissioner are the public information office, the veterans services office, the legislative liaison, and the labor liaison.

(b) Under the deputy commissioner for field services are the personnel section, the reviewing officers, the monitor advocate, and the community organizations liaison.

(c) Under the deputy commissioner for resources and programs are employment and training (CETA), staff development, employment services, and unemployment insurance.

(d) Under the deputy commissioner for support services are the office of management and budget and the office of general administration.

(3) Job service centers and tax offices are located throughout the state and are headed by a manager.

[Statutory Authority: RCW 50.13.030, 78-09-027 (Order 1-78), § 192-15-030, filed 8/14/78.]

WAC 192-15-040 Procedures for obtaining public records—Designation of departmental employees responsible for public records.

(1) The public records of the employment security department shall be in the custody of the administrator, office of general administration, who will be responsible for implementing departmental regulations regarding the release of public records and for insuring compliance by departmental employees with chapters 50.13 and 42.17 RCW and chapter 192-15 WAC.

(2) The department shall appoint a responsible employee or employees in each job service center and tax office to handle requests for public records. In the central office, the records officer, and such agents as he appoints, shall handle such requests.

(a) The responsible departmental employees shall familiarize themselves with chapters 50.13 and 42.17 RCW, and chapter 192-15 WAC.

(b) All identifiable requests for public records shall be referred to these employees, except in cases of subpoenas which shall be handled as specified by WAC 192-15-070.

(3) Requests for public records may be made orally, except in the case of governmental agency requests for individual or employing unit records under RCW 50.13.060 which shall be handled as specified by WAC 192-15-060.

(a) If the responsible departmental employee is reasonably satisfied that the public record may be released under the provisions of chapters 42.17 and 50.13 RCW and these regulations, he may release it or provide access to the individual requesting it. If the employee is not satisfied that the requested information should be released, he shall refuse access to the public record.

(b) The departmental employee may consult with the department's records officer, or his agents, and/or any assistant attorney general for the department if he is unsure whether the public record should be released.

(4) Anyone refused access to public records held by the department who feels this refusal was improper may complete a request for public records form provided by the department at one of its offices.

(a) This form shall be published by the department's records officer and shall include a space for description of the

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records requested and for specification of reasons why the refusal of access was improper.

(b) The responsible departmental employee shall send the completed form to the department's records officer for consideration of the refusal.

(i) If the records officer, or his agents, decides that the public records may be disclosed under chapters 50.13 and 42.17 RCW and these regulations, he shall send the requested records to the appropriate departmental office or advise the date and place where the records will be available.

(ii) If the records officer, or his agents, decides that the public record cannot be disclosed or can only be partly disclosed under chapters 50.13 or 42.17 RCW and these regulations, he shall prepare a statement briefly explaining the reason that the record cannot be disclosed, including a statement of the specific statute prohibiting disclosure and an explanation of how the statute applies to the withheld record. This statement shall be forwarded to the proper job service center or tax office or to the person or agency requesting the records.

(iii) The records officer, or his agents, shall act as promptly as circumstances allow.

(5) In the event that the responsible departmental employee refuses access to records or information requested pursuant to RCW 50.13.050(1), the request form shall be sent to the appeal tribunal for handling by the examiner who is to hear the case in question. The examiner shall authorize the disclosure of the information or records if he deems them material to the proceeding. If the examiner does not deem the information or records material, he shall notify the interested party that they will not be disclosed and include an explanation of his action in his decision in the proceeding. After the decision of the appeal examiner and within the time limit provided in RCW 50.32.070, the interested party may petition the commissioner for a new hearing or the reopening of a hearing if the refusal to disclose was improper and prejudiced the presentation of the party's case. This procedure for review by the commissioner shall be in lieu of the procedure provided in WAC 192-15-050.

[Statutory Authority: RCW 50.13.030, 78-09-027 (Order 1-78), § 192-15-040, filed 8/14/78.]

WAC 192-15-050 Commissioner's review of denials of public records requests.

(1) Any person who objects to the written denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review to the records officer, or other staff member denying the request. The written request shall specifically refer to the written statement by the records officer, or other staff member, which constituted or accompanied the written denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the records officer, or other staff member denying the request, shall refer it to the commissioner of the employment security department. The commissioner shall immediately consider the matter and either affirm or reverse such written denial. In any case, the request shall be returned with a final decision, within two business days following the original written denial.

(3) Administrative remedies shall not be considered exhausted until the employment security department has

returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-050, filed 8/14/78.]

WAC 192-15-060 Access to individual or employing unit records or information by government agencies—RCW 50.13.060. (1) Applications by government agencies for information or records deemed private and confidential by chapter 50.13 RCW shall be made to the responsible departmental employees specified in WAC 192-15-040. The applications shall be in writing on forms provided by the department.

(a) If the departmental employee is reasonably satisfied that the application meets the requirements of RCW 50.13-060, the government agency may have access to the information or records.

(b) If the departmental employee is not reasonably satisfied that the application meets the requirements of RCW 50.13.060 and refuses access, the agency may attach its application to the form specified by WAC 192-15-040(4) and obtain review of the refusal in the manner outlined in WAC 192-15-040 and 192-15-050.

(2) In the event of a refusal by a responsible departmental employee to release records or information under RCW 50.13.060(3), the government agency can immediately contact the commissioner for appeal.

(3) RCW 50.13.060(5) shall be interpreted to permit establishment of routine procedures for detection of fraud by claimants under the various social programs administered by government agencies. This statute permits access only to information needed to identify individuals improperly claiming under different programs. Further investigation of employment security department files concerning these individuals may be accomplished only if the normal requirements of RCW 50.13.060 are met.

(4) The term "other official of the agency" as used in RCW 50.13.060 (1)(b) means an employee who has substantial responsibility for the operation of the requesting agency or for one or more of its programs or administrative units.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-060, filed 8/14/78.]

WAC 192-15-070 Response to subpoenas—RCW 50.13.070. An employee called to testify in a judicial or administrative proceeding shall not disclose information or records deemed private and confidential under chapter 50.13 RCW, unless the presiding officer makes a finding that the need for the disclosure outweighs any reasons for the privacy and confidentiality of the records or information, or unless the employee is responding to a subpoena containing such a finding.

An employee receiving a subpoena should notify one of the responsible departmental employees who has been designated to handle requests for public records pursuant to WAC 192-15-040. This latter employee should make arrangements for the appropriate response to the subpoena, including attendance of the proper employee before the tribunal. The departmental employee may contact the records officer for guidance.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-070, filed 8/14/78.]

WAC 192-15-080 Access to public records for operation and management purposes—RCW 50.13.080. RCW 50.13.080 shall be interpreted to permit incidental access to private or confidential information and records by private parties who are assisting the department in such areas as data processing and collection of employment security contributions. These parties are bound by the rules of confidentiality and privacy applicable to departmental employees and their activities will be monitored by the department to insure that private and confidential information or records are being handled correctly.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-080, filed 8/14/78.]

WAC 192-15-090 Consent to release of records or information—RCW 50.13.100. RCW 50.13.100, concerning consent to release of information or records deemed private and confidential, shall be liberally interpreted so that the department may release information or records to third parties who have been able to supply the department with reasonable written or oral assurances of their identity and that they are acting with the approval of the individual or employing unit whose records are involved. In cases where a certain record contains information about more than one individual or employing unit, all individuals or employing units concerned must give their consent before a record may be released or disclosed to other than the individuals or employing units.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-090, filed 8/14/78.]

WAC 192-15-100 Disclosure related to employment security programs. Chapter 50.13 RCW shall not be interpreted to prevent the employment security department from:

(1) Disclosing information in carrying out the department's duties under Title 50 RCW or under any other program for which the department is responsible; or

(2) Disclosing information to the employment security agencies of other states when such disclosure relates to the administration of the employment security law of the requesting state; or

(3) Disclosing information to the Internal Revenue Service when such disclosure relates to the Federal Unemployment Tax Act.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 195-15-100 (codified as WAC 192-15-100), filed 8/14/78.]

WAC 192-15-110 Public records available. All public records of the employment security department, as defined in WAC 192-15-020 shall be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-110, filed 8/14/78.]

WAC 192-15-120 Office hours. Public records shall be available for inspection and copying during the customary office hours of the employment security department. For the

purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-120, filed 8/14/78.]

WAC 192-15-130 Copying. No fee shall be charged for the inspection of public records. The employment security department shall charge an established amount per page of copy for providing copies of public records and for use of the employment security department copy equipment. This charge is the amount necessary to reimburse the employment security department for its actual costs incident to such copying.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-130, filed 8/14/78.]

WAC 192-15-140 Protection of public records. When a public record is turned over for inspection or copying, a place will be provided so that adequate surveillance may be made to prevent damage, disorganization, and loss of such records. At no time shall the original record be transported from one area to another without a member of the agency staff being present.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-140, filed 8/14/78.]

WAC 192-15-150 Records index—Available material. The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records as specified in RCW 42.17.260(2), because of the complexity and diversity of its operations and the resulting volume of correspondence[,], reports, survey, staff studies and other materials. The department will make available for public inspection and copying all indexes which may at a future time be developed for agency use.

The following records shall be available for inspection and copying through the office of the public records officer and, in addition, those marked with an asterisk (*) shall be available for inspection through the department's local employment centers.

- (1) Laws relating to employment security.*
- (2) Employment security department rules* Title 192 WAC.
- (3) Digest commissioner's decisions.*
- (4) Unemployment insurance tax administration audit manual.
- (5) Tax branch policy manual.
- (6) Benefit policy guide.*
- (7) Unemployment insurance procedures manual.
- (8) Inventory of equipment.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-15-150, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.12.010. 80-07-026 (Order 2-80), § 192-15-150, filed 6/12/80. Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-150, filed 8/14/78.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

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WAC 192-15-160 Responsible addressee. All communications with the employment security department including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the employment security department's decisions and other matters, shall be addressed as follows: Employment Security Department, Attention: Administrator, Office of General Administration, Olympia, Washington 98504.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-160, filed 8/14/78.]

WAC 192-15-170 Forms. The employment security department will provide forms for use by all persons requesting inspection and/or copying or copies of its records.

[Statutory Authority: RCW 50.13.030. 78-09-027 (Order 1-78), § 192-15-170, filed 8/14/78.]

Chapter 192-16 WAC

INTERPRETATIVE REGULATIONS OF THE COMMISSIONER OF THE EMPLOYMENT SECURITY DEPARTMENT

WAC

192-16-004	Interpretive regulation—Benefit year—Further defining initial separation from employment—RCW 50.04.030.
192-16-005	Interpretative regulations—Applications for initial determinations—Backdating—RCW 50.04.030.
192-16-009	Disqualification for leaving work voluntarily—Meaning of good cause for claims with an effective date prior to January 4, 2004—RCW 50.20.050(1).
192-16-015	Leaving work for marital or domestic reasons—RCW 50.20.050 (1)(d).
192-16-016	Satisfying disqualification under RCW 50.20.050 (1)(d) when separation is for reasons of marital status and marriage occurs after date of separation.
192-16-025	Lump sum retirement payment.
192-16-030	Interpretive regulation—Computation of pension deductions under RCW 50.04.323.
192-16-050	Diversion of unemployment benefits to satisfy child support obligations.
192-16-055	Interpretive regulations—Special coverage provisions—Bona fide notification of intent for substitute teacher—RCW 50.44.050(1).

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-16-001	Interpretative regulations—Employer reports—Effect of omitting information—Limitation. [Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-16-001, filed 8/14/78; Order 2-77, § 192-16-001, filed 9/2/77; Order 4-75, § 192-16-001, filed 8/29/75, effective 10/6/75.] Repealed by 99-20-134, filed 10/6/99, effective 11/6/99. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 49.46.020.
192-16-002	Employer reports—Further defining hours worked—RCW 50.12.070. [Statutory Authority: RCW 50.12.-010, 50.12.040, 50.20.010 and 50.12.070. 96-11-002, § 192-16-002, filed 5/2/96, effective 7/1/96. Statutory Authority: RCW 50.12.010. 78-09-027 (Order 1-78), § 192-16-002, filed 8/14/78; Order 2-77, § 192-16-002, filed 9/2/77.] Repealed by 99-23-098, filed 11/17/99, effective 12/18/99. Statutory Authority: Chapters 34.05 and 50.12 RCW.
192-16-003	Interpretative regulations—Effect of repeal of RCW 50.20.030—Pregnancy disqualification. [Order 4-75, § 192-16-003, filed 8/29/75, effective 10/6/75.] Repealed by 78-09-027 (Order 1-78), filed 8/14/78. Statutory Authority: RCW 50.12.010.
192-16-007	Interpretative regulations—Disqualification for leaving work voluntarily—Effective date of RCW 50.20.050. [Order 2-77, § 192-16-007, filed 9/2/77.] Repealed by

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- 95-09-085, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010.
- 192-16-011 Interpretative regulations—Leaving work to accept bona fide job offer—RCW 50.20.050 (2)(a). [Order 2-77, § 192-16-011, filed 9/2/77.] Repealed by 01-11-085, filed 5/16/01, effective 6/16/01. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10).
- 192-16-013 Interpretative regulations—Leaving work because of illness or disability of self or immediate family member—RCW 50.20.050 (2)(b). [Statutory Authority: RCW 50.12.010 and 50.12.040. 80-10-052 (Order 4-80), § 192-16-013, filed 8/6/80; Order 2-77, § 192-16-013, filed 9/2/77.] Repealed by 02-14-035, filed 6/25/02, effective 7/26/02. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-017 Interpretative regulations—Satisfying disqualifications under RCW 50.20.050 (1) and (4), 50.20.060 and 50.20.080. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-16-017, filed 4/19/95, effective 5/20/95; Order 2-77, § 192-16-017, filed 9/2/77.] Repealed by 01-11-085, filed 5/16/01, effective 6/16/01. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10).
- 192-16-019 Interpretative regulations—Effective date of RCW 50.20.065—Discharges for felony or gross misdemeanor. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-16-019, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 82-17-052 (Order 6-82), § 192-16-019, filed 8/17/82; Order 2-77, § 192-16-019, filed 9/2/77.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-16-021 Interpretative regulations—Suitable work factors—RCW 50.20.100. [Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-16-021, filed 4/19/95, effective 5/20/95; Order 2-77, § 192-16-021, filed 9/2/77.] Repealed by 02-08-072, filed 4/2/02, effective 5/3/02. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010.
- 192-16-023 Interpretative regulations—Disqualification of students—RCW 50.20.095. [Statutory Authority: RCW 50.12.010 and 50.12.040. 80-10-052 (Order 4-80), § 192-16-023, filed 8/6/80; Order 2-77, § 192-16-023, filed 9/2/77.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-16-024 Definition of a "public agency"—RCW 50.04.320 (4)(c). [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.12.070. 96-11-002, § 192-16-024, filed 5/2/96, effective 6/2/96.] Repealed by 98-19-120, filed 9/23/98, effective 10/24/98. Statutory Authority: RCW 50.12.010.
- 192-16-033 Interpretive regulation—Regular shareable benefits defined. [Statutory Authority: RCW 50.12.010 and 50.12.040. 81-13-016 (Order 2-81), § 192-16-033, filed 6/11/81.] Repealed by 03-06-038, filed 2/26/03, effective 3/29/03. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-036 Interpretive regulation—Requalification for regular shareable, extended, or additional benefits under RCW 50.20.050(4). [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-16-036, filed 10/28/94, effective 11/28/94; 82-17-052 (Order 6-82), § 192-16-036, filed 8/17/82; 81-13-016 (Order 2-81), § 192-16-036, filed 6/11/81.] Repealed by 03-06-038, filed 2/26/03, effective 3/29/03. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-040 Interpretive regulation—Good prospects of obtaining work within a reasonably short period of time under RCW 50.22.020(3)—Shareable, extended, or additional benefits. [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-16-040, filed 10/28/94, effective 11/28/94; 82-17-052 (Order 6-82), § 192-16-040, filed 8/17/82; 81-13-016 (Order 2-81), § 192-16-040, filed 6/11/81.] Repealed by 03-06-038, filed 2/26/03, effective 3/29/03. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-042 Interpretive regulation—Failure to apply for or accept work under RCW 50.22.020 (4)(b)—Shareable, extended, or additional benefits. [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-16-042, filed 10/28/94, effective 11/28/94; 82-17-052 (Order 6-82), § 192-16-042, filed 8/17/82; 81-13-016 (Order 2-81), § 192-16-042, filed 6/11/81.] Repealed by 03-06-038, filed 2/26/03, effective 3/29/03. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-045 Interpretive regulation—Disqualification for failing to accept an offer of or to apply for suitable work—Shareable, extended, or additional benefits. [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-16-045, filed 10/28/94, effective 11/28/94; 82-17-052 (Order 6-82), § 192-16-045, filed 8/17/82; 81-13-016 (Order 2-81), § 192-16-045, filed 6/11/81.] Repealed by 03-06-038, filed 2/26/03, effective 3/29/03. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-047 Interpretive regulation—Interpretation of requirements of RCW 50.22.020(5)—Tangible evidence of a systematic and sustained effort to obtain work—Shareable, extended, or additional benefits. [Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-16-047, filed 10/28/94, effective 11/28/94; 82-17-052 (Order 6-82), § 192-16-047, filed 8/17/82; 81-13-016 (Order 2-81), § 192-16-047, filed 6/11/81.] Repealed by 03-06-038, filed 2/26/03, effective 3/29/03. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-051 Special coverage provisions for educational employees—Definitions—RCW 50.44.050(1). [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.12.070. 96-11-002, § 192-16-051, filed 5/2/96, effective 6/2/96. Statutory Authority: RCW 50.12.010 and 50.12.040. 82-17-052 (Order 6-82), § 192-16-051, filed 8/17/82.] Repealed by 99-18-066, filed 8/31/99, effective 10/1/99. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010.
- 192-16-052 Objective criteria used to define "academic year"—RCW 50.44.050(5). [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.12.070. 96-11-002, § 192-16-052, filed 5/2/96, effective 6/2/96.] Repealed by 99-18-066, filed 8/31/99, effective 10/1/99. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010.
- 192-16-057 Interpretive regulation—"Under the same terms and conditions of employment" defined. [Statutory Authority: RCW 50.12.010 and 50.12.040. 88-10-020 (Order 3-88), § 192-16-057, filed 4/29/88.] Repealed by 99-18-066, filed 8/31/99, effective 10/1/99. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010.
- 192-16-061 Interpretive regulation—Permanent residence in the United States under color of law—RCW 50.20.098. [Statutory Authority: RCW 50.12.010 and 50.12.040. 88-05-034 (Order 1-88), § 192-16-061, filed 2/12/88.] Repealed by 01-03-009, filed 1/5/01, effective 2/5/01. Statutory Authority: RCW 50.12.010 and 50.12.040.
- 192-16-065 Interpretive regulations—Effective date of chapter 83, Laws of 1988. [Statutory Authority: RCW 50.12.010 and 50.12.040. 88-10-020 (Order 3-88), § 192-16-065, filed 4/29/88.] Repealed by 95-09-085, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010.
- 192-16-070 Interpretive regulations—Voluntary quit—RCW 50.20.050. [Statutory Authority: RCW 50.12.010 and 50.12.040. 93-18-054, § 192-16-070, filed 8/30/93, effective 9/30/93.] Repealed by 01-12-009, filed 5/24/01, effective 6/24/01. Statutory Authority: RCW 50.12.010, 50.12.040.

WAC 192-16-004 Interpretive regulation—Benefit year—Further defining initial separation from employment—RCW 50.04.030. RCW 50.04.030 requires in part, "That a benefit year cannot be established if the base year wages include wages earned prior to the establishment of a prior benefit year unless the individual worked and earned wages since the initial separation from employment in the previous benefit year of not less than six times the weekly benefit amount." For the purposes of RCW 50.04.030,

(1) "Initial separation from employment in the previous benefit year" means the last separation from employment before the application for initial determination.

(2) "Employment" means employment covered by Title 50 RCW.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 90-17-104, § 192-16-004, filed 8/21/90, effective 8/21/90.]

WAC 192-16-005 Interpretative regulations—Applications for initial determinations—Backdating—RCW 50.04.030.

(1) **General rule.** A benefit year begins no earlier than the first day of the calendar week in which the individual files an application for an initial determination. However, at the convenience of the department or for good cause shown, the application for initial determination may be backdated.

(2) **Definitions.** As used in this section:

(a) "For the convenience of the department" is intended to embrace those situations in which the backdating of an initial application is required by circumstances which render impracticable or impossible the acceptance of an initial application during a week in which it would normally be filed. Such factors could be but are not limited to special handling prescribed by practicabilities of service, equipment breakdown, departmental employee-management disputes and lack of available personnel to accept applications.

(b) "Good cause" means factors peculiar to the claimant. "Good cause" in this context means factors which would effectively prevent a reasonable person facing similar circumstances from filing an initial application. Such circumstances include but are not limited to acting or failing to act based on authoritative advice directly from departmental personnel upon which a reasonable person would normally rely, severe weather conditions precluding safe travel to the point of filing, incapacity due to illness or injury and other factors of similar gravity.

(3) **Limitations as to good cause.**

(a) Good cause will not be found for backdating an application if an individual does not file the request for backdating during the first week in which factors constituting "good cause" for failure to file were not present.

(b) In backdating an application for good cause, the effective date will not be prior to the first week in which the conditions existed that precluded the individual from filing the application.

(c) Backdating of initial applications will not be allowed if the claimant alleges "good cause" based on erroneous advice or information from departmental personnel if he or she could be reasonably expected to question the accuracy of the information and knew or should have known of redetermination or appeal rights which he or she failed to exercise in a timely manner.

[Order 2-77, § 192-16-005, filed 9/2/77.]

WAC 192-16-009 Disqualification for leaving work voluntarily—Meaning of good cause for claims with an effective date prior to January 4, 2004—RCW 50.20.050(1).

(1) **General rule.** Except as provided in WAC 192-150-050 and 192-150-055, in order for an individual to establish good cause within the meaning of RCW 50.20.050(1) for leaving work voluntarily it must be satisfactorily demonstrated:

(a) That he or she left work primarily because of a work connected factor(s); and

(b) That said work connected factor(s) was (were) of such a compelling nature as to cause a reasonably prudent person to leave his or her employment; and

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(c) That he or she first exhausted all reasonable alternatives prior to termination: Provided, that the individual asserting "good cause" may establish in certain instances that pursuit of the otherwise reasonable alternatives would have been a futile act, thereby excusing the failure to exhaust such reasonable alternatives.

(2) **Exceptions.** Notwithstanding the provisions of subsection (1) above, neither the distance of the work from the individual's residence, if known at the time of hire nor any other work factor which was generally known and present at the time of hire will provide good cause for voluntarily leaving work unless the individual demonstrates to the satisfaction of the department:

(a) That the distance from the individual's residence at time of hire is substantially greater than the distance customarily traveled by workers in the individual's job classification and labor market; or,

(b) That the related work connected circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor; or

(c) That other work related circumstances would work an unreasonable hardship on the individual if he or she were required to continue in the employment.

(3) **Definitions.** For purposes of subsection (2) above:

(a) "Distance customarily traveled" means a distance normally traveled by a significant portion of the work force in the individual's job classification in the labor market area;

(b) "Generally known" means commonly known without reference to specific cases or individuals; and

(c) "Individual's job classification" means the job classification in which the individual was working when the individual voluntarily left work; and

(d) A "labor market" is the geographic area in which those workers in the individual's job classification, living in the vicinity of his or her residence, customarily work; and

(e) "Substantial involuntary deterioration" means an actual and considerable worsening of the work factor outside the control of the individual; and

(f) "Unreasonable hardship" means a result, not due to the individual's voluntary action, that would cause a reasonable person to leave that employment.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-16-009, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 82-17-052 (Order 6-82), § 192-16-009, filed 8/17/82; 80-10-052 (Order 4-80), § 192-16-009, filed 8/6/80; Order 2-77, § 192-16-009, filed 9/2/77.]

WAC 192-16-015 Leaving work for marital or domestic reasons—RCW 50.20.050 (1)(d). This regulation applies only to claims with an effective date prior to January 4, 2004.

(1) **General rule.** An individual whose marital status or domestic responsibilities are the primary cause of his or her voluntarily leaving employment shall be disqualified from benefits pursuant to the terms of RCW 50.20.050 (1)(d). This rule applies whether or not the individual took reasonable precautions to preserve his or her employment. Domestic responsibilities mean obligations or duties relating to the individual's immediate family, and include the illness, disability, or death of a member of the claimant's "immediate family" as defined in WAC 192-150-055.

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(2) Exception. Notwithstanding the provisions of subsection (1) above, an individual who leaves employment because of the illness, disability, or death of a member of his or her immediate family as defined in WAC 192-150-055 and who establishes good cause under RCW 50.20.050 (1)(b)(ii), will not be subject to disqualification under RCW 50.20.050 (1)(d): Provided, That if such individual fails to establish good cause under RCW 50.20.050 (1)(b)(ii), disqualification will be imposed under RCW 50.20.050 (1)(d) rather than under RCW 50.20.050(1).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-16-015, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040, 80-10-052 (Order 4-80), § 192-16-015, filed 8/6/80; Order 2-77, § 192-16-015, filed 9/2/77.]

WAC 192-16-016 Satisfying disqualification under RCW 50.20.050 (1)(d) when separation is for reasons of marital status and marriage occurs after date of separation. This regulation applies only to claims with an effective date prior to January 4, 2004.

In *Yamauchi v. Department of Employment Security*, 96 Wn.2d 773 (1982), the Washington state supreme court held that an individual who leaves work to be married and relocate to a place outside of reasonable commuting distance and who is not married at the time of the leaving does so for reasons of marital status and should be disqualified from benefits pursuant to RCW 50.20.050 (1)(d) if there is a causal nexus between the marital status and leaving work. However, the court also ruled that an individual who so leaves work shall not benefit from the lesser disqualification of RCW 50.20.-050 (1)(d) prior to the date of the marriage and move.

(1) An individual who voluntarily leaves work to marry and relocate to a place outside of reasonable commuting distance has left work for reasons of marital status pursuant to RCW 50.20.050 (1)(d) if there is a causal nexus between the marriage and leaving work.

(2) Any individual who leaves work for reasons of marital status as described in subsection (1) above shall be granted no credit toward satisfying the disqualification of benefits under RCW 50.20.050 (1)(d) described as the alternate method of satisfying the disqualification in WAC 192-150-090, for any week ending prior to marriage or relocation, whichever is the latter.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-16-016, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040, 82-17-052 (Order 6-82), § 192-16-016, filed 8/17/82.]

WAC 192-16-025 Lump sum retirement payment.

(1) Lump sum payments as described in RCW 50.04.323(3) will be prorated over the life expectancy of the individual in accordance with Table I in Regulation 1.72-9 of the Internal Revenue Code as amended as of the effective date of the individual's benefit year, and the prorated amount deducted from benefits.

(2) The withdrawal, upon separation from employment, of only the funds, and interest thereon, contributed to a retirement pension by an individual will not serve to reduce benefits.

(3) When an individual receives a lump sum retirement payment and transfers it within sixty days to another long-

term retirement plan, such as an Individual Retirement Account (IRA), the portion reinvested is not deductible from benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010, 95-09-085, § 192-16-025, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010 and 50.12.040, 80-10-052 (Order 4-80), § 192-16-025, filed 8/6/80.]

WAC 192-16-030 Interpretive regulation—Computation of pension deductions under RCW 50.04.323. RCW 50.04.323 provides, in part, that the amount of any reduction under that section shall take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment, in accordance with regulations prescribed by the commissioner. There will be presumed to have been no employee contribution unless the claimant provides evidence satisfactory to the department that such a contribution was made.

In the absence of a written certification from the administrators of the plan under which the claimant is receiving the pension, retirement or retired pay, annuity, or other similar periodic payment which verifies the specific percentage of the individual's contributions to the plan, the deductible pension amount will be calculated in the manner set forth in the following paragraph.

The deductible pension amount shall be determined as of the last pay period in the individual's base year for which contributions were made. For example, during such period the employees contributed 6% of gross wages and the employer contributed 7% of gross wages. The total contributions is 13% of gross wages. Dividing the employer's contributions by the total results in an employer share of contributions of 54%. The employer share represents that portion of the gross monthly pension that is deductible.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 81-13-016 (Order 2-81), § 192-16-030, filed 6/11/81.]

WAC 192-16-050 Diversion of unemployment benefits to satisfy child support obligations. RCW 50.40.050 requires the department, upon proper notification by a child support agency, to withhold a portion of an individual's unemployment insurance benefits to be transmitted to the child support agency to satisfy child support obligations.

(1) Notification to claimant. The child support agency will serve notice on the claimant of the order to withhold unemployment insurance benefits.

(2) Overpayments. In the event an individual receives benefits to which he or she is not entitled, and those benefits are recoverable under the provisions of RCW 50.20.190, the overpayment will include the amount withheld and transmitted to the child support agency. The withheld benefits for child support obligations are considered to have been paid to the individual and then paid by the individual to the child support agency.

(3) Erroneous withholding. If an amount greater than the amount which should have been deducted from benefits is paid to the child support agency, that agency shall be responsible for reimbursing the individual claimant for any amount in excess of the amount properly received. If an amount less than the amount which should have been paid to the child support agency is withheld and paid, subsequent benefit enti-

tlement of the claimant will be applied to satisfy the amount underpaid to the child support agency.

(4) Appeal rights.

(a) Any appeal regarding the validity of the child support obligation upon which the order to withhold is based including whether the obligation is owed, the total amount of obligation, and the amount to be withheld from benefits and paid over to the child support agency shall be resolved between the claimant and the child support agency. The employment security department will not be responsible for any appeals regarding such matters.

(b) Any appeal regarding the validity of the employment security department's authority to make deductions, the applicable weeks for which the deduction was made, and the accuracy of the amount deducted may be appealed in the same manner in which nonmonetary benefit determinations are appealed. The department's notification to the claimant shall contain an appeals notice. The laws and regulations relating to benefit appeals shall apply to appeals regarding matters subject to this regulation.

(5) Effective date of withholding. No amount shall be withheld from unemployment benefits paid for weeks prior to the date the notice to withhold is served on the individual, or prior to the date when an agreement to withhold is reached between the individual and the child support agency.

[Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 95-09-085, § 192-16-050, filed 4/19/95, effective 5/20/95. Statutory Authority: Chapter 50.40 RCW and 1982 1st ex.s. c 18. 82-13-057 (Order 3-82), § 192-16-050, filed 6/14/82.]

WAC 192-16-055 Interpretive regulations—Special coverage provisions—Bona fide notification of intent for substitute teacher—RCW 50.44.050(1). In determining whether a notification of intent for a substitute teacher is bona fide, consideration shall be given, but not necessarily limited to the following factors:

(1) With respect to the preceding academic year(s) or term(s):

- (a) Number of full-time teaching positions,
- (b) Student enrollment,
- (c) Number of schools,
- (d) Size of substitute list at beginning, during, and end of academic year(s) or term(s),
- (e) Priorities affecting the assignment of substitute teachers,
- (f) Average number of substitute teachers assigned each day.

(2) With respect to the ensuing academic year or term:

- (a) Projected number of full-time teaching positions,
- (b) Projected student enrollment,
- (c) Projected number of schools,
- (d) Projected size of substitute list at beginning, during, and end of academic year(s) or term(s),
- (e) Priorities affecting the assignment of substitute teachers,
- (f) Projected average number of substitute teachers assigned each day.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 82-17-052 (Order 6-82), § 192-16-055, filed 8/17/82.]

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Chapter 192-17 WAC

STATE ENVIRONMENTAL POLICY ACT—INTERPRETATION

WAC

192-17-010 Exemption from provisions of WAC 197-10-800.

WAC 192-17-010 Exemption from provisions of WAC 197-10-800. The employment security department of the state of Washington has reviewed its authorized activities and found all of them to be exempt from the provisions of Title 197 WAC. This statement is provided as compliance with the requirements that the employment security department adopt guidelines consistent with Title 197 WAC.

[Order 1-76, § 192-17-010, filed 4/12/76.]

Chapter 192-23 WAC

BENEFIT PAYMENT REGULATIONS

WAC

192-23-001 Failure to respond to request for information results in a presumption of disqualifying information.

192-23-011 Failure to provide details of employment.

192-23-012 Failure to provide details on holiday and/or vacation pay.

192-23-051 Failure to provide details on separation from employment.

192-23-052 Failure to respond to a request for information regarding voluntary quit.

192-23-081 Failure to provide details on a refusal of an offer of work.

192-23-082 Failure to respond to a request for information regarding failure to apply for work.

192-23-091 Failure to respond to a request for information regarding labor dispute.

192-23-113 Failure to respond to a request to provide information regarding athletic employment.

192-23-301 Failure to respond to a request for information regarding reasonable assurance of return to work.

192-23-320 Failure to respond to a request for documentation of a systematic and sustained work search.

192-23-350 Failure to respond to a request for pension information.

192-23-900 Claimant liable for repayment of overpayments caused by conditional payment.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-23-002 Failure to respond defined. [Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-002, filed 6/18/84.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.

192-23-013 Failure to report in person. [Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-013, filed 6/18/84.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.

192-23-014 Failure to establish ability to or availability for work. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-23-014, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-014, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.

192-23-015 Failure to establish active search for work. [Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-015, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.

192-23-016 Failure to meet work search requirements. [Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-23-016, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-016, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05.

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- tive 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-23-017 Failure to respond to a request for information regarding late filing of claims. [Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-23-017, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-23-018 Failure to report as directed to reopen a claim for benefits after a break in claim series. [Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010 and 50.20.140, 98-06-097, § 192-23-018, filed 3/4/98, effective 4/4/98. Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-018, filed 5/28/87, effective 8/30/87.] Repealed by 99-08-073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
- 192-23-019 Directive to report for reemployment services. [Statutory Authority: RCW 50.12.010 and 50.12.040, 95-12-014, § 192-23-019, filed 5/30/95, effective 6/30/95.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-23-061 Failure to respond to a request for information regarding a discharge from work. [Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-23-061, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-23-096 Failure to provide information regarding attendance at school. [Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-23-096, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-23-800 Certification of ineligibility. [Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-800, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-800, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.
- 192-23-810 Certification of return to full-time work or report of hours worked consistent with full-time work. [Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-810, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-810, filed 6/18/84.] Repealed by 05-01-076, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042.

WAC 192-23-001 Failure to respond to request for information results in a presumption of disqualifying information. If a claimant provides potentially disqualifying information or fails to provide necessary information and then fails to respond to a request for specific information, the failure to respond will result in a presumption of disqualifying information and the issuance of a formal determination of disqualification. The presumption of disqualifying information is rebuttable. RCW 50.20.160 provides the department the authority to issue redeterminations. If a claimant successfully rebuts the presumption of disqualifying information, provides information sufficient to establish eligibility, and a redetermination is permitted by RCW 50.20.160, a redetermination will be issued allowing benefits.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 84-13-050 (Order 4-84), § 192-23-001, filed 6/18/84.]

WAC 192-23-011 Failure to provide details of employment. (1) If a claimant reports that he or she had work or earnings for one or more weeks, and fails to provide employer name and address information and fails to respond to a request for employer name and address information, the claimant will be presumed to be not unemployed as defined

in RCW 50.04.310 and therefore not eligible for benefits pursuant to RCW 50.20.010.

(2) If a claimant reports that he or she has received or will receive remuneration for a week(s) not yet claimed and subsequently claims benefits for such week(s) without providing employer name and address information and the amount of remuneration, and fails to respond to a request to provide such information, the claimant will be presumed to be not unemployed as defined in RCW 50.04.310 and therefore not eligible for benefits pursuant to RCW 50.20.010.

(3) The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which work and earnings information is incomplete.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-011, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-011, filed 6/18/84.]

WAC 192-23-012 Failure to provide details on holiday and/or vacation pay. (1) If a claimant certifies that he or she has received holiday and/or vacation pay and the amount, and fails to respond to a request for specific information with respect to the holiday and/or vacation pay, the claimant will be presumed to be not unemployed as defined in RCW 50.04.310 and subject to denial pursuant to RCW 50.20.010.

(2) If a claimant reports that he or she has received or will receive remuneration for a week(s) not yet claimed and subsequently claims benefits for such week(s) without providing employer name and address information and the amount of remuneration, and fails to respond to a request to provide such information, the claimant will be presumed to be not unemployed as defined in RCW 50.04.310 and therefore not eligible for benefits pursuant to RCW 50.20.010.

(3) The denial of benefits authorized by this section is for a definite period of time and applies only to the week or weeks for which vacation and/or holiday pay information is incomplete.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 87-12-021 (Order 2-87), § 192-23-012, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-012, filed 6/18/84.]

WAC 192-23-051 Failure to provide details on separation from employment. If a claimant reports no work or earnings in a week following a week during which work and earnings were reported and does not provide complete employer and separation information, and does not respond to a request to supply complete employer and separation information, the claimant will be presumed to have voluntarily left work without good cause and will be denied pursuant to RCW 50.20.050.

(1) A separation from employment occurs whenever the employer-employee relationship is interrupted or ended. For the purpose of this section a separation from employment occurs whenever:

(a) An employee is not scheduled to work for a period of one week or more.

(b) A claimant has a week with no earnings following a week in which the claimant had earnings.

(2) For the purpose of this section, complete employer and separation information consists of the following items:

(a) Name of employer,

- (b) Complete address of employer,
- (c) Last day worked,
- (d) Reason for separation from employment,
- (e) Information on hours worked and earnings if not previously reported.

(3) The denial of benefits authorized by this section is indefinite in nature, and will remain in effect until the claimant meets the requalification provisions of RCW 50.20.050.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 87-12-021 (Order 2-87), § 192-23-051, filed 5/28/87, effective 8/30/87; 84-13-050 (Order 4-84), § 192-23-051, filed 6/18/84.]

WAC 192-23-052 Failure to respond to a request for information regarding voluntary quit. (1) If a claimant fails to respond to a notice to provide detailed information with respect to voluntarily quitting work, the claimant shall be presumed to have voluntarily left work without good cause and denied benefits pursuant to RCW 50.20.050.

(2) The denial of this section is indefinite in nature and will be applied until the claimant meets the requalification provisions of RCW 50.20.050.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-052, filed 6/18/84.]

WAC 192-23-081 Failure to provide details on a refusal of an offer of work. (1) If a claimant certifies that he or she refused an offer of work or fails to certify whether he or she refused an offer of work, and fails to respond to a notice to report or request to provide details relating to refusing an offer of work, the individual will be presumed to have refused an offer of available, suitable work without good cause and will be subject to denial of benefits pursuant to RCW 50.20.080.

(2) The denial of benefits under this section is indefinite in nature and will be applied until the claimant meets the requalification provisions of RCW 50.20.080. The beginning date of the denial will be the first day of week in which the claimant certified that he or she refused an offer of work or failed to indicate whether he or she refused an offer of work.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-081, filed 6/18/84.]

WAC 192-23-082 Failure to respond to a request for information regarding failure to apply for work. If the agency has directed a claimant to apply for work, the agency is advised that the claimant failed to apply as directed, and the claimant fails to respond to a request for information regarding the failure to apply as directed, the claimant shall be deemed to have failed to apply for available, suitable work without good cause and shall be subject to denial pursuant to RCW 50.20.080.

(2) The denial of benefits under this section is indefinite in nature and will be applied until the claimant meets the requalification provisions of RCW 50.20.080. The beginning date of the denial will be the date the claimant was directed to apply for work.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-082, filed 6/18/84.]

WAC 192-23-091 Failure to respond to a request for information regarding labor dispute. (1) If an individual

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fails to respond to a request for information regarding a labor dispute, the individual will be presumed to be unemployed due to the labor dispute and directly interested in and/or participating in the dispute.

(2) The presumption that the claimant is unemployed due to the labor dispute and directly interested in and/or participating in the dispute shall continue until the claimant provides information otherwise.

(3) The employer must establish that a stoppage of work caused by a labor dispute has resulted in the claimant being unemployed before the claimant may be denied benefits pursuant to RCW 50.20.090.

(4) The denial of benefits under this section is indefinite in nature and will continue as long as the employer can establish that there is a stoppage of work caused by a labor dispute.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-091, filed 6/18/84.]

WAC 192-23-113 Failure to respond to a request to provide information regarding athletic employment. (1) If a claimant bases his or her eligibility for benefits on employment as a sport or athletic event participant and refuses to respond to a request for information regarding participation in past and coming seasons, the claimant shall be presumed to have a reasonable assurance of performing such services in an upcoming season and thereby be subject to denial of benefits pursuant to RCW 50.20.113.

(2) The denial in this section is definite in nature and applies to the entire period between seasons.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-113, filed 6/18/84.]

WAC 192-23-301 Failure to respond to a request for information regarding reasonable assurance of return to work. (1) In the case of a claimant whose benefits are based on services for an educational institution, and whose employer has provided information that the claimant has reasonable assurance of returning to employment during the following term, academic year or period following holiday or vacation, failure of the claimant to respond to a request for information concerning such assurance will result in a denial pursuant to the applicable section of RCW 50.44.050.

(2) The denial of benefits under this section is definite in nature, applying to the period between terms, between academic years, or the appropriate vacation and/or holiday period.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-301, filed 6/18/84.]

WAC 192-23-320 Failure to respond to a request for documentation of a systematic and sustained work search. As provided in RCW 50.22.020:

(1) If a claimant is receiving shareable or extended benefits and fails to report a systematic and sustained work search and fails to respond to a request to provide work search information, the claimant shall be presumed to have failed to actively engage in seeking work and be subject to denial of benefits.

(2) The denial of benefits under this section is indefinite in nature and shall continue until the requalifying provisions are met.

(3) This regulation shall not apply to any week of unemployment exempted by the statute.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 94-22-043, § 192-23-320, filed 10/28/94, effective 11/28/94; 84-13-050 (Order 4-84), § 192-23-320, filed 6/18/84.]

WAC 192-23-350 Failure to respond to a request for pension information. (1) If a claimant certifies that he or she has applied for a retirement pension or that his or her retirement pension has changed since his or her last claim or the claimant has failed to indicate whether he or she has applied for a pension or his or her pension changed, and fails to respond to a request for pension information, or responds with inadequate pension information, the individual will be presumed to be receiving a pension in an amount greater than his or her weekly benefit amount and contributed to solely by a base year employer and be subject to denial of benefits pursuant to RCW 50.04.323.

(2) The denial of benefits under this section is indefinite and will continue until the claimant establishes that he or she is no longer subject to disqualification pursuant to RCW 50.04.323.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-350, filed 6/18/84.]

WAC 192-23-900 Claimant liable for repayment of overpayments caused by conditional payment. (1) If an overpayment of benefits results from a conditional payment and subsequent denial of benefits, the claimant is not eligible for waiver of that overpayment pursuant to RCW 50.20.190.

(2) A claimant who submits a claim form that fails to clearly establish eligibility and which results in a conditional payment is not without fault with respect to any overpayment subsequently established and therefore not eligible for the waiver provisions of RCW 50.20.190.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-900, filed 6/18/84.]

Chapter 192-33 WAC

WORKFORCE DEVELOPMENT

WAC

192-33-005	Definitions—Dislocated workers.
192-33-006	Dislocated workers in rural natural resources impact areas.

WAC 192-33-005 Definitions—Dislocated workers. For the purposes of RCW 50.70.010:

(1) "Forest products worker" means an individual who has or had employment, either for wages or in self-employment, in the industries set forth in WAC 192-32-040.

(2) "Salmon fishing worker" means an individual who has or had employment, either for wages or self-employment, in the salmon industry. This includes employment in at least one of the industry line items listed within the following Standard Industrial Coded industries:

(a) Commercial salmon fishing (found within SIC 0912);

(b) Preparation of canned or cured salmon food products, including smoked, salted, dried, and pickled salmon products (found within SIC 2091);

(c) Preparation of fresh or frozen salmon products, including fish fillets or fish sticks (found within SIC 2092);

(d) Operation of boats or party fishing, in relation to salmon fishing (found within SIC 7999).

[Statutory Authority: RCW 50.12.010, 50.12.040 and 50.70.010. 98-05-042, § 192-33-005, filed 2/11/98, effective 3/14/98.]

WAC 192-33-006 Dislocated workers in rural natural resources impact areas. (1) For the purposes of RCW 50.12.270, the term "dislocated workers in rural natural resources impact areas" includes, but is not limited to:

(a) Dislocated forest products workers as defined in RCW 50.70.010(2) and WAC 192-33-005; and

(b) Dislocated salmon fishing workers as defined in RCW 50.70.010(4) and WAC 192-33-005.

(2) These individuals are persons who at the time of last separation from work, for either wages or self-employment, resided in a rural natural resources impact area and who:

(a) Have been terminated or received notices of termination from employment and are unlikely to return to employment as defined in WAC 192-32-045 in their principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry; or

(b) Are self-employed and have been displaced from their business because of diminishing demand for the business's services or goods.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 98-05-042, § 192-33-006, filed 2/11/98, effective 3/14/98.]

Chapter 192-34 WAC

TEMPORARY TOTAL DISABILITY

WAC

192-34-010	Definitions.
192-34-015	Exclusions.
192-34-020	Failure to apply in a timely manner.
192-34-025	Additional injuries.

WAC 192-34-010 Definitions. The following words and phrases as used in this chapter shall have the meanings set forth in this section unless the context otherwise requires:

(1) "Effective date of temporary total disability," for the purpose of establishing a base year, shall be Sunday of the week in which the individual:

(a) Became eligible for industrial insurance or crime victims compensation payments; or

(b) Became totally physically disabled due to a nonwork-related injury or illness.

(2) "Illness" means a condition marked by pronounced deviation from the normal healthy state, characterized by sickness, disease or disorder. The presence of alcohol abuse, drug abuse, antisocial behavior, or criminal history alone, or the commitment of an individual to a treatment program, is insufficient by itself to justify a finding of "illness" within the meaning of this chapter.

(3) "Industrial insurance" includes any program established by a public or private agency under the industrial insurance laws of this state, any other state, or the federal

government to provide compensation to individuals who suffer an industrial disability that is total but of temporary duration.

(4) "Injury" means a trauma to the integrity or function of a tissue or organ and the physical conditions resulting therefrom.

(5) "Physician" means any person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic medicine; podiatry.

(6) "Reentry date," as it relates to a temporary total disability resulting from a nonwork-related injury or illness, shall be the date on which a physician releases the individual to return to work.

(7) "Temporary total disability" means an injury or illness, lasting thirteen or more consecutive calendar weeks, during which an individual is unable to follow continuously a substantially gainful occupation without seriously risking his or her health, as determined by a physician.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 94-07-115, § 192-34-010, filed 3/21/94, effective 5/2/94.]

WAC 192-34-015 Exclusions. The special provisions of chapter 50.06 RCW will not be available to individuals when:

(1) The injury or illness results to an individual from the deliberate intention of the individual to produce such injury or illness;

(2) The injury or illness is incurred while the individual is engaged in the attempt to commit, or the commission of, a criminal act. A "criminal act" shall include any unlawful action punishable as a felony or gross misdemeanor of which the individual has been convicted or has admitted committing to a competent authority; or

(3) The injury or illness is incurred as a result of the individual driving under the influence of intoxicating liquor or drugs or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 94-07-115, § 192-34-015, filed 3/21/94, effective 5/2/94.]

WAC 192-34-020 Failure to apply in a timely manner. In the event a claimant fails to apply for initial determination within the time period prescribed by RCW 50.06.030 (1) and (2), a late filing shall be accepted for good cause shown.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 94-07-115, § 192-34-020, filed 3/21/94, effective 5/2/94.]

WAC 192-34-025 Additional injuries. Two or more separate injuries or illnesses, resulting in two or more separate periods of temporary total disability, may not be combined or joined. A unique base year and benefit year shall be established for each injury or illness pursuant to chapter 50.06 RCW.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 94-07-115, § 192-34-025, filed 3/21/94, effective 5/2/94.]

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Chapter 192-35 WAC

IMPROVING EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES THROUGH STATE USE CONTRACTS

WAC

192-35-010	Definitions.
192-35-020	The state use advisory committee.
192-35-030	Meetings.
192-35-040	Application for listing as a vendor in good standing.
192-35-050	Application fees.
192-35-060	Period of eligibility.
192-35-070	Denials and appeals.
192-35-080	Application of brief adjudicative proceedings.
192-35-090	Conduct of brief adjudicative proceedings.
192-35-100	Preliminary record in brief adjudicative proceedings.
192-35-110	Appeal of the brief adjudicative proceedings.
192-35-120	Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.

WAC 192-35-010 Definitions. "Application base" means either the first fifteen applications for vendor in good standing received, or all applications for vendor in good standing received during the first twelve months of the program, whichever is greater at the time an application is being considered.

"Integrated setting" means a setting commonly found in the community (such as a store, office or school) where the individual with a disability comes into contact with nondisabled people who are not providing vocational rehabilitation services or other specialized services to that individual; or a setting commonly found in the community where the individual with a disability comes into contact with nondisabled people as he/she does his/her work. The amount of contact the individual with a disability has with nondisabled people is the same that a nondisabled person in the same type of job would experience.

"Transitioned to a less restrictive employment setting" means any change to an individual's job or work setting, or working conditions that increases that individual's workplace integration, independence from special services or participation in unsubsidized work. Some examples include moving from sheltered to supported employment; or from nonintegrated to integrated employment; or from working for a community rehabilitation program to working for a community employer.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-010, filed 1/5/05, effective 2/5/05.]

WAC 192-35-020 The state use advisory committee. The state use advisory committee hereinafter referred to as the SUAC, is established within the governor's committee on disability issues and employment (GCDE). The SUAC shall have the following composition:

(1) Three members chosen by GCDE from among those current or former clients of a community rehabilitation program who have nominated themselves, at least one of whom must be a person with a developmental disability;

(2) One member chosen by GCDE from among those guardians, parents, or other relatives of a current client or employee of a community rehabilitation program who have nominated themselves;

(3) One member chosen by GCDE from among those who have been nominated by a community rehabilitation program;

(4) One member chosen by GCDE from among those owners of a business owned and operated by persons with disabilities who have nominated themselves;

(5) One member who is designated by the developmental disabilities council;

(6) One member who is a member of and selected by GCDE;

(7) One member who is designated by the secretary of the department of social and health services; and

(8) One member who is designated by the director of the department of services for the blind.

[Statutory Authority: RCW 50.12.040, 05-02-094, § 192-35-020, filed 1/5/05, effective 2/5/05.]

WAC 192-35-030 Meetings. The SUAC shall hold its regular public meeting annually in December. Additional public meetings may be held at such times and places as the board may deem necessary. Notice of all public meetings will be issued as required by the Open Public Meetings Act, chapter 42.30 RCW.

Executive sessions may be held by the board in conjunction with all public meetings, and at such other times as the board shall deem necessary. Executive sessions shall deal only with matters authorized by RCW 42.30.110.

[Statutory Authority: RCW 50.12.040, 05-02-094, § 192-35-030, filed 1/5/05, effective 2/5/05.]

WAC 192-35-040 Application for listing as a vendor in good standing. The application for listing as a vendor in good standing must be submitted on forms approved by the SUAC and shall be accompanied by additional documentation as follows:

(1) Applications from community rehabilitation programs must be accompanied by:

(a) A document issued by the department of social and health services recognizing the applicant as eligible to do business as a community rehabilitation program; and

(b) A document issued by the secretary of state establishing that the applicant is registered as a nonprofit corporation.

(2) Applications by business owned and operated by persons with disabilities must be accompanied by documentation:

(a) Issued by the department of social and health services establishing that the individual exercising ownership and control has been determined to have a developmental disability as defined in RCW 71A.10.020; or

(b) Issued by an agency established under Title I of the Federal Vocational Rehabilitation Act establishing that the individual exercising ownership and control has been determined to be or have been eligible for vocational rehabilitation services; or

(c) Issued by the United States Social Security Administration establishing that the individual exercising ownership and control has been determined to be or have been eligible for Social Security Disability Insurance or Supplemental Security Income; or

(d) Issued by the United States Department of Veterans Affairs establishing that the individual exercising ownership and control has been determined to be or have been eligible for vocational rehabilitation services due to a service connected disability under 38 U.S.C. Sec. 3100 et seq.

(3) Applications must be accompanied by documentation that objectively demonstrates that the applicant has met or made progress over the previous twelve months toward meeting a minimum of six of the following criteria:

(a) The number of people with disabilities in the entity's total work force who are working in integrated settings. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it, and working in an integrated setting, during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it, and working in an integrated setting for the same quarter in the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it, and working in an integrated setting during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(b) The percentage of the people with disabilities in the entity's total work force who are working in integrated settings. To demonstrate progress for this criterion an applicant's documentation must show that the percent of those people with disabilities employed by it and working in an integrated setting, during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it, and working in an integrated setting for the same quarter in the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it, and working in an integrated setting, during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(c) The number of people with disabilities in the entity's total work force who are working in individual supported employment settings. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it, and working in individual supported employment settings, during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it, and working in individual supported employment settings for the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it, and working in individual employment settings for the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(d) The percentage of the people with disabilities in the entity's total work force who are working in individual supported employment settings. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities among all individuals employed by it, and working in an individual supported employment setting, during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it, and working in an integrated setting for the same quarter of the previous year. To demonstrate that it has met this criterion, an applicant's

documentation must show that the percentage of people with disabilities employed by it, and working in an individual supported employment setting, during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(e) The number of people with disabilities in the entity's total work force who, during the last twelve months, have transitioned to less restrictive employment settings either within the entity or with other community employers. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities who had been employed by it at some point during the twelve months immediately preceding the time of application and had transitioned to less restrictive employment settings during those twelve months either within the entity or with other community employers was greater than the number of such employees who had made such a transition during the prior twelve months. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people who had been employed by it at some point during the twelve months immediately preceding the time of application and had transitioned to less restrictive employment settings during those twelve months either within the entity or with other community employers at the time of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(f) The number of people with disabilities in the entity's total work force who are earning at least the state minimum wage. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it, who were paid at least the state minimum wage for all hours worked, during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it, and paid at least the state minimum wage for all hours worked for the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it, and paid at least the state minimum wage for all hours worked for the same quarter of the previous year is at least one standard deviation higher than the norm for this criterion derived from the application base.

(g) The percentage of the people with disabilities in the entity's total work force who are earning at least the state minimum wage. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities among all people with disabilities employed by it, who were paid at least the state minimum wage for all hours worked during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it, who were paid at least state minimum wage for all hours worked for the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it, who were paid at least state minimum wage for all hours worked for the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(h) The number of people with disabilities serving in supervisory capacities within the entity. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities employed by it in positions in which they supervised the work of other employees during the quarter immediately preceding the date of application is greater than the number of people with disabilities employed by it in such positions during the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities employed by it in positions in which they supervised the work of other employees during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(i) The percentage of supervisory positions within the entity that are occupied by people with disabilities. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities among all individuals employed by it in positions in which they supervise the work of other employees during the quarter immediately preceding the date of application is greater than the percentage of people with disabilities employed by it in such positions for the same quarter of the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it in supervisory positions at the time of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(j) The number of people with disabilities serving in an ownership capacity or on the governing board of the entity. To demonstrate progress for this criterion an applicant's documentation must show that the number of people with disabilities who exercise ownership and participate in the day to day management of the entity, or who serve in elected or appointed positions on a board with the authority to hire and fire the executive director of the entity during the quarter immediately preceding the date of application is greater than the number of people with disabilities in such positions during the same quarter for the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the number of people with disabilities in such positions during the quarter immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(k) The ratio of the total amount paid by the entity in wages, salaries, and related employment benefits to people with disabilities as compared to the total amount paid by the entity in wages, salaries, and related employment benefits to persons without disabilities during the previous year. To demonstrate progress for this criterion an applicant's documentation must show that the total amount paid by it in wages, salaries, and related employment benefits to people with disabilities during the twelve months immediately preceding the date of application had increased in proportion to the total amount it paid in wages, salaries, and related employment benefits to people who do not have a disability when compared to the ratio of those two figures from the previous year. To demonstrate that it has met this criterion, an applicant's documentation must show that the ratio of the total amount paid by the entity in wages, salaries, and related

employment benefits to people with disabilities as compared to the total amount paid by the entity in wages, salaries, and related employment benefits to persons without disabilities for the twelve months immediately preceding the date of application is at least one standard deviation higher than the norm for this criterion derived from the application base.

(1) The percentage of people with disabilities in the entity's total work force for whom the entity has developed a reasonable, achievable, and written career plan. To demonstrate progress for this criterion an applicant's documentation must show that the percent of people with disabilities employed by it, for whom it had developed reasonable, achievable, written career plans, at the time of application was greater than the percentage of people with disabilities employed by it for whom it had developed reasonable, achievable, written career plans one year prior to the time of application. To demonstrate that it has met this criterion, an applicant's documentation must show that the percentage of people with disabilities employed by it for whom it had developed reasonable, achievable, written career plans at the time of application was at least one standard deviation higher than the norm for this criterion derived from the applications submitted that program year.

(4) In the event that the SUAC preliminarily determines that the documentation provided in an application is insufficient to demonstrate objectively that the applicant has made progress in or met at least six of the relevant eligibility criteria under this chapter, the SUAC will communicate that determination to the applicant in writing. The notification will clearly identify the specific criteria for which the SUAC determined the applicant's documentation to be insufficient. The SUAC will hold the application open for up to six months from the date of the notification during which time the applicant may submit additional documentation addressing the identified deficiencies.

(5) Applicants must also provide such documentation as may be required by the department of general administration to establish:

(a) That the applicant has not been in material breach of any quality or performance provision of any contract for the purchase of goods or services during the past thirty-six months; and

(b) Those goods and services for which the applicant is seeking to be listed as a vendor in good standing.

(6) Applicants must also provide such additional information, or documentation as may be required by the office of minority and women's business enterprises for the purpose of determining ownership and exercise of control of a business.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-040, filed 1/5/05, effective 2/5/05.]

WAC 192-35-050 Application fees. Applications must be accompanied by the annual application fee of five hundred dollars. The application fee is nonrefundable.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-050, filed 1/5/05, effective 2/5/05.]

WAC 192-35-060 Period of eligibility. Applicants will be listed as vendors in good standing for a period of one year beginning on the date of final determination of eligibility to be so listed: Unless, prior to the end of that period, the appli-

cant requests in writing to be removed from that listing; or is found to be in material breach of any quality or performance provision of any contract for the purchase of goods or services. Applications for continued listing or relisting for subsequent periods of eligibility are subject to the same documentation requirements, fees and procedures as initial applications.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-060, filed 1/5/05, effective 2/5/05.]

WAC 192-35-070 Denials and appeals. The governor's committee on disability issues and employment will provide written notice when it has determined that an applicant failed to demonstrate that it has met the eligibility criteria for a vendor in good standing. The written notice shall include the basis for that determination; a notification of the applicant's right to appeal; and the address to which an appeal may be submitted. Applicants shall have thirty working days from the date of the notice to file an appeal. All appeals must be in writing.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-070, filed 1/5/05, effective 2/5/05.]

WAC 192-35-080 Application of brief adjudicative proceedings. The commissioner adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request pursuant to subsection (1) of this section or at the discretion of the commissioner pursuant to RCW 34.05.482.

(1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the governor's committee on disability issues and employment accepts the recommendation of the state use advisory committee and the matter involves a determination of one or more of the following issues:

(a) Whether an applicant has provided clear documentation that it qualifies under the criteria established by RCW 43.19.525 (1)(a) through (d); or

(b) Whether an applicant has provided clear documentation that it qualifies under the criteria established by RCW 43.19.525 (2)(a) and (b); or

(c) Whether an applicant has provided clear documentation that it qualifies under the criteria established by RCW 50.40.065 (3)(a) through (l).

(2) Brief adjudicative proceedings under subsection (1) of this section will be limited to consideration of the following issues:

(a) In proceedings under subsections (1)(a) and (b) of this section, the sole issue to be considered at the hearing is whether the documentation submitted by an applicant clearly establishes that the applicant has been determined to meet the applicable eligibility criterion or criteria under RCW 43.19.-525 (1) or (2) by the agency or agencies authorized to make that determination;

(b) In proceedings under subsection (1)(c) of this section, the sole issue to be considered at the hearing is whether the documentation submitted by the applicant clearly demonstrates that the applicant has either met or made progress over the previous twelve months toward meeting a minimum of six of the criteria established in RCW 50.40.065.

(3) Brief adjudicative proceedings may not be used to appeal a decision by the governor's committee on disability issues and employment to reject a recommendation of the state use advisory committee, based on a finding of misfeasance or malfeasance.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-080, filed 1/5/05, effective 2/5/05.]

WAC 192-35-090 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer appointed by the commissioner or designee in accordance with RCW 34.05.485. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but must not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, at his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings will not issue an oral order. Within ten working days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings will enter an initial written order.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-090, filed 1/5/05, effective 2/5/05.]

WAC 192-35-100 Preliminary record in brief adjudicative proceedings. The preliminary record with respect to an application must consist of:

(1) The application and all associated documents; and

(2) All documents relied upon by the state use advisory committee in proposing to deny the application; and

(3) All correspondence between the applicant and the state use advisory committee regarding the application.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-100, filed 1/5/05, effective 2/5/05.]

WAC 192-35-110 Appeal of the brief adjudicative proceedings. (1) Within thirty working days following the issuance of an initial written order, any party, including the department, may file a written appeal of that order with the deputy commissioner.

(2) The deputy commissioner will review the record of the brief adjudicative proceedings under appeal and issue the final written order, within thirty working days of the receipt of the appeal.

(3) The final written order, issued by the deputy commissioner, shall be the department's final decision on all matters subject to these brief adjudicative proceedings.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-110, filed 1/5/05, effective 2/5/05.]

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WAC 192-35-120 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. (1) At least five working days before the scheduled brief adjudicative proceeding, any party, including the department, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the agency.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

(3) The written order of the formal adjudicative hearing shall be the department's final decision.

[Statutory Authority: RCW 50.12.040. 05-02-094, § 192-35-120, filed 1/5/05, effective 2/5/05.]

Chapter 192-40 WAC

HEARING AND REVIEW PROCEDURES UNDER THE JOB TRAINING PARTNERSHIP ACT

WAC

192-40-010	Introduction—Purpose of rules.
192-40-020	Definitions.
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192-40-060	Review of decisions—Delegation of responsibility.
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192-40-090	State level decision by office of administrative hearings.
192-40-100	Review of state level decision.
192-40-110	Savings provision.

WAC 192-40-010 Introduction—Purpose of rules. These rules are intended to assist persons, organizations or governmental entities in fulfilling their obligations or exercising their rights under the Job Training Partnership Act and the regulations enacted pursuant thereto. The rules will describe two procedures, the first dealing with complaints, alleged adverse actions or grievances in which a hearing is required to be conducted at the administrative entity, recipient, or direct subrecipient level. The procedures for dealing with these matters are identified as procedures applicable to local hearings and decisions. The second set of procedures

deals with complaints, alleged adverse action or grievances properly brought at the state level.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 86-08-073 (Order 1-86), § 192-40-010, filed 4/1/86.]

WAC 192-40-020 Definitions. The definitions set forth in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assistant commissioner" means the senior administrator for the training and employment analysis division of the employment security department.

(2) "Interested party" means an individual who participates in or applies for participation in a program administered under the JTPA, or a person or organization which is directly or adversely affected by organizations or individuals operating programs under JTPA.

(3) "JTPA" means the Job Training Partnership Act of 1982, Public Law No. 97-300, as amended, codified as 29 U.S.C. §1501 et seq.

(4) "TEA" means the training and employment analysis division.

(5) "Provisions" means the Job Training Partnership Act provisions issued by the employment security department.

(6) "Reviewing officer" means the commissioner's review office which acts as the commissioner's delegate in the review of employment security adjudicative matters.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-020, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-020, filed 4/1/86.]

WAC 192-40-030 Local hearings—Obligation. Each administrative entity, subrecipient, and direct subrecipient shall provide hearings in accordance with the Job Training Partnership Act, regulations, and state provisions.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 86-08-073 (Order 1-86), § 192-40-030, filed 4/1/86.]

WAC 192-40-040 Review of local decisions. Any person adversely affected by a local decision or by the failure of the responsible entity to comply with its responsibilities to hold a hearing and issue a decision may request review of the decision or inaction, as the case may be, by filing a petition with the "assistant commissioner."

(1) Any individual or organization may petition for review of a local level decision or lack thereof when:

(a) Applicable JTPA procedures have been exhausted; and

(b) A decision was not received within sixty days of the filing of the complaint, alleged adverse action, or grievance; or

(c) The decision received was unsatisfactory to an interested party.

(2) A petition for review will be regarded as filed on the date a written request is received by the assistant commissioner of the training and employment analysis division of the employment security department. Petitions must be filed within ten days after the date on which the local decision was mailed or within ten days from the date on which the complainant should have received the local decision. If the petition is mailed, it will be deemed filed with the addressee on the postmark date if it is properly addressed and has sufficient

postage. The petition for review will be addressed to: Assistant Commissioner, Training and Employment Analysis Division, Employment Security Department, Mailstop KG-11, Olympia, Washington 98504.

(3) Within five days of any request from the assistant commissioner the local authority will transmit all records pertaining to the matter under review to the assistant commissioner.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-040, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-040, filed 4/1/86.]

WAC 192-40-050 Review of local decisions—Finality of assistant commissioner decision. The review of local decisions shall be confined to the record under review and shall be limited to consideration only of those matters over which the assistant commissioner has jurisdiction. In the event that the record is incomplete, or otherwise provides insufficient information upon which to base a decision, the assistant commissioner may remand the matter to the responsible local authority for the taking of further evidence and issuance of a new decision based thereon, subject to further review, or should he or she be convinced that a fair hearing will not be provided by the local authority he or she may assign the case to be heard by an administrative law judge to be designated by the office of administrative hearings. In the latter event the administrative law judge shall conduct a hearing and issue a decision which will be deemed the decision of the local authority subject to review by the assistant commissioner in the same manner as any other local decision.

The decision of the assistant commissioner upon review of local decisions is a final agency action and is subject to review under RCW 34.05.570.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-050, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-050, filed 4/1/86.]

WAC 192-40-060 Review of decisions—Delegation of responsibility. In the interest of fairness, the assistant commissioner reserves the option to delegate the review procedure as described in WAC 192-40-050 to the commissioner's review office of the employment security department or other qualified legal authority. The decision of the delegated review authority is a final agency action and subject to review under RCW 34.05.570.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-060, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-060, filed 4/1/86.]

WAC 192-40-070 State level hearing request. Any aggrieved party with a timely complaint, alleged adverse action, or grievance against the state administrative office for JTPA shall be provided a written description of the training and employment analysis division complaint procedures including notification of their right to file a complaint and instructions on how to file.

Any party aggrieved by an unresolved complaint, alleged adverse action, or grievance properly filed with the state administrative office for JTPA operations will be deemed to have filed a request for hearing unless the party has waived right to hearing.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-070, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-070, filed 4/1/86.]

WAC 192-40-080 State level hearing procedure.

Upon receipt of a request for hearing, the training and employment analysis division will request the office of administrative hearings to conduct a hearing pursuant to 29 U.S.C. §§1554 and 1577, except for complaints of discrimination filed pursuant to 42 U.S.C. §2000(d), et seq.

Advance written notice of the hearing will be provided by regular mail to all interested parties at least twenty days prior to the hearing to permit adequate preparation of the case. The notice will include:

(1) The time, date, and place of the hearing. Hearings shall be held at the regularly established hearing locations most convenient to the interested parties, or at the discretion of the presiding administrative law judge, by telephone;

(2) The name, address, and telephone number of the person to notify in the event it is not possible for the party or its legal counsel to attend the scheduled hearing;

(3) The hearing procedures, a statement of the issues, and any other information which would provide the party or its legal counsel with an understanding of the proceedings and contribute to the effective presentation of the party's case;

(4) An explanation that the party or its legal counsel may examine the case file prior to the hearing.

Any interested party may waive his/her right to notice either in writing or on the record.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-080, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-080, filed 4/1/86.]

WAC 192-40-090 State level decision by office of administrative hearings. After affording the interested parties an opportunity for hearing on the matter, the presiding administrative law judge shall issue his/her decision in the case. The decision shall be issued within 60 days of the initial filing of the request for hearing.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-090, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-090, filed 4/1/86.]

WAC 192-40-100 Review of state level decision.

When a request for review is made of a state level decision, a proceeding under WAC 192-40-070, the review shall be conducted by the commissioner's review office of the employment security department. A request for such review must be directed to the commissioner's review office within twenty days of the issuance of the decision of the administrative law judge. Said review will be of the record prepared by the office of administrative hearings and will result in a decision in writing affirming, modifying, or reversing the decision of the administrative law judge, or in the event that the record is incomplete, or otherwise provides insufficient information upon which to pass a decision, the commissioner's review office may remand the matter to the office of administrative hearings for the taking of further evidence and the issuance of a new decision based thereon. The decision of the commissioner's review office shall be deemed a final state action sub-

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ject to petition for judicial review pursuant to RCW 34.05.-570.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 89-24-030, § 192-40-100, filed 11/30/89, effective 1/1/90; 86-08-073 (Order 1-86), § 192-40-100, filed 4/1/86.]

WAC 192-40-110 Savings provision. To the extent that any regulations adopted in this chapter are in conflict with provisions of federal law or regulations or state law, the conflicting provisions shall be deemed inoperative solely to the extent of the conflict.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 86-08-073 (Order 1-86), § 192-40-110, filed 4/1/86.]

**Chapter 192-100 WAC
GENERAL TERMS DEFINED**

WAC

192-100-010	Reasonably prudent person defined.
192-100-020	Continued claim defined.
192-100-030	Week defined.
192-100-035	Effective date of claim defined.
192-100-040	Seasonal employment.
192-100-050	Fraud defined.
192-100-500	General definitions—Relating to wages and taxes.
192-100-510	Definitions relating to RCW 50.04.145 and 50.24.130.

WAC 192-100-010 Reasonably prudent person defined. A reasonably prudent person is an individual who uses good judgment or common sense in handling practical matters. The actions of a person exercising common sense in a similar situation are the guide in determining whether an individual's actions were reasonable.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-100-010, filed 12/9/04, effective 1/9/05.]

WAC 192-100-020 Continued claim defined. (1) You are a continued claim recipient if you:

- (a) Are monetarily entitled to benefits; and
- (b) Are nonmonetarily eligible for benefits; and
- (c) Have received credit for your waiting week or payment of benefits for one or more weeks in your benefit year and in the current continued claim series.

(2) Continued claim status will end following any combination of four or more consecutive weeks for which you do not file a claim or during which you are not an unemployed individual as defined in RCW 50.04.310.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-100-020, filed 12/9/04, effective 1/9/05.]

WAC 192-100-030 Week defined. The term "week" means a period of seven consecutive calendar days beginning on Sunday at 12:01 a.m. and ending at midnight the following Saturday.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-100-030, filed 12/9/04, effective 1/9/05.]

WAC 192-100-035 Effective date of claim defined. As provided in RCW 50.04.030, an unemployment claim will be effective on the Sunday of the calendar week in which the application for benefits is filed. This Sunday date is referred to as the "effective date of claim" or "claim effective date."

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-100-035, filed 12/9/04, effective 1/9/05.]

WAC 192-100-040 Seasonal employment. The term "seasonal employment" means work with regular periodic layoffs, showing a consistent pattern of employment and unemployment.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901, 06-22-004, § 192-100-040, filed 10/19/06, effective 11/19/06.]

WAC 192-100-050 Fraud defined. (1) For purposes of RCW 50.20.070, 50.20.190, and chapter 192-220 WAC, fraud means an action by an individual where all of the following elements are present:

(a) The individual has made a statement or provided information.

(b) The statement was false.

(c) The individual either knew the statement was false or did not know whether it was true or false when making it.

(d) The statement concerned a fact that was material to the individual's rights and benefits under Title 50 RCW.

(e) The individual made the statement with the intent that the department would rely on it when taking action.

(2) To decide whether an individual has committed fraud, the elements in subsection (1) must be shown by clear, cogent, and convincing evidence. Fraud cannot be presumed. Circumstantial evidence, rather than direct evidence, is enough to establish fraud if the evidence is clear, cogent, and convincing.

(3) This definition of fraud also applies to the term "misrepresentation" in RCW 50.20.190. A violation of RCW 50.20.070 must meet this definition of fraud.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010, 07-23-128, § 192-100-050, filed 11/21/07, effective 1/1/08.]

WAC 192-100-500 General definitions—Relating to wages and taxes. For purposes of unemployment insurance taxes only:

(1) **Wages.** Includes all payments for personal services performed by an employee for an employer including the cash value of all remuneration paid in any medium other than cash including salaries, commissions, vacation pay, dismissal wages, bonuses and reasonable value of board, rent, housing, lodging, payments in kind, tips, and any other similar advantage received from the individual's employer or directly with respect to work for the employer.

(2) **Wages paid.** Includes wages that are actually received by an individual and wages that are contractually due but are not paid because the employer refuses or is unable to make such payment. (See RCW 50.24.015).

(3) **Wages constructively paid.** Those wages set aside, by mutual agreement of both parties (employer and employee) to be paid at a later date. They are reported for tax purposes when actually paid to the employee. The wages set aside can have no substantial limitation or restriction as to the time or manner or condition upon which payment is to be made. In addition the ability to draw on the wages must be within the control and disposition of the employee.

(4) **Deductions.** The amount(s) any federal or state law requires an employer to deduct from the wages of an individual in its employ; and to pay the amount deducted to the fed-

eral or state government, or any of their political subdivisions. The amount deducted will be considered wages and to have been paid to the individual at the time of the deduction. Other amounts deducted from the wages of an individual by an employer also constitute wages paid to the individual at the time of the deduction.

(5) **Nominal stipends.** A stipend is considered nominal when it does not exceed six hundred dollars per year.

(6) **Contributions.** Title 50 RCW generally uses the term "contributions" to refer to unemployment taxes. Title 192 WAC generally uses the term "unemployment taxes" to refer to contributions. The two terms are treated interchangeably unless the context provides otherwise.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 07-23-127, § 192-100-500, filed 11/21/07, effective 1/1/08. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.12.010, 99-20-125, § 192-100-500, filed 10/6/99, effective 11/6/99.]

WAC 192-100-510 Definitions relating to RCW 50.04.145 and 50.24.130. For the purposes of RCW 50.04.145 and 50.24.130.

Definitions:

(1) **Same work.** Means work performed in the same trade or craft (i.e. carpenters, electricians, etc.).

(2) **At the same time.** Means occurring concurrently as opposed to the case of one contractor replacing another in the same trade.

(3) **Project.** Means any work performed under a contract within the scope of a building permit; or, if a building permit is not required, work performed under a contract.

(4) **Separate set of books or records.** Means records other than those maintained by the contractor for which services are performed.

[Statutory Authority: Chapters 34.05, 50.12 RCW, RCW 50.04.145 and 50.24.130, 99-20-126, § 192-100-510, filed 10/6/99, effective 11/6/99.]

Chapter 192-110 WAC

APPLYING FOR UNEMPLOYMENT BENEFITS

WAC

192-110-005	Applying for unemployment benefits—General.
192-110-010	Applications for benefits by interstate claimants.
192-110-015	Applications by standby workers—RCW 50.20.010.
192-110-017	When can a partially unemployed worker apply for benefits?—RCW 50.04.310.
192-110-020	How will the department verify my identity?
192-110-050	How do I reopen my claim?
192-110-200	Maximum benefits payable—RCW 50.20.120 (1)(b).

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-110-210	Claim cancellation. [Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042, 05-01-076, § 192-110-210, filed 12/9/04, effective 1/9/05.] Repealed by 07-22-055, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010 and 50.12.040.
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WAC 192-110-005 Applying for unemployment benefits—General. (1) **How do I apply for benefits?**

(a) You may apply for benefits by:

(i) Calling the unemployment claims telecenter listed in your local telephone directory; or

(ii) Using the department's internet web site. However, you must apply by telephone if you worked in any state other

than Washington during the previous two years, or you were off work for 13 or more consecutive weeks because of injury or illness.

(b) If you have a physical or sensory disability, or are in unusual circumstances that makes filing by telephone or internet difficult, the commissioner may authorize other methods of applying for benefits.

(2) When can I apply?

(a) You may apply by telephone at any time between the hours of 8:00 a.m. and 5:00 p.m. (Pacific Time) Monday through Friday (excluding state holidays), even if you are working. To control workload, the department may assign certain days of the week on which you may file your claim by telephone.

(b) You may apply on the internet at any time.

(3) **When is my claim effective?** Your claim is effective on the Sunday of the week in which you file it.

(4) **What information am I required to provide?** The minimum information needed to process your application is your:

(a) Legal name; and

(b) Social Security account number.

You should also be prepared to provide the names, addresses, dates worked, and reasons for job separation for all of your employers during the past two years. Other information may be requested in individual circumstances.

(5) **Will I receive benefits immediately?** The first week you are eligible for benefits is your waiting week. You will not be paid for this week. However, you must file a claim for this week before we can pay you any benefits for future weeks.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-110-005, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20-010 and 50.12.040. 99-08-073, § 192-110-005, filed 4/5/99, effective 5/6/99.]

WAC 192-110-010 Applications for benefits by interstate claimants. (1) **What is an "interstate claimant"?** An "interstate claimant" is a person who files a claim for one state's unemployment benefits from another state. The state that pays your claim is called the "liable state." For example:

(a) You are an interstate claimant if you live in Oregon and file a claim from Oregon for benefits that will be paid by Washington.

(b) You are an interstate claimant if you live in Washington and file a claim in Washington for benefits that will be paid by Oregon.

(c) You are NOT an interstate claimant if you live in Oregon but file your claim for Washington benefits in Washington; this is because your claim was filed in the same state that will be paying your benefits.

(2) **Where can I apply for benefits?** You can apply for benefits from any state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Canada. However, if you served in the military or earned wages in more than one state during the past two years, you must physically be in the state of Washington to apply for benefits against Washington.

(3) How do I apply for benefits?

(a) Call the unemployment claims telecenter in Washington. If you worked in any state other than Washington

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within the last two years, an agent will help you decide which state will pay your claim.

(i) If Washington will pay your claim, we will take your application for benefits over the telephone;

(ii) If another state will pay your claim, an agent will tell you how to file your claim with that state.

(b) If you worked only in Washington during the previous two years, you may apply for benefits on the internet.

(4) **Who decides if I am eligible for benefits?** Every state has its own laws which control eligibility for benefits. If you file a claim for Washington benefits, your eligibility for benefits will be decided by Washington state law even if you file from another state. If you file for benefits against another state, your eligibility for benefits will be decided under that state's laws.

(5) **When can I apply for benefits?** You can apply for benefits at any time, even if you are working. However, if you already have a valid claim in one state, you must continue with that claim as long as benefits are available before you can establish a new claim against another state. A "valid" claim is one that has not been denied, terminated, or the benefits exhausted (paid out).

(6) **How do I file an appeal?** If you wish to file an appeal about your claim, you must file it directly with the state that is paying your claim (liable state):

(a) If Washington is paying your claim, use one of the filing methods listed in WAC 192-04-060. If mailed, your appeal will be considered filed on the postmarked date.

(b) If another state is paying your claim, mail your appeal directly to that state.

All appeal hearings will be conducted by the liable state. The liable state will notify you of the date, time, and telephone number or location of the hearing.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-110-010, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20-010 and 50.12.040. 99-15-069, § 192-110-010, filed 7/19/99, effective 8/19/99.]

WAC 192-110-015 Applications by standby workers—RCW 50.20.010. (1) **What is "standby"?** "Standby" means you are temporarily unemployed because of a lack of work but you expect to return to work with your regular employer. You do not have to register for work or look for other work while you are on standby. You must be available for all hours of work offered by your regular employer.

(2) How long can I be on standby?

(a) You can ask to be on standby for up to four weeks.

(b) We will ask your employer to verify that you are on standby and your expected return to work date:

(i) If your employer does not reply, you can be on standby for up to four weeks;

(ii) If your employer confirms you are on standby, you can be on standby for up to four weeks or until the return to work date given by your employer, whichever is earlier;

(iii) If your employer replies that you are not on standby or do not have a return to work date within eight weeks, we will require you to immediately register for work and to look for work.

(c) Your regular employer may ask to extend your standby status for more than four, but no more than eight, weeks (except as provided in (2)(d) below). This request

must be approved by the department. We will consider the following before deciding whether to approve standby for more than four weeks:

- (i) How long you have been out of work;
- (ii) Whether other suitable work is available;
- (iii) The impact on you and your employer if you accept other work; and
- (iv) Other factors that apply to your situation.

(d) At his or her discretion, the commissioner may grant standby for more than eight weeks in a benefit year. The employer must apply in writing and show there are conditions that apply to the business that are so unique or unusual compared to similar businesses that having their employees on standby for more than eight weeks is necessary.

(e) We can approve standby if you have obtained a bona fide job with a new employer that has a definite start date within four weeks. The job must be in employment covered by Title 50 RCW or the comparable laws of another state or the federal government.

(3) Are there conditions apply to a request for standby?

(a) You must have a definite date when you will return to work for your regular employer;

(b) We will not approve standby if you only have prospects of future work with the employer, a promise of more work at some unspecified date, or when the return to work date depends on conditions beyond the employer's control, such as weather;

(c) Except for claimants who qualify as part-time eligible workers under RCW 50.20.119, we will not approve standby if you regularly work fewer than forty hours each week for the employer; and

(d) Except as provided in subsection (2)(d), we will not approve standby for more than eight weeks in any benefit year. Any week(s) that you do not qualify for benefits because of your earnings will not be considered as part of the eight weeks. After eight consecutive weeks of unemployment, we will no longer consider you attached to that employer.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-110-015, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-110-015, filed 4/5/99, effective 5/6/99.]

WAC 192-110-017 When can a partially unemployed worker apply for benefits?—RCW 50.04.310. If you are a partially unemployed worker as defined in WAC 192-180-013, you may apply for unemployment benefits up to five weeks after your hours are reduced without the application being considered late.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-110-017, filed 9/9/05, effective 10/10/05.]

WAC 192-110-020 How will the department verify my identity? When you apply for benefits, we will ask you questions based on information in our records, such as your work history.

(1) If we can verify your identity with these questions, we will file your application for benefits.

(2) If we cannot verify your identity through questioning, we will send you a verification form:

(a) If you complete and return the verification form to the department, and it provides satisfactory evidence of your identity, your claim will be effective based on the date of your first telephone call;

(b) If you do not complete or return the verification form, or it does not satisfy the department of your identity, we will deny your benefits.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-110-020, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20-010 and 50.12.040. 99-08-073, § 192-110-020, filed 4/5/99, effective 5/6/99.]

WAC 192-110-050 How do I reopen my claim? (1) If you do not file a claim for one or more weeks, you must reopen your claim.

(a) If it has been fewer than four weeks since you last claimed, you must reopen your claim by calling the unemployment claims telecenter and asking an agent to reopen your claim.

(b) If you have not claimed benefits for four or more weeks, you may reopen your claim on the internet. However, you must do so **before** the last working day of the week (which is usually Friday). Otherwise you must call the unemployment claims telecenter and speak to an agent to reopen your claim.

(2) Your claim will be reopened effective on Sunday of the week in which you contact the department. You cannot receive benefits for any prior weeks unless you can show good cause for not reopening your claim earlier.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-110-050, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.20-010 and 50.12.040. 99-08-073, § 192-110-050, filed 4/5/99, effective 5/6/99.]

WAC 192-110-200 Maximum benefits payable—RCW 50.20.120 (1)(b). When the three month seasonally adjusted total unemployment rate reaches six and eight-tenths percent or less, the maximum benefits payable on a claim will be permanently reduced to 26 times an individual's weekly benefit amount or one-third of the individual's base year wages, whichever is less.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-110-200, filed 12/9/04, effective 1/9/05.]

Chapter 192-120 WAC CLAIMANT NOTICES

WAC

192-120-001	Information for claimants.
192-120-010	Claimant information booklet.
192-120-020	Presentation of benefit rights.
192-120-030	Will I be told if my eligibility for benefits is questioned?
192-120-035	How will adequate notice be provided?
192-120-040	Will I be interviewed before a decision about my eligibility is made?
192-120-050	Conditional payment of benefits.

WAC 192-120-001 Information for claimants. (1) The department will provide you with information necessary for filing your weekly claims for benefits.

(2) The department will provide assistance to any person who needs help in filing claims.

(3) You will be responsible for following written information provided by the department for the duration of your claim, and will be presumed to understand the information unless you ask for help in understanding it.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-120-001, filed 4/5/99, effective 5/6/99.]

WAC 192-120-010 Claimant information booklet.

(1) The department will publish an information for claimants booklet, form number EMS 8139, to provide basic information on the laws, rules and procedures about claims for unemployment insurance benefits. Single copies of the booklet will be available to the public at no charge.

(2) Each person who files an application for benefits will be mailed a copy of the most recent version of the information for claimants booklet.

(3) Each person who is mailed a copy of the information booklet will be responsible for filing claims in accordance with its instructions.

(4) A replacement booklet will be mailed to any person who requests one.

(5) Each person who is mailed a booklet is responsible for reporting and filing claims according to the information in the booklet for the duration of the claim unless other specific information is given to the person in writing.

(6) The department will assist any person who may have difficulty understanding the booklet.

(7) If you fail to ask for help in understanding the booklet, you will be presumed to understand its contents and held responsible for any failure to act as directed by the booklet.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-120-010, filed 4/5/99, effective 5/6/99.]

WAC 192-120-020 Presentation of benefit rights. (1)

When you file an application for benefits, the department will give you a presentation of benefit rights. At a minimum, the presentation of benefit rights will include information regarding:

- (a) Your statement of wages and hours (monetary determination);
- (b) Instructions on filing weekly claims;
- (c) Reemployment services; and
- (d) How eligibility questions are adjudicated.

(2) You will be responsible for filing claims and providing information as directed in the presentation of benefit rights unless other written instructions are given to you after the presentation of benefit rights.

(3) If there is a conflict between written and spoken information given to you, the written information will apply.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-120-020, filed 4/5/99, effective 5/6/99.]

WAC 192-120-030 Will I be told if my eligibility for benefits is questioned? Whenever we have a question regarding whether you (the claimant) are eligible for benefits, we will give you adequate notice before making a decision. "Adequate notice" means we will tell you:

- (1) Why we question your eligibility for benefits;

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(2) That you have the right to a fact-finding interview about your eligibility for benefits and that the interview will be conducted by telephone except:

(a) When you specifically ask to be interviewed in person, or

(b) In unusual circumstances where we decide an in-person interview is necessary;

(3) That you can have someone, including an attorney, assist you at the interview;

(4) That you can have witnesses on your behalf, provide evidence, and cross-examine other witnesses or parties;

(5) That, prior to the interview, you may ask for copies of any records or documents we have that we will consider in making a decision about your eligibility for benefits;

(6) The date by which you must reply to the notice (which will be no earlier than reasonable mailing time plus five working days); and

(7) That if you do not respond to the written notice by the date shown, your benefits may be denied and you may have to repay any benefits already paid to you.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-120-030, filed 4/5/99, effective 5/6/99.]

WAC 192-120-035 How will adequate notice be provided? (1) A written notice will be mailed to your most recent address in our files; or

(2) When you file your weekly claim for benefits by telephone, you will receive a verbal notice. If you do not reply by the last working day of the week in which your claim was filed, a written notice will be mailed to you. The date by which you must reply to this written notice will be no earlier than reasonable mailing time plus five working days, starting from the date your weekly claim for benefits was filed.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-120-035, filed 4/5/99, effective 5/6/99.]

WAC 192-120-040 Will I be interviewed before a decision about my eligibility is made? Before any decision is made regarding your eligibility for benefits, you will be given an opportunity to be heard. "Opportunity to be heard" is an offer to hold a fact-finding interview to resolve our questions about your (the claimant's) eligibility for benefits.

(1) At the interview, before you are asked to answer any questions, we will tell you all the facts we have that we will consider in making a decision.

(2) We will not use any facts received after the interview to make our decision unless:

- (a) We tell you about the new information, and
- (b) Give you the chance to respond to the new information.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-120-040, filed 4/5/99, effective 5/6/99.]

WAC 192-120-050 Conditional payment of benefits.

(1) If you are a continued claim recipient and your eligibility for benefits is questioned by the department, you will be conditionally paid benefits without delay for any week(s) for which you file a claim for benefits, until and unless you have been provided adequate notice and an opportunity to be heard.

(2) Conditional payments will not be made under the conditions described in WAC 192-140-200 and 192-140-210.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-120-050, filed 12/9/04, effective 1/9/05.]

Chapter 192-130 WAC EMPLOYER NOTICES

WAC

192-130-050	Notice of filing of application—RCW 50.20.150.
192-130-060	Notice to employer.
192-130-065	Mailing addresses for notice to employer.
192-130-070	Mailing of eligibility determinations—RCW 50.20.180.
192-130-080	Procedure—Separation issues.

WAC 192-130-050 Notice of filing of application—RCW 50.20.150. (1) Whenever an individual files an initial application for unemployment benefits, or reopens a claim after subsequent employment, a notice will be mailed to the applicant's most recent employer as stated by the applicant. Any employer who receives such a notice and has information which might make the applicant ineligible for benefits shall report this information to the employment security department at the address indicated on the notice within ten days of the date the notice was mailed. If the employer does not reply within ten days, the department may allow benefits to the individual, if he or she is otherwise eligible.

(2) If an employer reports information which it claims makes an individual ineligible for benefits, the department will issue a written decision regarding the individual's eligibility and mail a copy to the employer.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 98-14-068, § 192-130-050, filed 6/30/98, effective 7/31/98.]

WAC 192-130-060 Notice to employer. (1) Whenever an individual files an initial application for unemployment benefits, a notice will be mailed to:

(a) The claimant's last employer, and

(b) Any prior employer from whom the claimant has a potentially disqualifying separation where there is insufficient subsequent employment to purge a separation disqualification. An individual will be presumed to have a potentially disqualifying separation when:

(i) For claims with an effective date prior to January 4, 2004, it has been less than seven weeks or the individual has not earned at least seven times his or her weekly benefit amount since the job separation; or

(ii) For claims with an effective date January 4, 2004, and later, it has been less than ten weeks or the individual has not earned at least ten times his or her weekly benefit amount since the job separation.

(2) Whenever an individual files an initial application for unemployment benefits and a benefit year is established, a notice will be mailed to all base year employers. This notice to base year employers will include information on wages reported and benefit charging related information and will request an employer response if the wage information is incorrect or if the employer wishes to request relief of benefit charging.

(3) Whenever an individual files an initial application for unemployment benefits, a notice will be mailed to any separating employer as provided in WAC 192-320-075. This

notice will include information that the employer may be liable for all benefits paid on the claim as provided in RCW 50.29.021 (2)(c).

(4) Whenever an individual files an additional claim for benefits (reopens an existing claim after subsequent employment), a notice will be mailed to the last employer reported by the claimant and to any prior employer from whom the claimant has a potentially disqualifying separation who has not previously been notified.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-130-060, filed 12/9/04, effective 1/9/05.]

WAC 192-130-065 Mailing addresses for notice to employer. Notices to employers required by RCW 50.20.150 and WAC 192-130-060 will be mailed as follows:

(1) The notice to the last employer of the claimant will be mailed to the address provided by the claimant. However, an alternative mailing address may be used in the following circumstances:

(a) If the department has been notified that the employer is represented for unemployment insurance purposes by an employer representative or cost control firm, the notice to the last employer may be mailed directly to that firm; or

(b) If an employer has notified the department that unemployment claim notices should be mailed to a specified address, the notice to the last employer may be mailed directly to that address.

(2) The notice to any base year employer who has reported wages to the department will be mailed to the employer's mailing address of record provided by the employer for tax purposes.

(3) The notice to any other employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) will be mailed to the address provided by the claimant.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-130-065, filed 12/9/04, effective 1/9/05.]

WAC 192-130-070 Mailing of eligibility determinations—RCW 50.20.180. (1) An eligibility determination based on a job separation issue will be mailed to the following:

(a) The last employer, if the claimant was separated from employment for reasons other than lack of work;

(b) A previous employer from whom the claimant has a potentially disqualifying separation as provided in WAC 192-130-060 if the claimant was separated from employment for reasons other than lack of work;

(c) For claims with an effective date prior to January 4, 2004, to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for a felony or gross misdemeanor connected with the work;

(d) For claims with an effective date of January 4, 2004 or later, to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for gross misconduct connected with the work, or whose wage credits are deleted from the claimant's record as a result of the claimant's gross misconduct.

(2) An eligibility determination based on an issue other than a separation from employment will be mailed to an employer if the employer provides relevant information relating to eligibility for a specific week.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-130-070, filed 12/9/04, effective 1/9/05.]

WAC 192-130-080 Procedure—Separation issues.

(1) The department will not make a decision on a separation issue (RCW 50.20.050 or 50.20.066) until both the employer and the claimant have had an opportunity to present information and rebuttal, if necessary and appropriate, about the separation.

(2) If an employer does not respond to the notice within ten days as required by WAC 192-130-060, the department may make a decision at that time based on available information.

(3) If the employer mails separation information to the unemployment claims telecenter identified on the notice after the end of the ten day response period, but before the decision has been made, the department will consider that information before making a decision.

(4) If the employer submits separation information to the department within thirty days after a decision has been mailed, the department will consider that information for the purposes of a redetermination under RCW 50.20.160 or as an appeal of the decision.

(5) Any information received within thirty days of the mailing of the notice required by WAC 192-130-060 will be considered a request for relief of benefit charges under RCW 50.29.021.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 07-22-055, § 192-130-080, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-130-080, filed 12/9/04, effective 1/9/05.]

Chapter 192-140 WAC

REPORTING REQUIREMENTS TO RECEIVE BENEFITS

WAC

192-140-005	Filing weekly claims for benefits.
192-140-010	Personal identification number.
192-140-020	Will I be required to report in person?
192-140-025	What does "failure to respond" mean?
192-140-030	What happens if I do not report in person when directed?
192-140-070	What happens if I do not establish that I am able to or available for work?
192-140-075	What happens if I do not demonstrate that I am actively looking for work?
192-140-080	What happens if I do not comply with a job search directive?
192-140-085	What happens if I do not respond to a request for information regarding late claim(s)?
192-140-090	What happens if I do not report for reemployment services as provided in RCW 50.20.010 (1)(e)?
192-140-100	What happens if I do not respond to a request for information about a discharge from work?
192-140-120	What happens if I do not provide information regarding attendance at school?
192-140-200	What happens if I certify that I am not able to or available for work?
192-140-210	What happens if I return to full-time work or report hours worked consistent with full-time work?
192-140-220	What happens if I do not respond to a request for information about my corporate officer status?

(2009 Ed.)

WAC 192-140-005 Filing weekly claims for benefits.

(1) **How do I file my weekly claim for benefits?** You may file your claim by placing a telephone call to the unemployment information and weekly claims line. The department can approve other methods of filing a weekly claim in individual circumstances.

(2) **When do I file my claim?** You must file a claim for every week for which you want to be paid or have counted as your waiting week. Every week begins at 12:01 a.m. on Sunday and ends at midnight on Saturday. Your claim must be filed *after* the end of the week(s) you are claiming.

(a) File your telephone claim after 12:01 a.m. Sunday, but before 5:00 p.m. on Friday, following the week you are claiming. (In case of a legal holiday, file your claim before 5:00 p.m. on the last working day of the week.)

(b) If you file by mail, file your claim anytime Sunday through Saturday following the week you are claiming. Your claim is considered filed on the postmarked date.

(3) **How often do I file my claim?** File your claim weekly. The department may approve other filing schedules in cases of emergency or in unusual circumstances.

(4) **What happens if I miss a week?** If you do not claim a week, you will have to contact the unemployment claims telecenter to reopen your claim.

(5) **What information do I have to report?** Your claim must include:

(a) The Saturday date of the week you are claiming;

(b) Answers to the questions:

(i) A claim filed by telephone cannot be processed unless all questions are answered;

(ii) A claim filed in writing will be processed if at least one question is answered and other information required by this subsection (5) is provided, but your eligibility for benefits will be in question and you will be asked to provide complete information, which could result in a denial of benefits;

(c) Your personal identification number if filing by telephone, or your signature if you filed your claim in writing;

(d) The amount and source of any pension you are receiving for the week claimed;

(e) Any holiday earnings received during the week claimed;

(f) Any vacation pay received during the week claimed, including the dates for which payment was received, if applicable; and

(g) Any earnings and the number of hours you worked during the week claimed.

(6) **What happens if I don't provide this information?**

A telephone claim that does not meet the requirements of subsection (5) cannot be processed and you will receive verbal instructions to contact your unemployment claims telecenter. A written claim that does not meet these requirements is incomplete and will be returned to you with a request for additional information.

(7) **What happens if I file my claim late?**

(a) Until you receive your first payment, your claim is late if it is filed more than seven days (one week) after the Saturday of the week being claimed. You will not be paid for these weeks unless you can prove you had a good reason for filing late.

(b) After you have received your first payment, your claim is late if it is filed more than 28 days (four weeks) after

the Saturday of the week being claimed. Any week that is filed late may be conditionally paid. This means you will be paid benefits, but you will be asked to prove you had a good reason for filing late. If you cannot do so, you will receive a notice directing you to repay benefits for the week(s) you filed late.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-140-005, filed 4/5/99, effective 5/6/99.]

WAC 192-140-010 Personal identification number.

(1) The first time you call the unemployment information and weekly claims line to obtain information about your claim or to file a weekly claim for benefits, you must establish a personal identification number (PIN). This number is your electronic signature on all claims filed by telephone and its use is equivalent to your signature on written forms.

(2) Security of the PIN is your responsibility. You are responsible for any payments made as a result of the use of this PIN. If you forget your PIN or if someone else, including an employee of the department, learns your PIN, it must be reset. You are responsible for contacting the unemployment claims telecenter to establish a new PIN.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-140-010, filed 4/5/99, effective 5/6/99.]

WAC 192-140-020 Will I be required to report in person? You may be instructed to report in person for any reason the department deems necessary, such as to receive reemployment services. If you do not report in person, benefits will be denied for the week unless:

(1) You have returned to full-time work and cannot report in person, or

(2) You can show you had good cause for not reporting in person. "Good cause" is any factor which would cause another person in similar circumstances to be unable to report in person.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-140-020, filed 4/5/99, effective 5/6/99.]

WAC 192-140-025 What does "failure to respond" mean? (1) "Failure to respond" means you do not report in person when directed to do so, or do not provide all requested information by the date indicated in a written request for information.

(2) If the request for information requires you to report in person and you respond in writing, you will be deemed to have failed to respond unless your written response provides specific information that will establish good cause for not reporting in person.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-140-025, filed 4/5/99, effective 5/6/99.]

WAC 192-140-030 What happens if I do not report in person when directed? (1) If you do not report in person when directed to do so, and do not provide information to explain why you did not report in person, the department will presume you failed to report in person without good cause and benefits will be denied under RCW 50.20.010(1).

(2) This denial of benefits is for definite period of time, which is the week or weeks in which you failed to report in person.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-140-030, filed 4/5/99, effective 5/6/99.]

WAC 192-140-070 What happens if I do not establish that I am able to or available for work? (1) If you report that you were not able to work or not available for work in any week or do not report whether you were able to work or were available for work, and do not provide details regarding your ability to or availability for work as requested, the department will presume you are not able or not available for work and benefits will be denied under RCW 50.20.010 (1)(c).

This denial is for a definite period of time, which is the week or weeks in which information on your ability to work or availability for work is incomplete.

(2) If you provide information that indicates you are not able to work or not available for work because of a circumstance that is expected to continue beyond the immediate week or weeks claimed, and you do not provide information regarding your ability to or availability for work, benefits will be denied under RCW 50.20.010 (1)(c).

This denial is for an indefinite period of time. It will begin with the first week claimed in which the circumstance applies and continue until the circumstance no longer exists.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-070, filed 12/9/04, effective 1/9/05.]

WAC 192-140-075 What happens if I do not demonstrate that I am actively looking for work? (1) If you report that you were not actively seeking work in any week or do not report whether you made an active search for work and subsequently fail to report complete job search details and other information when requested, the department will presume you are not actively seeking work and your benefits will be denied under RCW 50.20.010 (1)(c).

(2) For the purpose of this section, "complete job search details" includes those elements required under WAC 192-180-015.

(3) This denial is for a definite period of time, which is the week or weeks in which your job search information is incomplete.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-075, filed 12/9/04, effective 1/9/05.]

WAC 192-140-080 What happens if I do not comply with a job search directive? (1) If you have been issued a job search directive as provided in WAC 192-180-010, do not report a job search that meets the requirements outlined in the directive, and you do not provide additional job search information as requested or you respond with information that does not meet these requirements, the department will presume you are not actively seeking work as directed and benefits will be denied under RCW 50.20.010 (1)(c).

(2) This denial is for a definite period of time, which is the week or weeks in which your job search information does not meet the specific requirements of the directive.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-080, filed 12/9/04, effective 1/9/05.]

WAC 192-140-085 What happens if I do not respond to a request for information regarding late claim(s)? (1) If you file a claim late as defined in WAC 192-140-005 and do not respond to a request for an explanation of why the claim was filed late, the department will presume that the claim was filed late without good cause and benefits will be denied under RCW 50.20.010 (1)(b) and WAC 192-140-005.

(2) This denial is for a definite period of time, which is the week or weeks that were filed late.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-085, filed 12/9/04, effective 1/9/05.]

WAC 192-140-090 What happens if I do not report for reemployment services as provided in RCW 50.20.010 (1)(e)? The commissioner may direct you in writing to report in person for reemployment services.

(1) **Exceptions.** You will not be required to participate in reemployment services if you:

(a) Are a member in good standing of a full referral union;

(b) Are attached to an employer as provided in WAC 192-180-005; or

(c) Within the previous year have completed, or are currently scheduled for or participating in, similar services.

(2) **Minimum services.** The services will consist of one or more sessions which include, but are not limited to:

- (a) Local labor market information;
- (b) Available reemployment and training services;
- (c) Successful job search attitudes;
- (d) Self assessment of job skills and interests;
- (e) Job interview techniques;
- (f) The development of a resume or fact sheet; and
- (g) The development of a plan for reemployment.

(3) **Sanctions.** If you have received a directive, and fail to participate in reemployment services during a week, you will be disqualified from benefits for that week unless justifiable cause is demonstrated.

(4) **Justifiable cause.** Justifiable cause for failure to participate in reemployment services as directed will include factors specific to you which would cause a reasonably prudent person in similar circumstances to fail to participate. Justifiable cause includes, but is not limited to:

(a) Your illness or disability or that of a member of your immediate family;

(b) Your presence at a job interview scheduled with an employer; or

(c) Severe weather conditions precluding safe travel.

Reasons for absence may be verified. In all such cases, your ability to or availability for work is in question.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-090, filed 12/9/04, effective 1/9/05.]

WAC 192-140-100 What happens if I do not respond to a request for information about a discharge from work? (1) If you do not respond to a request for information about a discharge from work and have not given the department enough information to identify or contact the employer, the department will presume the employer discharged you for misconduct connected with the work. Benefits will be denied under RCW 50.20.066. If you have given the department enough information to contact the employer, benefits will not

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be denied unless the employer shows by a preponderance of evidence that you were discharged for misconduct connected with your work.

(2) This denial is for an indefinite period of time and will continue until you meet the requalification provisions of RCW 50.20.066.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-140-100, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 05-01-076, § 192-140-100, filed 12/9/04, effective 1/9/05.]

WAC 192-140-120 What happens if I do not provide information regarding attendance at school? (1) If you or another party notifies the department that you are in school and you do not respond to a request for information regarding school attendance, the department will presume that you are registered for academic instruction of 12 or more credit hours and have a limited attachment to the labor market, and are not available for work. Benefits will be denied under RCW 50.20.095 and 50.20.010 (1)(c).

(2) This denial of benefits is indefinite in nature and will continue until you establish that you are eligible under RCW 50.20.095 and 50.20.010 (1)(c).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-120, filed 12/9/04, effective 1/9/05.]

WAC 192-140-200 What happens if I certify that I am not able to or available for work? (1) Benefits will be reduced under RCW 50.20.010 (1)(c) and 50.20.130 without requiring additional information or interview if you file a weekly claim that:

(a) States you were not available for work or were not able to work on one or two days of a week or weeks being claimed; and

(b) The day or days to which this condition applies are normal working days in your regular occupation; and

(c) The information supplied clearly supports this finding.

This denial is for a definite period of time and applies only to the day or days for which you specifically indicate you are ineligible for benefits.

(2) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that:

(a) States you were not available for work or were not able to work for three or more days of a week or weeks being claimed; and

(b) The days to which this condition applies are normal working days in your regular occupation; and

(c) The information supplied clearly supports this finding.

This denial for a definite period of time and applies only to the week or weeks for which you specifically indicate you are ineligible for benefits.

(3) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that indicates you are not able to work or not available for work because of a circumstance that is expected to continue beyond the immediate week or weeks claimed.

This denial is for an indefinite period of time. It will begin with the first week claimed in which the circumstance applies and continue until the circumstance no longer exists.

(4) If you file a weekly claim with information clearly stating that you do not intend to claim benefits for the week or weeks, benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview.

This denial is for a specific period of time, which is the week or weeks for which you specifically indicate you do not intend to claim benefits.

(5) Any denial of benefits under this section will be issued without delay.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-200, filed 12/9/04, effective 1/9/05.]

WAC 192-140-210 What happens if I return to full-time work or report hours worked consistent with full-time work? If you report that you have returned to full-time work or report hours worked that are consistent with full-time work for that occupation, this information is sufficient to find that you are no longer an unemployed individual as defined in RCW 50.04.310. This denial is for a specific period of time, which is the week or weeks for which you report full-time work or hours consistent with full-time work.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-140-210, filed 12/9/04, effective 1/9/05.]

WAC 192-140-220 What happens if I do not respond to a request for information about my corporate officer status? If you do not respond to a request for information about your corporate officer status, the department will presume you are not unemployed as defined in RCW 50.04.310 and benefits will be denied under RCW 50.20.010. This denial is for an indefinite period of time and will continue until you show you are unemployed as defined under RCW 50.04.310.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-140-220, filed 11/21/07, effective 1/1/08.]

Chapter 192-150 WAC

JOB SEPARATIONS

WAC

192-150-050	Leaving work to accept bona fide job offer—RCW 50.20.050 (1)(b)(i) and (2)(b)(i).
192-150-055	Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).
192-150-060	Leaving work because of disability—Notice to employer—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).
192-150-085	How to qualify after benefits have been denied.
192-150-090	How to qualify for benefits after leaving work for marital or domestic reasons.
192-150-100	Employer-initiated layoffs or reductions in force.
192-150-110	Mandatory military transfers—RCW 50.20.050 (2)(b)(iii).
192-150-112	Definitions—Domestic violence and stalking—RCW 50.20.050 (2)(b)(iv).
192-150-113	Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv).
192-150-115	Reduction in compensation of twenty-five percent or more—RCW 50.20.050 (2)(b)(v).
192-150-120	Reduction in hours of twenty-five percent or more—RCW 50.20.050 (2)(b)(vi).
192-150-125	Change in worksite—RCW 50.20.050 (2)(b)(vii).
192-150-130	Worksite safety—RCW 50.22.050 (2)(b)(viii).

192-150-135	Illegal activities at the worksite—RCW 50.20.050 (2)(b)(ix).
192-150-140	Change in usual work that violates religious or sincere moral beliefs—RCW 50.20.050 (2)(b)(x).
192-150-150	When is a separation considered a refusal of new work?
192-150-200	General provisions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.
192-150-205	Definitions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.
192-150-210	Willful or wanton disregard—RCW 50.04.294 (1)(a) and (2).
192-150-215	Discharges for gross misconduct—Responsibility for providing information.
192-150-220	Discharges for gross misconduct—Definitions—Canceling wage credits.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-150-065	What constitutes an employer-initiated mandatory transfer under RCW 50.20.050 (1)(b)(iii)? [Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-065, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150 (10). 01-11-085, § 192-150-065, filed 5/16/01, effective 6/16/01.] Repealed by 07-22-055, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010 and 50.12.040.
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WAC 192-150-050 Leaving work to accept bona fide job offer—RCW 50.20.050 (1)(b)(i) and (2)(b)(i). If you leave work to accept a bona fide offer of employment, you will have good cause within the meaning of RCW 50.20.050 if you satisfactorily demonstrate that:

- (1) Prior to leaving work, you received a definite offer of employment; and
- (2) You had a reasonable basis for believing that the person making the offer had the authority to do so; and
- (3) A specific starting date and the terms and conditions of the employment were mutually agreed upon; and
- (4) You continued in your previous employment for as long as was reasonably consistent with whatever arrangements were necessary to start working at the new job; and
- (5) The new job is in employment covered by Title 50 RCW or the comparable laws of another state or the federal government.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-050, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-150-050, filed 5/16/01, effective 6/16/01.]

WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii). (1) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

- (a) You left work primarily because of such illness, disability, or death; and
- (b) The illness, disability, or death made it necessary for you to leave work; and
- (c) You first exhausted all reasonable alternatives prior to leaving work, including:
 - (i) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; and

(ii) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(2) For claims with an effective date of January 4, 2004, or later, you are not eligible for unemployment benefits unless, in addition to the requirements of subsections (1)(a)-(c) above, you terminate your employment and are not entitled to be reinstated in the same or similar position.

(3) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by subsection (1)(c) if you can show that doing so would have been a futile act.

(4) **Definitions.** For purposes of this chapter:

(a) "Disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job;

(b) "Immediate family" means your spouse, children (including unborn children), step-children, foster children, or parents of either spouse, whether living with you or not, and other relatives who temporarily or permanently reside in your household;

(c) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-150-055, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040, 02-14-035, § 192-150-055, filed 6/25/02, effective 7/26/02.]

WAC 192-150-060 Leaving work because of disability—Notice to employer—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii). (1) If you leave work because of a disability you must notify your employer about your disabling condition before the date you leave work or begin a leave of absence. Notice to the employer shall include any known restrictions on the type or hours of work you may perform.

(2) Any restrictions on the type or hours of work you may perform must be supported by a physician's statement or by the terms of a collective bargaining agreement or individual hiring contract.

(3) Nothing in unemployment insurance law requires your employer to offer you alternative suitable work when you have a disability, or modify your duties so that you can perform your current job. However, any offer from your employer of other suitable work must be made prior to the date you leave work or begin a leave of absence. You are not required to request alternative work from your employer to be found available for work.

(4) If your employer offers you alternative work or otherwise offers to accommodate your disability, you must demonstrate good cause to refuse the offer. This may include, but is not limited to, information from your physician that the accommodation offered by your employer was inadequate to reasonably accommodate your medical condition, or information demonstrating that the alternative work offered you by your employer was not suitable.

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(5) If you refuse an offer of work from any employer after your job separation or after beginning a leave of absence, the department will determine whether you refused an offer of suitable work as provided in RCW 50.20.080.

(6) If you are on a leave of absence due to your disability, you must promptly request reemployment from your employer when you are again able to return to work.

(7) This section also applies to individuals on a leave of absence because of a pregnancy-related disability.

(8) For claims with an effective date of January 4, 2004, or later, in addition to the requirements of this section you are not eligible for unemployment benefits unless you terminate your employment and are not entitled to be reinstated to the same or similar position.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-150-060, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 02-08-072, § 192-150-060, filed 4/2/02, effective 5/3/02.]

WAC 192-150-085 How to qualify after benefits have been denied. (1) Benefits may be denied under RCW 50.20.-050 for voluntarily leaving work, RCW 50.20.060 for being discharged for misconduct, and RCW 50.20.080 for refusing an offer of suitable work or job referral. The denial of benefits will continue indefinitely until you show that:

(a) At least seven calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

(b) You have obtained bona fide work and earned wages of at least seven times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

(2) For claims with an effective date of January 4, 2004, or later, benefits may be denied under RCW 50.20.066 for being discharged for misconduct or gross misconduct. The denial of benefits will continue indefinitely until you show that:

(a) At least ten calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

(b) You have obtained bona fide work and earned wages of at least ten times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-150-085, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10), 01-11-085, § 192-150-085, filed 5/16/01, effective 6/16/01.]

WAC 192-150-090 How to qualify for benefits after leaving work for marital or domestic reasons. This section applies only to claims with an effective date prior to January 4, 2004. RCW 50.20.050 (1)(d) says that benefits will be denied if you quit your job for family reasons. In such cases, the law provides an alternative means for qualifying for benefits other than through work and earnings. Under this alternative method, you must report in person to your Work-Source office or local employment center in ten different

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weeks and establish that you are able to work, available for work, and actively seeking work each week.

If you are an interstate claimant or living in a remote area, you can qualify for benefits under this alternative method by calling the unemployment information and weekly claims line in each of ten different weeks and certifying that you are able to work, available for work, and actively seeking work each week. For purposes of this section, you are living in a remote area if a round trip of more than two hours by reasonably available public or private transportation is required to reach the nearest local employment center and return.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-090, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-150-090, filed 4/5/99, effective 5/6/99.]

WAC 192-150-100 Employer-initiated layoffs or reductions in force. (1) You will not be considered to have been separated from employment for a disqualifying reason when:

(a) Your employer takes the first action in the separation process by announcing in writing to its employees that:

(i) The employer plans to reduce its work force through a layoff or reduction in force, and

(ii) That employees can offer to be among those included in the layoff or reduction in force;

(b) You offer to be one of the employees included in the layoff or reduction in force; and

(c) Your employer takes the final action in the separation process by accepting your offer to be one of the employees included in the layoff or reduction in force, thereby ending your employment relationship.

(2) This section does not apply to situations where an employer modifies benefits or otherwise encourages early retirement or early separation, but the employer and employee do not follow the steps in subsection (1)(a) through (c).

[Statutory Authority: RCW 50.12.010, 50.12.040. 01-12-009, § 192-150-100, filed 5/24/01, effective 6/24/01.]

WAC 192-150-110 Mandatory military transfers—RCW 50.20.050 (2)(b)(iii). (1) Any military transfer is considered mandatory if your spouse receives orders from the military to relocate to a new duty station, regardless of whether the transfer is temporary or permanent.

(2) You may show good cause to quit work if you relocate for your spouse's employment that was due to a mandatory military transfer if:

(a) Your spouse's new duty station is outside your existing labor market. For claims with an effective date prior to July 2, 2006, the new duty station must be in Washington or another state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) that allows benefits to individuals who quit work to accompany their military spouse; and

(b) You continued to work for your previous employer for as long as was reasonable prior to the move.

(3) For purposes of this section, the term "military" includes the following: U.S. Navy, U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, activated

reserve members of any of these service branches, activated members of the National Guard, commissioned officers of the National Oceanographic and Atmospheric Administration, and commissioned officers of the regular or reserve corps of the U.S. Public Health Service.

(4) Good cause for quitting work is not established under this section if:

(a) You quit work to return to your home of record or to another location rather than accompanying your spouse to a new duty location; or

(b) Your spouse leaves military service and you elect to relocate to your home of record or elsewhere.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-150-110, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12-010, 50.12.040, 50.12.042. 05-01-076, § 192-150-110, filed 12/9/04, effective 1/9/05.]

WAC 192-150-112 Definitions—Domestic violence and stalking—RCW 50.20.050 (2)(b)(iv). To constitute good cause for leaving work, your job separation must have been necessary to protect yourself or a member of your immediate family from domestic violence or stalking.

(1) **Immediate family** is defined in WAC 192-150-055 and means your spouse, children (including your unborn children), stepchildren, foster children, or parents of either spouse, whether living with you or not, and other relatives who temporarily or permanently reside in your household. In addition, for purposes of this section only, the term shall also include your siblings.

(2)(a) **Domestic violence** is defined in RCW 26.50.010. It includes the following acts committed between family or household members:

(i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault;

(ii) Sexual assault; or

(iii) Stalking.

(b) The perpetrator of domestic violence must be a family or household member, which means:

(i) Spouses and former spouses,

(ii) Persons who have a child in common regardless of whether they have been married or have lived together at any time,

(iii) Adult persons related by blood or marriage,

(iv) Adult persons who are presently residing together or who have resided together in the past,

(v) Persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship,

(vi) Persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and

(vii) Persons who have a biological or legal parent-child relationship, including stepparents, stepchildren, grandparents, and grandchildren.

(c) "Dating relationship" means a social relationship of a romantic nature.

(3) **Stalking** is defined by RCW 9A.46.110. It means:

(a) Intentionally and repeatedly harassing or following another person; and

(b) Placing the person being harassed or followed in fear of injury to self or property, or to another person or the property of another person; and

(c) Intending to frighten, intimidate, or harass the other person; or

(d) Knowing or having reason to know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(i) "Harass" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose.

(ii) "Repeatedly" means on two or more separate occasions.

(iii) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(iv) "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-150-112, filed 6/21/05, effective 7/22/05.]

WAC 192-150-113 Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv). (1) As a condition of eligibility for benefits, you are not required to exhaust reasonable alternatives prior to leaving work.

(2) The amount of notice you provide to your employer will not be a factor in evaluating whether you had good cause to leave work under this section. You will not be penalized for:

(a) Failing to provide notice to your employer prior to leaving work;

(b) Providing several weeks advance notice because you are making preparations to leave the situation;

(c) Not disclosing the domestic violence or stalking to your employer;

(d) Enduring domestic violence or stalking for an extended period of time before the job separation; or

(e) Leaving work when there has not been a recent act of domestic violence or stalking, provided you had a reasonable fear of future domestic violence or stalking.

(3) The following factors will be considered in evaluating whether you had good cause to leave work under this section:

(a) Domestic violence or stalking is the primary reason you left work, even if you gave a different reason for separation to your employer;

(b) Your separation was necessary which, for purposes of this section, means you had a good faith belief that you needed to leave work based upon:

(i) Your fear of domestic violence or stalking;

(ii) Avoiding domestic violence or stalking; or

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(ii) The consequences of domestic violence or stalking, including but not limited to legal proceedings, health care, counseling, child custody, or child protection matters.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-150-113, filed 6/21/05, effective 7/22/05.]

WAC 192-150-115 Reduction in compensation of twenty-five percent or more—RCW 50.20.050 (2)(b)(v). (1) "Compensation" means remuneration as defined in RCW 50.04.320.

(2) "Usual" includes amounts actually paid to you by your employer or, if payment has not yet been made, the compensation agreed upon by you and your employer as part of your hiring agreement.

(3) To constitute good cause for quitting work under this section, employer action must have caused the reduction in your usual compensation.

(4) All reductions in compensation occurring since the beginning of your base period to the date of separation will be included in the determination as to whether your compensation was reduced by twenty-five percent or more.

(5) The percentage of reduction will be based on your most recent pay grade, salary, or other benefits you received or have accepted on a permanent basis. It does not include any temporary raises or other compensation for performing temporary duties.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-115, filed 12/9/04, effective 1/9/05.]

WAC 192-150-120 Reduction in hours of twenty-five percent or more—RCW 50.20.050 (2)(b)(vi). (1) Your "usual hours" will be determined based on:

(a) The hours of work agreed on by you and your employer as part of your individual hiring agreement;

(b) For seasonal jobs, the number of hours you customarily work during the season; or

(c) For piecework, the number of hours you customarily work to complete a fixed volume of work.

(2) To constitute good cause for quitting under this section, employer action must have caused the reduction in your usual hours.

(3) All reductions in hours occurring since the beginning of your base period through the date of separation will be included in the determination as to whether your hours were reduced by twenty-five percent or more.

(4) In determining the percentage of reduction, the department will not consider any temporary overtime or additional hours performed on a temporary basis.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-120, filed 12/9/04, effective 1/9/05.]

WAC 192-150-125 Change in worksite—RCW 50.20.050 (2)(b)(vii). (1) The location of your employment must have changed due to employer action. The change must have:

(a) Substantially increased the distance you travel to the new worksite or increased the difficulty or inconvenience of travel; and

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(b) Resulted in a commute distance or time that is greater than is customary for workers in your job classification and labor market area.

(2) For purposes of this section:

(a) "Job classification" means your occupation at the time you quit work;

(b) "Labor market area" means the geographic area in which workers in your location and occupation customarily work. In determining whether a labor union's jurisdictional area is consistent with an individual member's labor market, the department will determine where the majority of union members in that member's location and occupation customarily work.

(3) Good cause for quitting work cannot be established under this section if the worksite location and distance to work was known at the time of hire.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-125, filed 12/9/04, effective 1/9/05.]

WAC 192-150-130 Worksite safety—RCW 50.22.050 (2)(b)(viii). (1) At the time of hire, you can reasonably expect that your worksite complies with applicable federal and state health and safety regulations. If, after beginning work or accepting the job offer, you become aware of a safety issue that was not previously disclosed by your employer, the department will consider the safety of the worksite to have deteriorated.

(2) To establish good cause for quitting work under this section, you must notify your employer of the safety issue and give your employer a reasonable period of time to correct the situation. For purposes of this section:

(a) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the safety condition at issue;

(b) "Reasonable period of time" means the amount of time a reasonably prudent person would have remained at the worksite or continued working in the presence of the condition at issue. In addition:

(i) For health or safety issues that present imminent danger of serious bodily injury or death to any person, your employer must take immediate steps to correct the situation;

(ii) If your employer has been issued a citation by a regulatory agency charged with monitoring health or safety conditions, the employer must correct the condition within the time period specified in the citation.

(c) "Serious bodily injury" means bodily injury which creates a probability of death, or which causes serious permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ whether permanent or temporary.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-130, filed 12/9/04, effective 1/9/05.]

WAC 192-150-135 Illegal activities at the worksite—RCW 50.20.050 (2)(b)(ix). (1) Illegal activities include violations of both civil and criminal law.

(2) To establish good cause for quitting work under this section, you must notify your employer of the illegal activity and give your employer a reasonable period of time to correct the situation. You are not required to notify your employer before quitting when your employer is conducting the illegal

activity and notifying your employer could jeopardize your safety or is contrary to other federal and state laws (for example, whistleblower protection laws).

(3) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the illegal activity at issue;

(4) A "reasonable period of time" is the period a reasonably prudent person would be expected to continue working in the presence of the activity at issue.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-135, filed 12/9/04, effective 1/9/05.]

WAC 192-150-140 Change in usual work that violates religious or sincere moral beliefs—RCW 50.20.050 (2)(b)(x). (1) For purposes of this section, "usual work" means job duties or conditions:

(a) Originally agreed upon by you and your employer in your hiring agreement; or

(b) Customary for workers in your job classification; or

(c) You consistently performed during your base period; or

(d) Mutually agreed to by you and your employer prior to the employer action changing your job duties.

(2) The following criteria will be used to determine whether you had good cause for quitting work under this section:

(a) The change in your usual work must be the result of action taken by your employer;

(b) The work must require you to violate your religious beliefs or sincere moral convictions; mere disapproval of the employer's method of conducting business is not good cause for leaving work under this section;

(c) You must notify your employer that the work violates your religion or sincere moral beliefs, unless doing so would be futile;

(d) The work or activity must directly, rather than indirectly, affect your religious or moral beliefs; and

(e) The objectionable condition must exist in fact, rather than be a matter of speculation.

(3) You will not have good cause for quitting work under this section if:

(a) You are inconsistent or insincere in your objections;

(b) The objection is raised as a sham or a means of avoiding work; or

(c) You knew of the objectionable aspects of the work at the time of hire, or you continued working under the objectionable conditions longer than a reasonably prudent person holding similar beliefs would have continued.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-140, filed 12/9/04, effective 1/9/05.]

WAC 192-150-150 When is a separation considered a refusal of new work? (1) Section 3304 (a)(5) of the Federal Unemployment Tax Act and RCW 50.20.110 state that you cannot be denied benefits if you refuse to accept new work when the wages, hours, or other working conditions are substantially less favorable than those prevailing for similar work in your local labor market.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When your employer changes your pay, hours, or conditions of work in a manner that does not constitute good cause under RCW 50.20.050(2), the department will decide if the change is an offer of new work. If it is, the department will also decide if the new work is substantially less favorable than similar work in your local labor market.

(a) If the department decides the change constitutes an offer of new work, and the new work is substantially less favorable, the department will treat the separation as a layoff due to lack of work and adjudicate the issue of the refusal of new work under RCW 50.20.080.

(i) The department will adjudicate the refusal of new work even if you have not claimed benefits for the week in which you refused the new work; and

(ii) The employer offering the new work is an interested party to the work refusal decision.

(b) If the department decides the change is not an offer of new work, or the new work is not substantially less favorable, it will adjudicate the separation from work as a voluntary quit under RCW 50.20.050(2) or a discharge under RCW 50.04.294, as appropriate.

(4) If the employer reduces your pay or hours by ten percent or less, the department will presume that it is not substantially less favorable and adjudicate the separation under RCW 50.20.050(2) or a discharge under RCW 50.04.294, as appropriate. You can overcome this presumption by providing additional information to the department that shows the job was not suitable as provided in RCW 50.20.110.

(5) If you continue working for your employer after being notified of the change(s) in working conditions, the department will consider that you have agreed to the new terms and conditions of employment and have accepted the offer of new work. If you later quit work because of these changes, the department will consider that you have voluntarily left work for personal reasons. This provision does not apply when you give notice of your intent to quit work upon being notified of the change(s) in working conditions and simply continue to work during an agreed upon notice period. In addition, you may continue working during an employer-provided grievance or arbitration period in response to the change in working conditions without the department considering that you have accepted the new work.

(6) For purposes of this section, the following definitions apply:

(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.

(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. The department will decide if a wage rate is prevailing for your labor market area

based on information provided by its labor market and economic analysis branch.

(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.

(d) "Substantially less favorable" means the work is materially reduced below the standard under which the majority of individuals in your occupation and labor market area customarily work, or the work would have a significantly unfavorable impact on you.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-150-150, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-150, filed 12/9/04, effective 1/9/05.]

WAC 192-150-200 General provisions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.

(1) The action or behavior that resulted in your discharge or suspension from employment must be connected with your work to constitute misconduct or gross misconduct.

(2) For purposes of this section, the action or behavior is connected with your work if it results in harm or creates the potential for harm to your employer's interests. This harm may be tangible, such as damage to equipment or property, or intangible, such as damage to your employer's reputation or a negative impact on staff morale.

(3) RCW 50.04.294, subsections (1)(c) and (3)(b), will be distinguished as follows:

(a) Subsection (1)(c) "Carelessness or negligence that causes or would likely cause serious bodily harm to your employer or fellow employee" means that your action results in serious bodily injury or a reasonably prudent person would know it is likely to result in serious bodily injury.

(b) Subsection (3)(b) "Inadvertence or ordinary negligence in isolated instances" means that your action is an accident or mistake and is not likely to result in serious bodily injury.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-150-200, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 05-01-076, § 192-150-200, filed 12/9/04, effective 1/9/05.]

WAC 192-150-205 Definitions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.

For purposes of this chapter, the following definitions will apply:

(1) "Willful" means intentional behavior done deliberately or knowingly, where you are aware that you are violating or disregarding the rights of your employer or a co-worker.

(2) "Wanton" means malicious behavior showing extreme indifference to a risk, injury, or harm to another that is known or should have been known to you. It includes a failure to act when there is a duty to do so, knowing that injury could result.

(3) "Carelessness" and "negligence" mean failure to exercise the care that a reasonably prudent person usually exercises.

(4) "Serious bodily harm" means bodily injury which creates a probability of death, or which causes significant permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ.

(5) "Criminal act" means any act classified as a felony, gross misdemeanor, or misdemeanor under state or federal law.

(6) "Flagrant" means conspicuously bad or offensive behavior showing contemptuous disregard for the law, morality, or the rights of others. This blatant behavior must be so obviously inconsistent with what is right or proper that it can neither escape notice nor be condoned.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-205, filed 12/9/04, effective 1/9/05.]

WAC 192-150-210 Willful or wanton disregard—RCW 50.04.294 (1)(a) and (2). (1) "Repeated inexcusable tardiness" means repeated instances of tardiness that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be tardy. Your employer must have warned you at least twice, either verbally or in writing, about your tardiness, and violation of such warnings must have been the immediate cause of your discharge.

(2) "Dishonesty related to employment" means the intent to deceive the employer on a material fact. It includes, but is not limited to, making a false statement on an employment application and falsifying the employer's records.

(3) "Repeated and inexcusable absences" means repeated absences that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be absent. Previous warnings from your employer are not required, but your repeated absences must have been the immediate cause of your discharge.

(4) A company rule is reasonable if it is related to your job duties, is a normal business requirement or practice for your occupation or industry, or is required by law or regulation.

(5) The department will find that you knew or should have known about a company rule if you were provided an employee orientation on company rules, you were provided a copy or summary of the rule in writing, or the rule is posted in an area that is normally frequented by you and your co-workers, and the rule is conveyed or posted in a language that can be understood by you.

(6) You are considered to be acting within your "scope of employment" if you are:

- (a) Representing your employer in an official capacity;
- (b) On your employer's property whether on duty or not;
- (c) Operating equipment under your employer's ownership or control;
- (d) Delivering products or goods on behalf of your employer; or
- (e) Acting in any other capacity at the direction of your employer.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-210, filed 12/9/04, effective 1/9/05.]

WAC 192-150-215 Discharges for gross misconduct—Responsibility for providing information. In any job separation where there is a potential disqualification under RCW 50.20.066(3), the employer is responsible for notifying the department in a timely manner when the issue is resolved.

If an employer notifies the department of a potential disqualification under RCW 50.20.066(3) within ten days of

receiving the notice required by WAC 192-130-060, the department will review the claimant's eligibility for benefits.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-150-215, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 05-01-076, § 192-150-215, filed 12/9/04, effective 1/9/05.]

WAC 192-150-220 Discharges for gross misconduct—Definitions—Canceling wage credits. (1) Definitions.

(a) "Criminal act" means every action defined as a crime by the applicable state or federal statutes, including felonies and gross misdemeanors.

(b) "Felony" means every crime that is defined as such by the applicable state or federal statutes.

(c) "Gross misdemeanor" means every crime which is defined as such by the applicable state or federal statutes.

(d) A "competent authority" is:

- (i) A court (including magistrate or court commissioner), prosecuting attorney, or law enforcement agency; or
- (ii) An administrative law judge; or
- (iii) A regulatory agency or professional association charged by law with maintaining professional standards or codes of conduct; or

(iv) Any other person or body, other than your employer, with authority to administer disciplinary action against you.

(e) An admission to your employer or to an employee of the department that you have committed a criminal act is not considered an admission to a competent authority for the purposes of RCW 50.20.066.

(2) Canceling wage credits.

(a) If you have been discharged for gross misconduct connected with your work:

(i) The department will cancel all your hourly wage credits based on that employment since the beginning of your base period;

(ii) If your wage credits with this employer are fewer than 680 hours, the balance of wage credits up to 680 hours will be canceled proportionately among your base period employers according to each employer's share of your base period wages. Wages from each employer will be removed from the most recent quarter in which wages were reported.

(b) Wage credits may only be canceled based upon an admission of a criminal act if:

- (i) You admit to each and every element of a criminal act which caused you to be discharged; and
- (ii) The admission is made to a competent authority.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-150-220, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 05-01-076, § 192-150-220, filed 12/9/04, effective 1/9/05.]

Chapter 192-170 WAC

AVAILABILITY FOR WORK

WAC

- 192-170-050 Suitable work factors—RCW 50.20.100 and 50.20.110.
- 192-170-060 Suitable work factors—Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv).
- 192-170-070 What are the availability requirements for part-time eligible workers?—RCW 50.20.119.

WAC 192-170-050 Suitable work factors—RCW 50.20.100 and 50.20.110. (1) **Physical fitness.** In determining whether work is suitable as defined by RCW 50.20.100 and 50.20.110, the department will consider whether you have a disability that prevents you from performing the essential functions of the job without a substantial risk to your health or safety.

(a) For purposes of this section, the term "disability" means a sensory, mental, or physical condition that:

- (i) Is medically recognizable or diagnosable;
- (ii) Exists as a record or history; and
- (iii) Substantially limits the proper performance of your job.

(b) The department may determine in individual circumstances that less than full-time work is suitable if:

- (i) The disability prevents you from working the number of hours that are customary to the occupation;
- (ii) You are actively seeking work for the occupation and hours you have the ability to perform; and
- (iii) The restriction on the number of hours you can work, the essential functions you can perform, and the occupations you are seeking does not substantially limit your employment prospects within your general area.

(c) To be considered available for suitable work, you must be available for employment in an occupation in keeping with your prior work experience, education, or training. If such employment is not available in your general area, you must be willing to accept any employment which you have the physical or mental ability to perform.

(d) Disabilities resulting from pregnancy will be treated the same as other disabilities, except that the department will also consider the risk to your pregnancy when deciding whether work is suitable.

(e) The department will require verification from a physician of your disability, including:

- (i) The restrictions on the tasks or work-related functions you can perform;
- (ii) The restrictions on the number of hours you can work, if any;
- (iii) The expected duration of the disability and resulting work restrictions; and
- (iv) The types of tasks or work-related functions you are able to perform with this disability, if known by the physician.

(2) **Definitions.** For the purposes of this chapter:

(a) "General area" means an individual's labor market area and includes the geographic area within which an individual would customarily seek work in a given occupation.

(b) "Physician" means a person licensed to practice one or more of the following professions: Medicine and surgery (including, but not limited to, psychiatry); osteopathic medicine and surgery; chiropractic; naturopathic medicine; podiatry.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 02-08-072, § 192-170-050, filed 4/2/02, effective 5/3/02.]

WAC 192-170-060 Suitable work factors—Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv). When the department decides you left work for good cause due to domestic violence or stalking, you are required to be available for suitable work to receive benefits. Suitable work is

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work that is in keeping with your prior experience, employment or training. Suitability of work must also include consideration of your need to address the physical, psychological, legal and other effects of domestic violence or stalking. A job is not considered suitable when it would require you to be available on a day or at a specific time that conflicts with your need to address the effects of the domestic violence or stalking.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010, 05-13-156, § 192-170-060, filed 6/21/05, effective 7/22/05.]

WAC 192-170-070 What are the availability requirements for part-time eligible workers?—RCW 50.20.119.

(1) If you are a part-time eligible worker as defined in RCW 50.20.119, you may limit your availability for work to 17 or fewer hours per week. You may refuse any job of 18 or more hours per week.

(2) You must be available for work during the usual hours for your occupation. For example, if your occupation normally requires both day and evening hours of work, you must be available for work both day and evening hours.

(3) You must be available for work all days of the week that are usual for your occupation, even if you have not worked those days in the past. If you are not available for work on any day that is a usual day of work for your occupation, we will reduce your benefits under RCW 50.20.130. For example, if your occupation usually works Monday through Friday, you must be available for work Monday through Friday, even if you have only worked weekends in the past.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042, 05-19-018, § 192-170-070, filed 9/9/05, effective 10/10/05.]

Chapter 192-180 WAC JOB SEARCH REQUIREMENTS

WAC

192-180-005	Registration for work—RCW 50.20.010(1) and 50.20.230.
192-180-010	Job search requirements—Directives—RCW 50.20.010 (1)(c) and 50.20.240.
192-180-012	Requirements of individuals who leave work due to illness or disability.
192-180-013	What are the job search requirements for individuals who work less than full time?
192-180-014	Requirements of individuals who leave work due to domestic violence or stalking—RCW 50.20.010 (1)(c).
192-180-015	Tracking job search activities—RCW 50.20.240.
192-180-020	Monitoring job search activities—RCW 50.20.240.
192-180-025	Job search review interviews.
192-180-030	Penalties.
192-180-040	Directive to attend job search workshop or training course—RCW 50.20.044.
192-180-060	How will the department identify individuals who are likely to exhaust benefits?—RCW 50.20.011.

WAC 192-180-005 Registration for work—RCW 50.20.010(1) and 50.20.230. (1) **Am I required to register for work?** You must register for work unless you are:

- (a) Attached to an employer, meaning you are:
 - (i) Partially unemployed as defined in WAC 192-180-013(1);
 - (ii) On standby as defined by WAC 192-110-015;
 - (iii) Unemployed because you are on strike or locked out from the worksite as provided in RCW 50.20.090(2); or

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(iv) Participating in the shared work program under chapter 50.60 RCW;

(b) A member of a union that participates in the referral union program (see WAC 192-210-110);

(c) Participating in a training program approved by the commissioner; or

(d) The subject of an antiharassment order. This includes any court-issued order providing for your protection, such as restraining orders, no contact orders, domestic violence protective orders, and similar documents.

(2) How soon do I have to register?

(a) If you live within the state of Washington, the department will register you automatically based on information contained in your application for benefits. In unusual circumstances where you are not automatically registered, you must register within one week of the date on which you are notified by the department of the requirement to register for work.

(b) If you live in another state, you must register for work within one week of the date your first payment is issued on your new or reopened claim.

(3) Where do I register for work? You will be registered for work with your local WorkSource office. However, if you live in another state, you must register for work with the equivalent public employment agency in that state.

(4) What is the penalty if I do not register for work? You will not be eligible for benefits for any week in which you are not registered for work as required by this section.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-180-005, filed 11/1/07, effective 12/2/07; 99-13-002, § 192-180-005, filed 6/3/99, effective 7/4/99.]

WAC 192-180-010 Job search requirements—Directives—RCW 50.20.010 (1)(c) and 50.20.240. (1) **Do I have to look for work?** You must be actively seeking work unless you are:

(a) Attached to an employer; or

(b) Participating in a training program approved by the commissioner.

(2) When should I start my job search? You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1).

(3) What are my weekly job search requirements?

(a) At a minimum, you must:

(i) Make job search contacts with at least three employers each week; or

(ii) Participate in three approved in-person job search activities at the WorkSource office or local employment center, or any combination of employer contacts or in-person job search activities for a total of three.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities each week.

(c) If you are a member of a referral union you must be registered with your union, eligible for and actively seeking dispatch, and comply with your union's dispatch or referral requirements (see WAC 192-210-120). Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

(4) What is a "job search contact"? A job search contact is a contact with an employer to inquire about or apply for a job. You may use job search methods that are customary for your occupation and labor market area, including in-person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department decides the contact is designed in whole or in part to avoid meeting the job search requirements.

(5) What is an "in-person job search activity"? This is an activity provided through the WorkSource office or local employment center that will assist you in your reemployment efforts. It includes, but is not limited to, job search workshops, training classes, or other facilitated services provided by WorkSource staff and approved by the local WorkSource administrator. For claimants residing in Washington State, an in-person job search activity must be documented in the department's services, knowledge and information exchange system (SKIES) to qualify. For interstate claimants, the activity must be documented in the one-stop system in the state in which you reside.

(6) What is a directive? A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3).

(7) When is a directive issued? The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

(a) Increase the number of employer contacts each week;

(b) Change your method of looking for work (such as from resumes to in-person contacts);

(c) Expand the geographic area in which you look for work; or

(d) Look for work in a secondary occupation.

(8) When is the directive effective? The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given, or it is rescinded in writing.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-180-010, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 05-01-076, § 192-180-010, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 99-13-002, § 192-180-010, filed 6/3/99, effective 7/4/99.]

WAC 192-180-012 Requirements of individuals who leave work due to illness or disability. If you leave work because of your illness or disability:

(1) To be eligible for unemployment benefits, you must meet the job search requirements described in RCW 50.20.-240; and

(2) The department will provide you with a directive that lists the job search requirements you must meet to maintain your eligibility for benefits. These job search requirements will not be more stringent than those imposed on claimants who are not disabled.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 02-08-072, § 192-180-012, filed 4/2/02, effective 5/3/02.]

WAC 192-180-013 What are the job search requirements for individuals who work less than full time? (1) "Partially unemployed" workers are those individuals:

- (a) Who were hired to work full time,
- (b) Whose weekly hours of work have been temporarily reduced to less than full time by their employer,
- (c) Who earn less than one and one-third times their weekly benefit amount plus five dollars during a week, and
- (d) Who are expected to return to full time work for their employer within four months.

These workers are considered to be employer attached and are not required to register for or seek work. They must be available for all work offered by their regular employer.

(2) **"Part time"** workers are individuals who normally work less than full time, or who take a job that is less than full time. To be eligible for benefits, these individuals must be available for and actively seeking full time work and the department may review their job search at any time. If they get a part time job, they must continue to look for full time work or we will deny their benefits under RCW 50.20.010 (1)(c). This definition of "part time" workers means individuals who work part time but do not meet the requirements of RCW 50.20.119.

(3) **"Part time eligible"** workers are individuals who have worked no more than 17 hours in any week of their base year. They are eligible for benefits under RCW 50.20.119. These individuals may look for work of 17 or fewer hours per week and the department may review their job search at any time. Once an individual gets a job for 17 or fewer hours per week, he or she is employer attached and no longer required to look for work.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-018, § 192-180-013, filed 9/9/05, effective 10/10/05.]

WAC 192-180-014 Requirements of individuals who leave work due to domestic violence or stalking—RCW 50.20.010 (1)(c). If you are allowed benefits because the department decides you left work for good cause due to domestic violence or stalking, each week you claim benefits you must demonstrate an attachment to the labor market by being able to work, available for work, and actively seeking suitable work. In general, claimants are required to make at least three job search contacts each week. You may make the number of contacts that are consistent with your need to address issues raised by domestic violence or stalking as long as you meet the requirements of RCW 50.20.010 (1)(c) by making at least one job search contact each week you claim benefits. You may substitute participation in an approved job search activity at the WorkSource office or local employment center for the required job search contact.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.-010. 05-13-156, § 192-180-014, filed 6/21/05, effective 7/22/05.]

WAC 192-180-015 Tracking job search activities—RCW 50.20.240. (1) Do I need to keep track of my job search activities? You must keep a record or log of your job search contacts and the in-person job search activities you

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receive through the WorkSource office or local employment center unless you are:

- (a) A member of a full referral union;
- (b) Allowed benefits because you left work to protect yourself or a member of your immediate family from domestic violence or stalking as provided in RCW 50.20.050 (2)(b)(iv); or
- (c) Exempt from job search requirements under WAC 192-180-010(1).

(2) **What information do I need to keep in the log?** Your job search log must contain at least the following information:

(a) For job search contacts, record the date contact was made; the employer's name, address and telephone number; the type of contact (in-person, telephone, etc.); the name of the person you contacted; and the type of work you applied for;

(b) For in-person job search activities at the WorkSource office or local reemployment center, record the date contact was made; and a description of the services you received or the activities in which you participated.

(3) **Is there a specific form I must use?** The department will supply you with a form (EMS 10313) to use in tracking your job search activities. You may use your own form or tracking method as long as you record all information required by this section.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year or thirty days after receiving your final payment on any extension of benefits, whichever is later.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-180-015, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 05-01-076, § 192-180-015, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 99-13-002, § 192-180-015, filed 6/3/99, effective 7/4/99.]

WAC 192-180-020 Monitoring job search activities—RCW 50.20.240. (1) Will my job search activities be monitored? Every week that you file a claim for benefits, you must certify that you meet the job search requirements. The department may review your job search activities at any time. If you have been paid benefits for five or more weeks in any benefit year, you must provide the department with a copy of your job search log upon request. You must bring a copy of your job search log to any job search review interview (see WAC 192-180-025) for which you have been scheduled.

(2) **Will the department verify the information on my job search log?** Employer contacts and other job search activities on your log will be verified whenever the department has a question about the information reported. In addition, when you are scheduled for a job search review interview, your log will be verified with the listed employers on a random basis.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-180-020, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 99-13-002, § 192-180-020, filed 6/3/99, effective 7/4/99.]

WAC 192-180-025 Job search review interviews. (1) What is a job search review (JSR) interview? The JSR is an interview between you and a representative of the Work-

Source office or local employment center. Its purpose is to review your job search documentation, identify any barriers to your reemployment, develop a plan for resolving barriers that may be identified, and provide advice on how to improve your job search efforts. For interstate claimants, this interview may be conducted by telephone or by the local employment center in a contracted state.

(2) **Will my job search activities be reviewed?** Yes, you must bring your job search log to the interview. The interviewer will review your log with you and discuss areas in which your job search can be improved. The employer contacts and job search activities included in your log will be verified at random. The interviewer may further verify any reported contacts at his or her discretion.

(3) **How many weeks will be reviewed?**

(a) The interviewer will review at least one week of your job search documentation. If the job search documentation is unsatisfactory, or you fail to appear for the JSR interview without being excused, you will be scheduled for a second interview in which all weeks claimed will be reviewed.

(b) If you are excused from attending the initial JSR interview, you will be rescheduled for a review of one week of your job search documentation.

(4) **When may I be excused from attending the initial JSR?** You may be excused from attending the initial JSR interview only for the following reasons:

- (a) Jury duty;
- (b) National Guard duty;
- (c) Natural disaster or acts of nature; or
- (d) Verifiable employment or a job interview.

(5) **What does "all weeks" mean?** For purposes of this section, "all weeks" means the latest of the following:

(a) Weeks claimed since you filed your application for benefits; or

(b) Weeks claimed since your last JSR interview, if applicable.

(6) **Do I need to bring anything else to the JSR interview?** You must be prepared to present proof of your identity during the JSR interview. This includes:

- (a) State or government issued photo identification; or
- (b) Two of the following government-issued documents:
 - (i) Voter's registration card;
 - (ii) U.S. military identification card or draft record;
 - (iii) Military dependent's identification card;
 - (iv) U.S. Coast Guard merchant mariner card;
 - (v) Native American tribal document;
 - (vi) U.S. Social Security card;
 - (vii) Certification of birth abroad issued by the U.S. Department of State;
 - (viii) Original or certified copy of a birth certificate;
 - (ix) U.S. citizen ID card;
 - (x) ID card for use of resident citizen in the United States; or

(xi) Unexpired employment authorization document issued by the United States citizenship and immigration services (USCIS).

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-180-025, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 05-01-076, § 192-180-025, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 99-13-002, § 192-180-025, filed 6/3/99, effective 7/4/99.]

WAC 192-180-030 Penalties. (1) Is there a penalty if I don't look for work or fail to report for the JSR interview as directed? Benefits will be denied if you fail to:

- (a) Meet the minimum job search requirements;
- (b) Provide information about your job search activities and, once you have been paid five weeks of benefits, provide a copy of your job search log upon request;
- (c) Comply with any job search directive issued by the department; or
- (d) Report to a scheduled job search review interview.

(2) **How long will my benefits be denied?** Benefits will be denied for the specific week or week(s) in which you fail to act as described in subsection (1).

(3) **What is the penalty if I don't attend a JSR that has been scheduled to review all weeks claimed?** If you fail to appear for a review of your job search logs for all weeks claimed, fail to produce your job search logs for those weeks, or your logs fail to establish that you have met the minimum job search requirements, such failure will be treated as non-disclosure under RCW 50.20.160(3) and your benefits may be denied for any weeks at issue.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-180-030, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 99-13-002, § 192-180-030, filed 6/3/99, effective 7/4/99.]

WAC 192-180-040 Directive to attend job search workshop or training course—RCW 50.20.044. (1) The department may direct you, in writing, to attend a job search workshop or training course when it finds that your chances of finding employment will be improved by enrollment in such activity.

(2) You will not be directed to attend a job search workshop or training course if:

(a) You have an offer of bona fide work that begins within two weeks; or

(b) The workshop or training location is outside your labor market or would require you to travel further than the nearest WorkSource office or local employment center; or

(c) You are a member in good standing of a full referral union, unless you are also being required to begin an independent search for work or have been identified as a dislocated worker as defined in RCW 50.04.075.

(3) If you receive a directive and fail without good cause to attend a substantial portion of the workshop or training course during a week, you will be ineligible for benefits for the entire week. Good cause includes your illness or disability or that of a member of your immediate family, or your presence at a job interview scheduled with an employer. Reasons for absence may be verified and may result in a denial of benefits under RCW 50.20.010.

(4) Participation in a job search workshop when directed meets the definition of an "in-person job search activity" as defined in WAC 192-180-010.

(5) When attending a job search workshop or training course as directed, you will not be ineligible for benefits for failure to be available for work or to actively seek work under the provisions of:

- (a) RCW 50.20.010 (1)(c);
- (b) RCW 50.20.240; or
- (c) RCW 50.22.020(1).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-180-040, filed 12/9/04, effective 1/9/05.]

WAC 192-180-060 How will the department identify individuals who are likely to exhaust benefits?—RCW 50.20.011. (1) The department will use the profiling model described in this section to identify claimants who are likely to exhaust benefits and in need of job search assistance to obtain new employment.

(2) **Model.** Take all valid claims with a benefit year ending date that falls within a specified two-year time period. Screen out (a) members of unions participating in the referral union program (see WAC 192-210-100) and (b) claimants who do not have a job search requirement (employer attached, in approved training, or unemployed due to strike or lockout) during the first payable week. For the remaining claimants with a job search requirement, statistically combine information on industry, occupation and other personal characteristics, and labor market characteristics to generate a numerical score indicating the likelihood of exhausting benefits before finding work. The scores may range from 0% (no likelihood of exhaustion) to 100% (certainty of exhaustion). Rank claimants based on their individual score from least likely to most likely to exhaust.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012, 07-23-129, § 192-180-060, filed 11/21/07, effective 1/1/08.]

**Chapter 192-200 WAC
SCHOOL OR TRAINING**

WAC

192-200-005	Disqualification of students—RCW 50.20.095.
192-200-010	Training defined—RCW 50.20.043 and 50.20.250.
192-200-020	Commissioner approval of training—RCW 50.20.043.
192-200-030	May I receive unemployment benefits while I am in training?
192-200-040	Who is eligible to participate in the self-employment assistance program?
192-200-045	What training programs may be approved under the self-employment assistance program?
192-200-050	What criteria will the department use to approve my self-employment assistance training plan?
192-200-055	What other factors affect my eligibility for benefits under the self-employment assistance program?
192-200-060	What happens if I do not satisfactorily participate in my self-employment assistance training plan?

WAC 192-200-005 Disqualification of students—RCW 50.20.095. (1) **General rule.** If you are registered in a course of study that provides scholastic instruction of twelve or more credit hours per week, you are disqualified from receiving benefits or credit for your waiting week.

(2) **Period of disqualification.** The disqualification starts with the week the instruction begins or the week you left employment to return to school, whichever is earlier. The disqualification ends at midnight on Saturday of the week prior to the first full week in which you are no longer registered for twelve or more hours of instruction. You must certify to the department that you are not currently registered for twelve or more credit hours and will not be registered for twelve or more credit hours for at least sixty days. If you begin classes within sixty days, all benefits paid since the date of your certification will be considered an overpayment. This overpayment is subject to recovery under RCW 50.20.-190. If you are registered for classes that begin more than

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sixty days in the future, you will not be disqualified under this subsection.

(3) **Disqualification not applicable.** The disqualification does not apply if you:

(a) Are in approved training under RCW 50.20.043;

(b) Are in an approved self-employment assistance program under RCW 50.20.250; or

(c) Show by a preponderance of the evidence that your student status does not significantly interfere with your actual availability for work when you apply.

(4) **Definitions.** As used in this section:

(a) "School" includes primary schools, secondary schools, and institutions of higher education as defined in RCW 50.44.037;

(b) "Scholastic instruction" includes all teaching or opportunity for learning subjects other than those of a strictly vocational nature. Subjects of a vocational nature are those embraced in the definition of "training" contained in WAC 192-200-010.

(c) "Twelve or more hours per week" means 12 or more credit hours per week or its equivalent;

(d) "Preponderance of evidence" means evidence sufficient to persuade a reasonable person considering all the evidence that the proposal is more probably true than not true.

(5) **Students.** Students who claim benefits are subject to all of the provisions of Title 50 RCW including:

(a) RCW 50.20.050 dealing with those who leave work voluntarily without good cause;

(b) RCW 50.20.010 (1)(c) requiring claimants to be able and available for and actively seeking work; and

(c) RCW 50.20.240 requiring claimants to provide evidence of their job search activities as requested by the department.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012, 07-23-129, § 192-200-005, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-200-005, filed 12/9/04, effective 1/9/05.]

WAC 192-200-010 Training defined—RCW 50.20.043 and 50.20.250. (1) The term "training" means:

(a) A course of education with the primary purpose of training in skills that will allow you to obtain employment.

(b) A self-employment assistance program that includes entrepreneurial training, approved by the commissioner, that will allow you to become self-employed.

(2) The term "training" does not include a course of education primarily intended to meet the requirements of a baccalaureate or higher degree.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012, 07-23-129, § 192-200-010, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-200-010, filed 12/9/04, effective 1/9/05.]

WAC 192-200-020 Commissioner approval of training—RCW 50.20.043. (1) **How do I apply for commissioner approved training?** If you wish to attend school or training while you receive unemployment benefits, and the training will interfere with your availability for full-time work, the training must be approved by the department. Contact the department and ask for an application for commissioner approved training. Your completed application must

be returned to the unemployment claims telecenter. We will send you a decision, in writing, denying or approving your training application.

(2) **What factors will the department consider when reviewing my application?** The department will consider the following factors:

- (a) Your plan for completion of the training;
- (b) The nature of the training facility and the quality of the training;
- (c) Whether the training relates to an occupation or skill for which there are, or are expected to be, reasonable employment opportunities in the labor markets in which you intend to seek work;
- (d) Whether an oversupply of qualified workers exists;
- (e) Whether you have the qualifications and aptitudes to successfully complete such training; and
- (f) Whether your employment prospects in occupations in which you have training or experience do not exist or have substantially diminished in the labor market to the extent that the department determines you will probably be unemployed for a lengthy period. These diminished prospects could be the result of business or economic conditions in the area, or due to personal reasons such as your health, physical fitness, criminal background, or other circumstances of a similar nature.

(3) **What about training that is required by my job?** The commissioner will approve training that is required within an occupation if:

- (a) The training is a condition of your continued employment;
- (b) The scheduling of the training is determined by your employer or a work related entity, and not by you (the claimant); and
- (c) The training meets the requirements of subsections (2)(a), (b), (c), (d), and (e) of this section.

(4) **Can academic training be approved?** An academic training course may be approved if the conditions of subsections (1) and (2) of this section are met, and the training meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

(5) **Can these requirements be waived?** In the case of individuals with physical or sensory handicaps, or in other unusual individual circumstances, a written decision of the commissioner may waive any of the requirements of this section on an individual basis.

(6) This section does not apply to training in a self-employment assistance program under RCW 50.20.250.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. 07-23-129, § 192-200-020, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-200-020, filed 4/5/99, effective 5/6/99.]

WAC 192-200-030 May I receive unemployment benefits while I am in training? (1) To be eligible for unemployment benefits while in training, you must meet the following criteria:

- (a) The training must be full-time as defined by the training facility, including skills training classes designated as full-time by the local WorkSource administrator; and

- (b) You must be making satisfactory progress in training. Except as provided in subsection (c), "satisfactory progress" is defined in WAC 192-270-065; or

- (c) If you are enrolled in an approved self-employment assistance program under RCW 50.20.250, "satisfactory progress" means you are attending classes and participating in other activities related to setting up a business within the timeframes outlined in your approved training plan.

- (d) The certification that you are making satisfactory progress in full-time training must be signed by the registrar or equivalent person designated by the training facility.

(2) You must notify the department if you discontinue or suspend training, change your course of study, or reduce enrollment to less than full-time.

(3) If your enrollment drops below full-time or you are not making satisfactory progress, you may be required to show that you are meeting the availability for work and job search requirements of RCW 50.20.010 (1)(c) and 50.20.240, and the provisions of RCW 50.20.080 regarding failure to apply for, or refusal to accept suitable work.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. 07-23-129, § 192-200-030, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 50.20.010, 50.20.012, 50.20.042, 50.20.044, 50.20.046, 50.20.048, 50.20.050, 50.20.052, 50.20.054, 50.20.056, 50.20.058, 50.20.060, 50.20.062, 50.20.064, 50.20.066, 50.20.068, 50.20.070, 50.20.072, 50.20.074, 50.20.076, 50.20.078, 50.20.080, 50.20.082, 50.20.084, 50.20.086, 50.20.088, 50.20.090, 50.20.092, 50.20.094, 50.20.096, 50.20.098, 50.20.100, 50.20.102, 50.20.104, 50.20.106, 50.20.108, 50.20.110, 50.20.112, 50.20.114, 50.20.116, 50.20.118, 50.20.120, 50.20.122, 50.20.124, 50.20.126, 50.20.128, 50.20.130, 50.20.132, 50.20.134, 50.20.136, 50.20.138, 50.20.140, 50.20.142, 50.20.144, 50.20.146, 50.20.148, 50.20.150, 50.20.152, 50.20.154, 50.20.156, 50.20.158, 50.20.160, 50.20.162, 50.20.164, 50.20.166, 50.20.168, 50.20.170, 50.20.172, 50.20.174, 50.20.176, 50.20.178, 50.20.180, 50.20.182, 50.20.184, 50.20.186, 50.20.188, 50.20.190, 50.20.192, 50.20.194, 50.20.196, 50.20.198, 50.20.200, 50.20.202, 50.20.204, 50.20.206, 50.20.208, 50.20.210, 50.20.212, 50.20.214, 50.20.216, 50.20.218, 50.20.220, 50.20.222, 50.20.224, 50.20.226, 50.20.228, 50.20.230, 50.20.232, 50.20.234, 50.20.236, 50.20.238, 50.20.240, 50.20.242, 50.20.244, 50.20.246, 50.20.248, 50.20.250, 50.20.252, 50.20.254, 50.20.256, 50.20.258, 50.20.260, 50.20.262, 50.20.264, 50.20.266, 50.20.268, 50.20.270, 50.20.272, 50.20.274, 50.20.276, 50.20.278, 50.20.280, 50.20.282, 50.20.284, 50.20.286, 50.20.288, 50.20.290, 50.20.292, 50.20.294, 50.20.296, 50.20.298, 50.20.300, 50.20.302, 50.20.304, 50.20.306, 50.20.308, 50.20.310, 50.20.312, 50.20.314, 50.20.316, 50.20.318, 50.20.320, 50.20.322, 50.20.324, 50.20.326, 50.20.328, 50.20.330, 50.20.332, 50.20.334, 50.20.336, 50.20.338, 50.20.340, 50.20.342, 50.20.344, 50.20.346, 50.20.348, 50.20.350, 50.20.352, 50.20.354, 50.20.356, 50.20.358, 50.20.360, 50.20.362, 50.20.364, 50.20.366, 50.20.368, 50.20.370, 50.20.372, 50.20.374, 50.20.376, 50.20.378, 50.20.380, 50.20.382, 50.20.384, 50.20.386, 50.20.388, 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(3) **Satisfactory participation.** The department will consider you to be satisfactorily participating if you are making satisfactory progress as defined in WAC 192-200-030 (1)(c).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. 07-23-129, § 192-200-040, filed 11/21/07, effective 1/1/08.]

WAC 192-200-045 What training programs may be approved under the self-employment assistance program? (1) To be approved as a training provider under the self-employment assistance program, a training program must include the following:

- (a) Entrepreneurial training;
- (b) Business counseling;
- (c) Technical assistance; and
- (d) Requirements to engage in other activities relating to setting up a business and becoming self-employed.

(2) The commissioner will develop and maintain a list of approved training providers.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. 07-23-129, § 192-200-045, filed 11/21/07, effective 1/1/08.]

WAC 192-200-050 What criteria will the department use to approve my self-employment assistance training plan? The department will consider the following factors when reviewing your application for the self-employment assistance program:

(1) That you have an adequate financial plan for completing training if your unemployment benefits run out before you complete training;

(2) That you have the qualifications and aptitudes to successfully complete the training; and

(3) That you have certified you will not compete with your former employer for up to one year after completing your training program.

(4) If you modify your training plan, the changes must be approved in advance by your training provider and the department.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. 07-23-129, § 192-200-050, filed 11/21/07, effective 1/1/08.]

WAC 192-200-055 What other factors affect my eligibility for benefits under the self-employment assistance program? (1) Any remuneration you receive while enrolled in a self-employment assistance training program will be deducted from your weekly benefit amount as required under RCW 50.20.130.

(2) If you complete your training program before your unemployment benefits run out, you are no longer eligible for benefits unless you meet the availability for work and job search requirements of RCW 50.20.010 (1)(c).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. 07-23-129, § 192-200-055, filed 11/21/07, effective 1/1/08.]

WAC 192-200-060 What happens if I do not satisfactorily participate in my self-employment assistance training plan? (1) If your training provider notifies the department that you are not satisfactorily participating in your approved training, the department will notify you in writing that you are no longer eligible for the self-employment assistance program.

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program. You will be required to meet the availability for work and job search requirements of RCW 50.20.010 (1)(c) to remain eligible for unemployment benefits.

(2) If you have been removed from the program because you failed to participate in a training plan, you will not be able to reenroll in the program during your current benefit year.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.250(7) and 50.20.012. 07-23-129, § 192-200-060, filed 11/21/07, effective 1/1/08.]

Chapter 192-210 WAC

SPECIAL CATEGORY OCCUPATIONS

WAC

192-210-005	Definitions—Educational employees.
192-210-010	What are the objective criteria used to define "academic year"?—RCW 50.44.050(5).
192-210-015	How will the department decide if reasonable assurance exists?—RCW 50.44.053.
192-210-020	Reasonable assurance for instructional, research, or principal administrative staff at a community or technical college—RCW 50.44.053(3).
192-210-100	What is the purpose of the referral union program?
192-210-105	May all individuals on a union dispatch list participate in the referral union program?
192-210-110	What are the requirements for unions in the referral union program?
192-210-115	How does membership in a referral union impact a claimant's eligibility for benefits?
192-210-120	What are the requirements for individuals participating in the referral union program?
192-210-125	What information is the department responsible for providing to participating unions?

WAC 192-210-005 Definitions—Educational employees. (1) **Contract.** An agreement that is binding on an educational institution to provide work and on an individual to perform services.

(2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.

(3) **Full-time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.405.210 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW 28B.35.120 (regional universities), or RCW 28B.20.130 (other colleges and universities).

(4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-210-005, filed 11/1/07, effective 12/2/07; 02-19-009, § 192-210-005, filed

9/5/02, effective 10/6/02. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 99-18-066, § 192-210-005, filed 8/31/99, effective 10/1/99.]

WAC 192-210-010 What are the objective criteria used to define "academic year"?—RCW 50.44.050(5). Summer term will be considered part of the academic year for an educational institution unless:

(1) Total enrollment of full-time equivalent students during the previous summer term is less than one third of the average academic year enrollment of full-time equivalent students for the fall, winter, and spring terms of the preceding two years; or

(2) Total full-time equivalent staff during the previous summer term is less than fifty percent of the academic year average of the full-time equivalent staff during the fall, winter, and spring terms during the preceding two years.

[Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. 99-18-066, § 192-210-010, filed 8/31/99, effective 10/1/99.]

WAC 192-210-015 How will the department decide if reasonable assurance exists?—RCW 50.44.053. Reasonable assurance is a bona fide offer from an educational institution to assign an individual future work at that institution under the same terms and conditions as the individual's previous employment. It is less than a contract or written agreement, but more than a mere possibility of future employment. The department must find that continued employment for that individual is likely or probable. For instructional, research, or principal administrative staff at a community or technical college, the additional provisions of WAC 192-210-020 will be considered in determining whether the individual has reasonable assurance.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 02-19-009, § 192-210-015, filed 9/5/02, effective 10/6/02. Statutory Authority: RCW 50.12.-010, 50.12.040 and 50.20.010. 99-18-066, § 192-210-015, filed 8/31/99, effective 10/1/99.]

WAC 192-210-020 Reasonable assurance for instructional, research, or principal administrative staff at a community or technical college—RCW 50.44.053(3). (1) A person who performs services in an instructional, research, or principal administrative capacity at a community or technical college is presumed not to have reasonable assurance when an offer is conditioned on enrollment, funding, or program changes.

(2) A conditional or contingent offer of employment is any offer other than an agreement that is binding on the college to provide work and on the individual to perform services.

(3) The assertion by the college that an individual has reasonable assurance of continued employment is insufficient to overcome the presumption that a conditional or contingent offer of employment does not constitute reasonable assurance unless supported by documentation explaining why reasonable assurance exists. The college bears the burden of providing the department with this documentation. Primary weight will be given to the contingent nature of the offer of employment.

(4) Whether an individual has reasonable assurance from the college will be determined on a case by case basis by the

total weight of evidence, rather than the existence of any single factor.

(5) Examples of the types of evidence the department will consider in deciding whether the college has overcome the presumption that a conditional or contingent offer is not reasonable assurance include, but are not limited to, the following:

(a) The terms of the offer of employment between the individual and the college, with consideration given to any provisions related to length, contingencies, or reasons for cancellation;

(b) The number of comparable positions at the college;

(c) Any hiring priorities used by the college;

(d) The college's past practices, including the individual's previous experience with similar offers of employment from that college, and whether any classes have been canceled due to lack of enrollment, lack of funding, or program changes.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 02-19-009, § 192-210-020, filed 9/5/02, effective 10/6/02.]

WAC 192-210-100 What is the purpose of the referral union program? (1) RCW 50.20.010 (1)(c) requires individuals who receive unemployment benefits to actively look for work using customary trade practices. They must also be able to work and available for work. In some trades, labor unions refer members to job openings in that labor market. The referral union program is a way for unions to help its members find work and to give eligibility information about its members to the department when requested. When an individual is a member of a union in the referral union program, the individual's job search must follow the union's dispatch rules.

(2) The term "union" means a bona fide labor organization formed to negotiate with employers, on behalf of workers collectively, about job related issues such as salary, benefits, hours, and working conditions. A "referral union" means a union that refers its members to jobs by referral or dispatch.

(3) A union must apply with and be approved by the department to join the referral union program.

(4) To be eligible to join the referral union program:

(a) The union must have a constitution, bylaws, or working rules that prohibit its members from seeking work in the industry on their own; or

(b) Members are permitted to seek work in the industry on their own but at least fifty percent of the union members eligible for dispatch who got a job during the most recent completed calendar year did so through referral or dispatch by the union.

(5) For purposes of the referral union program, the terms "referral" and "dispatch" are synonymous.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010. 07-01-038, § 192-210-100, filed 12/12/06, effective 1/12/07.]

WAC 192-210-105 May all individuals on a union dispatch list participate in the referral union program? No. Participation in the referral union program is limited to persons who are eligible for dispatch by the union and actively seeking dispatch. The union must meet the requirements of WAC 192-210-100.

(1) **Qualified referral unions.** A referral union that does not meet the requirements of WAC 192-210-100(4) is called a "qualified referral union." A qualified referral union is one that permits its members to look for work in the covered industry **and**, during the most recent calendar year, fewer than fifty percent of the union membership eligible for dispatch obtained employment through their union's referral program. Qualified referral unions are not part of the referral union program. However, a contact with the qualified referral union for a specific job counts as one of the three job search contacts required by RCW 50.20.240. For the remaining contacts, the person must search for work on his or her own.

(2) **Eligible for dispatch.** For purposes of this chapter, an individual is eligible for dispatch if he or she meets the minimum requirements for the job being filled, including having any license or certificate required for that occupation.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 07-01-038, § 192-210-105, filed 12/12/06, effective 1/12/07.]

WAC 192-210-110 What are the requirements for unions in the referral union program? (1) Application. The union's application for participation in the referral union program is subject to approval by the department. By submitting a signed application, the union agrees to:

(a) When requested, tell the department whether a person is a member of the union, eligible for dispatch or referral, and complying with union dispatch and referral rules;

(b) Advise its members that their eligibility for unemployment benefits may be affected if they are not available for suitable work as defined by RCW 50.20.100 or 50.20.110 and that, when requested, any failure to do so will be reported to the department;

(c) Advise its members that any refusal of dispatch or referral by the union to suitable work may affect the claimant's eligibility for unemployment benefits and, when requested, will be reported to the department, even if refusal is permitted under union rules; and

(d) When requested, provide the department other records that will help the department decide if an individual is available for work and actively seeking work, as long as disclosure of this information does not violate state or federal law.

The department will make the requests described in this subsection as needed to confirm the reliability of the referral union program.

(2) **Notify department of changes.** The union must notify the department within thirty days of any changes in its address, telephone number, or designated contact person, or changes in its procedures that modify the requirements a person must meet to be eligible for dispatch. The union must provide the department with a copy of the revised dispatch requirements within thirty days of implementation. The union's participation in the referral union program will be subject to reapproval based on the revised dispatch requirements.

(3) **Renewal.** Unions must renew their membership in the referral union program at intervals established by the department. If the union does not renew its membership within sixty days of the date given in the renewal notice, the department will revoke its membership in the referral union program.

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(4) **Revocation.** The department may revoke a union's membership in the referral union program if the union does not comply with the terms of the agreement.

(a) If the revocation is based on failure to meet technical requirements of the program, such as failure to renew its membership or to respond to an information request from the department, the revocation will last until the failure is corrected;

(b) If the revocation is for violations of this section, such as the union's refusal to comply with program requirements, fraud, falsification of information regarding claimants' job search activities, or similar reasons, the revocation will last until the department is satisfied the union will comply with program requirements in future. In the case of serious or repeated violations, the revocation period may also include, at the department's discretion, an additional suspension period of up to sixty days.

(5) **Appeal of revocation.** An appeal of the revocation of a union's participation in the program is governed by chapter 34.05 RCW, the Administrative Procedure Act. If an appeal is filed, the revocation will be postponed until a final decision has been issued.

(6) **Withdrawal from program.** If a union chooses to withdraw from the referral union program, it must give the department thirty days notice. This will give the department time to notify claimants who are members of that union of their new job search requirements.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 07-01-038, § 192-210-110, filed 12/12/06, effective 1/12/07.]

WAC 192-210-115 How does membership in a referral union impact a claimant's eligibility for benefits? (1) Job search. If you are a member of a union that has been approved for the referral union program, the department will accept this as meeting the job search requirements of RCW 50.20.010 (1)(c). This means that you are not required to look for work on your own as long as you meet the requirements of WAC 192-210-120.

(2) **Union membership.** Membership in a referral union means journeymen, apprentices, members in travel status as allowed by union guidelines, and those eligible for dispatch and actively seeking dispatch for suitable work.

(3) **Violation of union rules.** You are not required to take an action that violates your union rules or places your union standing in jeopardy as a condition of receiving unemployment benefits.

(4) **Removal from program.** The department will remove you from the referral union program if you do not meet the requirements of WAC 192-210-120. You will be directed to look for work on your own, outside the union dispatch or referral process. You may also be denied benefits for any week(s) in which we decide you were not available for work.

(5) **Extended benefits.** This section does not apply if you are receiving extended benefits. You must meet the job search requirements listed in WAC 192-240-030.

(6) **Union verification.** The department will ask the union to verify that you are eligible for dispatch and actively seeking suitable work through the union. This will be done when you file a new application for unemployment benefits, reopen an existing unemployment claim, and at times while

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you are in continuous claim status. While you are in continuous claim status, the department will also ask your union to report whether you refused an offer of suitable work during the period in question.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 07-01-038, § 192-210-115, filed 12/12/06, effective 1/12/07.]

WAC 192-210-120 What are the requirements for individuals participating in the referral union program?

(1) **Eligibility.** You are eligible for the program if you are registered with the union, eligible for dispatch, and you are:

(a) Immediately available for dispatch or referral as required by the union; and

(b) Actively seeking, willing and able to accept any suitable work as defined in RCW 50.20.100 and 50.20.110 that is offered through the union dispatch or referral process.

(2) **Reporting.** During any week you claim benefits you must report to the department if:

(a) You are not available for dispatch or referral;

(b) You refuse dispatch or referral;

(c) The union assigns jobs using a bid process and you do not bid on a job that, based on your seniority or union rules, you had a reasonable expectation of getting, unless you have already bid on three other jobs that week; or

(d) You are no longer registered or eligible for dispatch with the union.

(3) **License or certificate.** RCW 50.20.010 (1)(c) requires you to be immediately available to accept suitable work:

(a) If your occupation requires a license, certification or permit to work within your labor market area, your license, certification or permit must be current at the time you are dispatched to a job.

(b) If you do not have a current license, certification or permit when you are dispatched, your availability for work is in question. Your benefits may be denied for any week in which you do not have the license, certification or permit or the license, certification or permit was expired or invalid.

(c) It is your responsibility to keep your license, certification or permit current; it is not the union's responsibility to track your license status.

(d) Nothing in this section requires you to obtain specialty licenses or certifications as long as you are licensed or certified for those jobs for which you are available for dispatch and your failure to obtain a specialty license or certification does not substantially restrict your availability for work.

(4) **Refusing work.** If you refuse to bid on a job, or refuse dispatch or referral by the union, your availability for work and eligibility for unemployment benefits is in question. While some union rules do not penalize members for refusing dispatch, the refusal may not be allowed for unemployment insurance purposes. For example, your union may permit you to refuse dispatch to two jobs without penalty. However, in the unemployment insurance program this is not permitted unless the work is not suitable. A refusal of dispatch may be considered a refusal of suitable work under RCW 50.20.080. The department will determine whether the work was suitable.

(5) **Standby.** If permitted by the union, you may be placed on standby by the department if you meet the requirements of WAC 192-110-015.

(6) **Fee payers.** If you are not registered with the union, eligible for dispatch, and actively seeking work through the union, but have only paid a fee to be on the union's out of work list, you must meet the job search requirements of RCW 50.20.240.

(7) **Presumption of availability.** The department will presume you have met the availability and job search requirements of RCW 50.20.010 when you file a weekly claim certifying that you are able to work, available for work, and actively seeking work as instructed. A cause for doubting your eligibility will be created if the department receives relevant information for a specific week regarding your eligibility for benefits. (See WAC 192-130-070)

(8) **Contact with union.** The department will contact you and the union for information about your job search activities and availability for work whenever a cause for doubting your eligibility for unemployment benefits is established for any reason listed in this section.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 07-01-038, § 192-210-120, filed 12/12/06, effective 1/12/07.]

WAC 192-210-125 What information is the department responsible for providing to participating unions?

The department will:

(1) Notify the union of changes in laws, rules, or policy that impact the referral union program; and

(2) Upon request, provide training to the designated contact person or other union staff on the requirements they must meet to participate in the referral union program.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 07-01-038, § 192-210-125, filed 12/12/06, effective 1/12/07.]

Chapter 192-220 WAC

OVERPAYMENT NOTICE, ASSESSMENT AND FRAUD

WAC

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WAC 192-220-010 Will I be notified about a potential overpayment? (1) If a potential overpayment exists, the department will provide you with a written overpayment advice of rights explaining the following:

(a) The reasons you may have been overpaid;

(b) The amount of the possible overpayment as of the date the notice is mailed;

(c) The fact that the department will collect overpayments as provided in WAC 192-230-100;

(d) The fact that final overpayments are legally enforceable debts which must be repaid whether or not you are claiming unemployment benefits;

(e) The fact that these debts can be the basis for warrants which can result in liens, notices to withhold and deliver personal properties, possible sale of real and personal properties, and garnishment of salaries;

(f) An explanation that if you are not at fault, you may request a waiver of the overpayment; and

(g) A statement that you have ten days to submit information about the possible overpayment and whether you are at fault. If you do not provide the information within ten days, the department will make a decision based on available information about the overpayment and your eligibility for waiver.

(2) Any amounts deducted from your benefit payments for federal income taxes or child support are considered paid to you and will be included in the overpayment.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-220-010, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-220-010, filed 12/9/04, effective 1/9/05.]

WAC 192-220-015 What is an overpayment assessment? As used in this chapter and chapter 192-230 WAC, the term "overpayment assessment" includes both unemployment benefits you received for which you were not eligible as well as any penalty assessed under RCW 50.20.070 resulting from fraud.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-220-015, filed 11/21/07, effective 1/1/08.]

WAC 192-220-017 Am I required to repay the overpayment? (1) You must repay the full amount of the overpayment, even if you are not at fault, unless you are granted a waiver. (See also WAC 192-230-110.) A waiver means you do not have to repay the overpayment.

(2) Except as provided in subsection (3), you are potentially eligible for a waiver of an overpayment when it would be against equity and good conscience for the department to require you to repay the full amount.

(3) You are not eligible for a waiver when:

(a) You are at fault for the overpayment;

(b) The overpayment is the result of a discharge for misconduct or gross misconduct (see RCW 50.20.066(5));

(c) The overpayment is the result of a conditional payment of benefits;

(d) The overpayment decision was issued by a state other than Washington; or

(e) The overpayment is for disaster unemployment assistance benefits paid under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-220-017, filed 10/9/08, effective 11/9/08.]

WAC 192-220-020 When does the department consider me at fault for an overpayment? (1) The department will decide if you are at fault for an overpayment based on information provided by you and your employer and from

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information contained in the department's records. You will be considered at fault:

(a) When the overpayment is the result of fraud, misrepresentation, or willful nondisclosure; or

(b) When all of the following three elements are present:

(i) You were paid benefits in an amount greater than you were entitled to receive and you kept those benefits; and

(ii) You provided incorrect information, did not disclose information which you should have provided, or you caused another person to fail to disclose information; and

(iii) You had notice that the information should have been reported including, but not limited to, written communications from the department such as the unemployment claims kit and directives.

(2) You may be considered at fault, even though you provided the department with all relevant information before a decision was issued, when you should reasonably have known the payment was improper. The following are some, but not all, examples where you should reasonably have known that a payment was improper. These are examples only and do not mean that the department would rule in this manner in every such situation.

(a) You correctly reported earnings but the department paid benefits at the full amount or incorrectly deducted the earnings.

(b) You reported that you were unavailable for one or more customary work days, but the department paid at the full amount and the payment was not a conditional payment.

(c) You received a retroactive pension payment that you had applied for and were reasonably sure would be awarded.

(d) You did not inform the department that you were eligible for benefits on an unexpired claim against another state.

(e) A lower level decision was reversed by the office of administrative hearings, the commissioner, or a court because of new information that you did not disclose to the department.

(f) Other circumstances in which the department finds you knew the payment was improper.

(3) In deciding if you are at fault, the department will also consider your education, mental abilities, emotional state, experience with claiming unemployment benefits, and other personal factors which affect your ability to report all relevant information to the department. This includes any written information provided to you by the department.

(4) You are not at fault when you provided the department with all relevant information before a decision was issued and you would not reasonably have known the payment was improper. The following are some, but not all, examples of instances in which you may not reasonably have known that a payment was improper. These are examples only and do not mean that the department would rule in this manner in every such situation.

(a) The department removed a payment stop in error, resulting in improper payment.

(b) You received a retroactive pension which was backdated by the pension source, not at your request.

(c) A combined wage or federal claim was filed against Washington that should have been filed against another state.

(d) Extended benefits were paid by the department when you would have been eligible for a new claim against Washington or another state.

(e) A lower level decision, in which you had provided all information, was reversed by the office of administrative hearings, the commissioner, or a court.

(f) Other circumstances in which the department finds you did not know the payment was improper.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-220-020, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-220-020, filed 12/9/04, effective 1/9/05.]

WAC 192-220-030 What does equity and good conscience mean? (1) "Equity and good conscience" means fairness as applied to a given set of circumstances.

(2) It will be against equity and good conscience to deny waiver when repayment of the overpayment would deprive you of income required to provide for basic necessities including food, shelter, medicine, utilities, and related expenses. Unless there are unusual circumstances which would argue against waiver, the department will presume repayment would leave you unable to provide basic necessities if your total household resources in relation to household size do not exceed seventy percent of the Lower Living Standard Income Level (LLSIL) and circumstances are not expected to change within the next ninety days.

(3) The department may also consider, but is not limited to, the following factors in determining whether waiver should be granted for reasons of equity and good conscience:

- (a) Your general health, including disability, competency, and mental or physical impairment;
- (b) Your education level, including literacy;
- (c) Whether you are currently employed and your history of unemployment;
- (d) Your future earnings potential based on your occupation, skills, and the local labor market;
- (e) Your marital status and number of dependents, including whether other household members are employed;
- (f) Whether an error by department staff contributed to the overpayment;
- (g) Whether the employer contributed to the overpayment by providing inaccurate information or failing to respond to the department's request for information within a reasonable period of time;
- (h) Whether you refused or were ineligible for other government benefits because you received unemployment benefits; and
- (i) Other factors indicating that repayment of the full amount would cause you undue economic, physical, or mental hardship.

(4) The decision to grant or deny waiver will be based on the totality of circumstances rather than the presence of a single factor listed in subsections (2) and (3).

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-220-030, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-220-030, filed 12/9/04, effective 1/9/05.]

WAC 192-220-040 How will the disqualification period and penalty established by RCW 50.20.070 be assessed? (1) RCW 50.20.070 provides for increasing disqualification periods and dollar penalties when a second, third or subsequent fraud is committed. The department will

decide whether an action is the first, second, third or subsequent occurrence based on the factors in this section.

(2) Once the department mails a fraud decision, any fraud that is found for weeks filed before, or within fourteen days after, the mailing date of the decision will be treated as part of the same occurrence of fraud. This applies even if the decisions involve different eligibility issues.

Example: A fraud decision is mailed on June 1 for weeks claimed on April 30. On July 1, a decision is mailed assessing fraud for weeks claimed on March 31. Both decisions will be treated as the same level occurrence because the weeks covered by the July 1 decision were filed before the June 1 decision was mailed.

(3) The department will treat any fraud for weeks filed more than fourteen days after the mailing date of a prior fraud decision as a separate occurrence of fraud. This applies even if the weeks claimed occur before the weeks for which fraud was assessed in the prior decision.

Example: On June 1, a decision is mailed assessing fraud for weeks you claimed on March 31. On July 10, late claims are filed for weeks before March 31 in which fraud is committed. The later decision is treated as a subsequent occurrence of fraud because the late claims were filed more than fourteen days after June 1.

(4) The department will assess a disqualification period and penalty for each fraud decision issued based on whether it is a first, second, third or subsequent occurrence.

Example 1: A first occurrence of fraud is assessed on June 1 with a disqualification period of twenty-six weeks beginning with the week of June 1. Another fraud decision is issued on June 12 that is found to be part of the first occurrence. The disqualification period is twenty-six weeks beginning with the week of June 1st.

Example 2: A first occurrence of fraud is assessed on June 1 with a disqualification period of twenty-six weeks beginning with the week of June 1. A second occurrence of fraud is assessed on July 10 with a disqualification period of fifty-two weeks beginning with the week of July 10 and a penalty of twenty-five percent for the weeks fraudulently paid.

(5) All disqualifications and penalties in this section are in addition to the required repayment of any benefits paid as a result of fraud.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-220-040, filed 11/21/07, effective 1/1/08.]

WAC 192-220-045 How is the fraud penalty calculated?—RCW 50.20.070. (1) The department will assess the penalty established under RCW 50.20.070 for second, third, or subsequent occurrences of fraud based on a percentage of benefits paid for those weeks in which the fraud occurred or that were paid as a result of fraud. The penalty will not apply to other weeks that may be included in the same eligibility decision.

(a) For a second occurrence, the penalty is twenty-five percent of benefits overpaid.

(b) For a third or subsequent occurrence, the penalty is fifty percent of benefits overpaid.

(2) The penalty amount, if not a multiple of one dollar, is rounded up to the next higher dollar.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-220-045, filed 11/21/07, effective 1/1/08.]

WAC 192-220-050 Will I receive a decision if a fraud penalty changes following a redetermination or appeal of another fraud decision? (1) The department will issue a new decision showing the corrected disqualification period and penalty if a disqualification period or penalty changes because of a change to another fraud decision following a redetermination or appeal.

Example 1: A first occurrence of fraud is assessed on June 1 and a second occurrence is assessed on July 10. The June 1 fraud assessment is overturned through appeal, making the July 10 decision the first occurrence. The department will issue a correction to the July 10 decision showing the penalty for a first occurrence of fraud (twenty-six week disqualification and no dollar penalty).

Example 2: A decision assessing a first occurrence of fraud is mailed on August 1 and benefits are denied for the following twenty-six weeks. On August 10, another fraud decision is mailed which is considered part of the first occurrence and denies benefits for the twenty-six weeks beginning August 1. The fraud included in the August 1 decision is overturned through appeal. The August 10 decision remains and the department will issue a correction showing the twenty-six week denial period begins with the August 10 mailing date.

(2) Although the revised decision does not restart the appeal period included in the original decision, you may appeal a change in the penalty or period of disqualification.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-220-050, filed 11/21/07, effective 1/1/08.]

WAC 192-220-060 Will I be notified of my right to appeal the overpayment? (1) The department will notify you and all interested employers in writing about the overpayment assessment and the right to appeal any of the following elements of the assessment:

- (a) The reason for the overpayment.
- (b) The amount of the overpayment.
- (c) The finding of fault or nonfault.
- (d) The reason waiver of the overpayment was allowed or denied.

(2) As used in this chapter, an interested employer is:
 (a) An employer that provides information to the department which results in an overpayment assessment.
 (b) Any base year employer who reimburses the trust fund for benefits paid instead of paying unemployment taxes to the extent waiver is allowed.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-220-060, filed 11/21/07, effective 1/1/08.]

WAC 192-220-070 Overpayments under RCW 50.12.070 (2)(c). You are not required to repay benefits improperly paid to you because an employer failed to correctly report your wages or hours and a later correction results in a lower benefit amount or your claim becomes invalid. However, you remain liable for any overpayment assessment resulting from an eligibility decision issued before your claim became invalid that has become final.

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[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-220-070, filed 11/21/07, effective 1/1/08.]

WAC 192-220-080 How do I obtain a waiver? (1) When a decision is issued that creates an overpayment, the department will send you an application for waiver if you are potentially eligible.

(2) The waiver application asks for information concerning your financial condition and other circumstances which will help the department determine if the overpayment should be waived.

(3) The financial information requested includes documentation for the previous month, current month, and following month of your:

(a) Income and, to the extent available, the income of other household members who contribute financially to the household;

(b) Expenses; and

(c) Readily available liquid assets including, but not limited to, checking and savings account balances, stocks, bonds, and cash on hand.

(4) The completed application and supporting documents must be returned to the department by the 10 day response deadline indicated in the notice. If you do not provide the information within 10 days, the department will make a decision about your eligibility for waiver based on available information.

(5) A waiver cannot exceed the total amount of benefits available on your claim. The department will not waive the overpayment in such a way as to allow you to receive either a greater weekly benefit amount or a greater total benefit amount than you were originally eligible to receive. Any benefits waived are considered paid to you.

Example: You misplace a benefit check and request a replacement from the department. You subsequently cash both the original check and the replacement. Waiver will not be approved under these circumstances because you have been paid twice for the same week.

(6) If a waiver is approved based on information that is later found to be false or misleading, the amount waived will be restored to your overpayment balance.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-220-080, filed 10/9/08, effective 11/9/08.]

**Chapter 192-230 WAC
 RECOVERY OF OVERPAYMENTS**

WAC

192-230-010	Repayment terms defined.
192-230-020	How are cash payments and offsets applied to my overpayment?
192-230-030	How is the minimum payment calculated?
192-230-040	When are interest charges added to my overpayment?
192-230-090	May I repay an overpayment by offset against my benefits?
192-230-100	What amount will be offset from my benefits to repay the overpayment?
192-230-110	May I negotiate with the department to repay less than the full amount?—RCW 50.24.020.
192-230-120	Will a settlement offer be accepted if my overpayment is the result of fraud, misrepresentation, or willful nondisclosure?
192-230-130	How do I make a settlement offer?

WAC 192-230-010 Repayment terms defined. For purposes of this chapter, the following definitions apply:

(1) **Outstanding balance** means the total of all unpaid overpayment assessments (including penalties), court costs, interest charges, and surcharges.

(2) **Due date** means the date by which the minimum monthly payment must be received by the department as shown on the monthly billing statement mailed to your last known address.

(3) **Delinquent** means your minimum monthly payment is not received by the department on or before the due date.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-230-010, filed 11/21/07, effective 1/1/08.]

WAC 192-230-020 How are cash payments and off-sets applied to my overpayment? (1) If the department has assessed more than one overpayment against you, we will first apply payments against any overpayment involving fraud. If there are multiple overpayments involving fraud, we will apply payments in order beginning with the oldest benefit year. If none of the overpayments involve fraud, we will apply payments in order beginning with the oldest benefit year.

(2) Within the priority established in subsection (1), the department will apply cash payments to the outstanding balance in the following order:

- (a) Court costs.
- (b) Interest.
- (c) Penalties based on fraud.
- (d) Overpaid benefits.
- (e) Surcharge assessed under RCW 41.14.027.

(3) The department will only apply offsets to the overpaid benefits. Court costs, fraud penalties, interest, and surcharges cannot be offset; they must be repaid.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-230-020, filed 11/21/07, effective 1/1/08.]

WAC 192-230-030 How is the minimum payment calculated? The department will calculate your minimum monthly payment as described in this section, unless we approve another payment amount.

(1) If the overpayment was assessed by another state, the department will not calculate a minimum monthly payment. If the overpayment is being recovered by offset against future benefits, recovery will be done as described in WAC 192-230-100(4).

(2) For overpayments due to fraud, your minimum monthly payment will be the greater of (a) your weekly benefit amount or (b) three percent of your outstanding balance when the billing statement is mailed, rounded down to the next whole dollar amount.

(3) For all other overpayments, your minimum monthly payment will be the greater of (a) one-third of your weekly benefit amount, (b) three percent of your outstanding balance when the billing statement is mailed, rounded down to the next whole dollar amount, or (c) twenty-five dollars.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-230-030, filed 11/21/07, effective 1/1/08.]

WAC 192-230-040 When are interest charges added to my overpayment? (1) Interest will not be charged on an overpayment assessed by another state.

(2) Interest will be charged at the rate of one percent per month for overpayments based on fraud. The interest will be charged on both the overpaid benefits and the fraud penalty, if any. If you appeal the finding of fraud, interest will accrue while the appeal is pending and will be added to your overpayment if the finding of fraud is upheld.

(3) If the overpayment is not based on fraud, interest will be charged at the rate of one percent per month when any portion of two or more minimum monthly payments is delinquent.

(4) If the overpayment includes both fraud and nonfraud weeks, interest will be charged proportionally as described in subsections (2) and (3).

(5) In unusual circumstances, and at his or her discretion, the commissioner may suspend the assessment or collection of interest charges for overpayments not based on fraud.

(6) When calculating the interest charges, a month begins on the day following the last Saturday of one month and ends on the last Saturday of the next month.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-230-040, filed 11/21/07, effective 1/1/08.]

WAC 192-230-090 May I repay an overpayment by offset against my benefits? (1) You may ask to repay an overpayment by offset on a valid benefit year as described in WAC 192-230-100. However, if the new balance available on your current benefit year is equal to or less than the balance of an overpayment on that benefit year, offset will be done at the rate of one hundred percent.

(2) You may ask to repay overpayments owing on prior benefit years by offset as described in WAC 192-230-100.

(3) During any valid benefit year, the total amount of benefits paid to you plus offset credits granted will not exceed the maximum benefits payable on the claim.

(4) If offset of an overpayment is granted against weeks that are later found to have been paid in error or as a result of fraud, the offset for the week(s) will be canceled and the amount will be restored to your overpayment balance.

(5) If any portion of this section conflicts with federal law or regulations, the federal law or regulations will apply.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-230-090, filed 11/21/07, effective 1/1/08.]

WAC 192-230-100 What amount will be offset from my benefits to repay the overpayment? (1) If you do not repay an overpayment in full or make the minimum monthly payments provided for in WAC 192-230-030, the principal amount will be deducted from benefits payable for any week(s) you claim. Interest, penalties, surcharges, and court costs will not be deducted from benefit payments; they must be repaid.

(2) For overpayments assessed under RCW 50.20.010 because you asked to have your unemployment insurance claim cancelled, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. The department will ensure you are informed of the advantages and/or disadvantages of cancelling an existing claim to file a new claim.

(3) If you are currently claiming benefits, the overpayment will not be offset from future weeks payable unless you have missed a portion of two or more payments as provided in WAC 192-230-030. If you have missed a portion of two or more payments, the overpayment will be offset as described in (a) and (b) below:

(a) If the overpayment was caused by a denial for fraud, misrepresentation, or willful nondisclosure as provided in RCW 50.20.070, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of benefits payable for each week you claim. However, you may request the overpayment be repaid at one hundred percent of benefits payable for each week you claim. The fifty percent deduction is based on your total weekly benefit amount, before deductions for such items as pensions, child support, income taxes.

(4) If the overpayment has been assessed by another state, the amount deducted will be as follows:

(a) For overpayments caused by a denial for fraud, misrepresentation, or willful nondisclosure, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of benefits payable for each week you claim. However, you may request the overpayment be repaid at one hundred percent of benefits payable for each week you claim.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-230-100, filed 10/9/08, effective 11/9/08. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-230-100, filed 12/9/04, effective 1/9/05.]

WAC 192-230-110 May I negotiate with the department to repay less than the full amount?—RCW 50.24-020.

(1) Yes. State law permits the department to accept an offer in compromise for less than the full amount owed. For purposes of this chapter, an offer in compromise is referred to as a negotiated settlement.

(2) Except as provided in subsection (3), a negotiated settlement of the overpayment for less than the full amount owed will be considered under subsection (2)(a). Settlement offers may also be made by authorized department staff.

(a) The department will consider a settlement offer when it would be against equity and good conscience to require you to repay the full amount. The department may consider, but is not limited to, the following factors in making this decision:

(i) Your general health, including disability, competency, and mental or physical impairment;

(ii) Your education level, including literacy;

(iii) Whether you are currently employed and your history of unemployment;

(iv) Your future earnings potential based on your occupation, skills, and the local labor market;

(v) Your marital status and number of dependents, including whether other household members are employed; and

(vi) Other factors indicating that collection of the full amount would cause you undue economic, physical, or men-

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tal hardship and you are unable to provide for basic necessities as described in WAC 192-220-030(2).

(b) In considering settlement offers, the emphasis will be on what is financially advantageous to the department. The department will consider the costs of collection compared to the amount of the overpayment. In doing so, the department may consider such factors as the age and amount of the overpayment, the number of prior contacts with you, whether you previously made good faith efforts to pay the debt, the tools available to enforce collection, and other information relevant to your ability to repay.

(c) If you previously applied for a waiver and were denied and your circumstances have significantly changed, such as catastrophic illness or loss of income, you may ask to negotiate a settlement for less than the full amount of the overpayment.

(3) A negotiated settlement for less than the full amount owed will not be considered when:

(a) The overpayment is the result of a discharge for misconduct or gross misconduct (see RCW 50.20.066(5));

(b) The overpayment decision was issued by a state other than Washington; or

(c) The overpayment is for disaster unemployment assistance benefits paid under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(4) The department's decision to accept or reject a settlement offer is final. However, if the settlement offer is rejected, you are permitted to make another offer at a later date if circumstances change.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-230-110, filed 10/9/08, effective 11/9/08.]

WAC 192-230-120 Will a settlement offer be accepted if my overpayment is the result of fraud, misrepresentation, or willful nondisclosure?

Except in unusual circumstances, a settlement offer will not be accepted when your overpayment is the result of fraud, misrepresentation, or willful nondisclosure. Unusual circumstances that may warrant a negotiated settlement of the overpayment and associated penalties include, but are not limited to, long-term or terminal illness, severe permanent disability, or other circumstances that seriously impair your long-term ability to generate income.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-230-120, filed 10/9/08, effective 11/9/08.]

WAC 192-230-130 How do I make a settlement offer?

You may contact the department's unemployment benefits collection unit in writing or by telephone and make an offer to settle the debt for less than the full amount owing. Specify the amount you are offering to repay and be prepared to provide financial and other information in support of your offer. The department may request a credit report to verify the information you provide. The department will notify you of its decision to accept or decline your offer.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. 08-21-056, § 192-230-130, filed 10/9/08, effective 11/9/08.]

Chapter 192-240 WAC
EXTENDED BENEFITS

WAC

192-240-015	How to apply for extended benefits.
192-240-020	Suitable work provisions—Extended benefits—RCW 50.22.020 (3) and (4).
192-240-025	Failure to apply for or accept suitable work—RCW 50.22.020 (4)(b)—Extended benefits.
192-240-030	Job search requirements to receive extended benefits—RCW 50.22.020(5).
192-240-040	Penalties.
192-240-045	Moving to a state in an extended benefit period.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

192-240-010	Regular shareable benefits defined. [Statutory Authority: RCW 50.12.010 and 50.12.040. 03-06-038, § 192-240-010, filed 2/26/03, effective 3/29/03.] Repealed by 07-22-055, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010 and 50.12.040.
192-240-035	How to qualify for regular shareable or extended benefits after leaving work for marital or domestic reasons—RCW 50.22.020(7). [Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-240-035, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 03-06-038, § 192-240-035, filed 2/26/03, effective 3/29/03.] Repealed by 07-22-055, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010 and 50.12.040.

WAC 192-240-015 How to apply for extended benefits. File your application for extended benefits by placing a telephone call to an unemployment claims telecenter. The commissioner can authorize other filing methods in unusual circumstances or for the convenience of the department.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 03-06-038, § 192-240-015, filed 2/26/03, effective 3/29/03.]

WAC 192-240-020 Suitable work provisions—Extended benefits—RCW 50.22.020 (3) and (4). (1) An individual receiving benefits must be available for suitable work. Except as provided in subsection (2), any job is considered suitable if you are receiving extended benefits unless:

- (a) It is not within your capabilities;
 - (b) The position is vacant because of a labor dispute, working conditions are substantially less favorable than similar work in the area, or you would be required to join or resign from a union or labor organization (see RCW 50.20-110);
 - (c) The gross weekly pay is less than your weekly benefit amount, plus any supplemental unemployment benefits you receive from your former employer; or
 - (d) The job pays less than the higher of the federal or state minimum wage.
- (2) If you can show that you have good prospects of returning to work in your customary occupation within a reasonably short period of time, suitable work is considered to be work in keeping with your prior work experience, education, or training. "Good prospects for work" means you have:
- (a) A definite recall or hire date within four weeks; or
 - (b) A probable recall or hire date within four weeks, based on an extremely favorable position on a union out-of-work list, seasonal factors, or historical experience.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-240-020, filed 11/1/07, effective 12/2/07; 03-06-038, § 192-240-020, filed 2/26/03, effective 3/29/03.]

WAC 192-240-025 Failure to apply for or accept suitable work—RCW 50.22.020 (4)(b)—Extended benefits. (1) You will be denied extended benefits if you fail:

(a) To accept any offer of suitable work as defined in WAC 192-240-020; or

(b) To accept a referral, or to apply for suitable work, when referred by your local employment center, if the job was:

- (i) Offered to you in writing, or
- (ii) Listed with the department.

(2) The denial is for the week in which the refusal occurs and until you work in four weeks and earn four times your weekly benefit amount.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-240-025, filed 11/1/07, effective 12/2/07; 03-06-038, § 192-240-025, filed 2/26/03, effective 3/29/03.]

WAC 192-240-030 Job search requirements to receive extended benefits—RCW 50.22.020(5). (1) To be eligible for extended benefits, you must show evidence of a systematic and sustained effort to find work. Your efforts must be of a quality and frequency that clearly indicate you are making sincere efforts to immediately return to gainful employment.

(a) At a minimum, your efforts must include at least four job search contacts with employers during each week you claim benefits.

(b) If you are a registered member of a referral union, you must make three job search contacts each week in addition to contacting your union and complying with the union's requirements.

(i) Registration with another union local can constitute one job search contact if you are willing to travel or relocate to accept work in their jurisdiction.

(ii) You do not have to look for work that would jeopardize your union membership, but must look for other work you are capable of doing.

(iii) If you have been identified by the department as having good prospects of returning to work within four weeks because you have an extremely favorable position on the union out-of-work list, contact with your union each week meets the job search requirements of this section.

(2) Every week you file a claim for extended benefits, you must report your job search contacts to the department. For each job search contact you must report the date of the contact, the employer or union involved and its place of business, the method of contact, and the type of work sought.

(3) You must keep a record or log of your job search contacts which contains the information required by WAC 192-180-015.

(4) The department may review your job search activities at any time. You must provide the department with a copy of your job search log upon request. Employer contacts will be verified by the department as needed.

(5) The department will consider you to have met the job search requirements of this section and of RCW 50.22.020(5) for any week in which you participate in a training program that is approved by the commissioner.

(6) The job search requirements under this section and RCW 50.20.020(5) are waived for any week in which you are

unable to conduct a job search because you are serving on jury duty. See RCW 50.20.117.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 07-22-055, § 192-240-030, filed 11/1/07, effective 12/2/07; 03-06-038, § 192-240-030, filed 2/26/03, effective 3/29/03.]

WAC 192-240-040 Penalties. (1) If you claim extended benefits during a week in which you failed to accept any offer of work, or failed to accept a referral or apply for any work as directed by the department:

(a) Benefits will be denied under RCW 50.20.080 if the work was suitable as defined by RCW 50.20.100 and 50.20-110, and you did not have good cause for failing to apply for or accept work;

(b) If benefits are denied as provided in subsection (1)(a), you will also be denied benefits as provided in RCW 50.22.020;

(c) Benefits will be denied under only RCW 50.22.020 if the work was suitable as provided in that statute and WAC 192-240-020, but did not meet the provisions of RCW 50.20.100 and 50.20.080.

(2) If you claim extended benefits during a week in which you failed to meet the job search requirements of WAC 192-240-030, benefits will be denied under RCW 50.22.020, except as provided in subsection (4).

(3) A denial of benefits under RCW 50.22.020 starts the week in which the failure occurs, and continues indefinitely until you show that:

(a) You have worked in at least four weeks; and

(b) You have earned at least four times your weekly benefit amount. The employment does not need to be covered by Title 50 RCW.

(4) If you fail to meet the job search requirements of WAC 192-240-030 because you are hospitalized for treatment of an emergency or life-threatening condition, benefits will be denied under RCW 50.20.010 (1)(c). The denial period is only for the week or weeks in which the hospitalization occurred.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 07-22-055, § 192-240-040, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 05-01-076, § 192-240-040, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040, 03-06-038, § 192-240-040, filed 2/26/03, effective 3/29/03.]

WAC 192-240-045 Moving to a state in an extended benefit period. RCW 50.22.030(2) provides that you are only eligible for two weeks of extended benefit payments if you live in a state that is not in an extended benefit period. If you subsequently move to a state that is in an extended benefit period, you may be eligible for further extended benefit payments under RCW 50.22.020 beginning with the first full week in which you reside in that state.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 03-06-038, § 192-240-045, filed 2/26/03, effective 3/29/03.]

**Chapter 192-250 WAC
SHARED WORK PROGRAM**

WAC

192-250-005
192-250-010

Definitions.
What is the shared work program and who can participate?

192-250-015	When is an employer eligible to participate in the shared work program?
192-250-020	What is the criteria for having a shared work plan approved?
192-250-025	What are the requirements for employers with an approved shared work plan?
192-250-030	What are the grounds for revoking a shared work plan?—RCW 50.60.070.
192-250-035	Information for employees participating in an approved shared work plan.
192-250-045	Who is not eligible for participation in the shared work program?

WAC 192-250-005 Definitions. For purposes of this chapter:

(1) "Full time employment" means paid time of thirty-five to forty hours each week.

(2) "General economic downturn" means a regional slowdown in work within an industry that is not due to factors that are typical for the industry or occupation.

(3) "Seasonal employment" is defined in WAC 192-100-040.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901, 06-22-004, § 192-250-005, filed 10/19/06, effective 11/19/06.]

WAC 192-250-010 What is the shared work program and who can participate?

(1) The shared work program is a voluntary program that offers Washington employers an alternative to laying off skilled employees during periods of general economic downturn.

(2) An employer may reduce an employee's full-time weekly work hours from ten to fifty percent and the employee can receive the same percentage of unemployment benefits. For example, an eligible employee who normally works forty hours each week is reduced to thirty hours per week, a reduction of twenty-five percent. The employee is eligible to receive twenty-five percent of his or her weekly benefit amount, regardless of the wages earned that week.

(3) Both public and private sector employers are eligible to participate in the program.

(4) An employer or employers' association must submit a signed shared work plan application to the commissioner for approval. A plan that meets the approval criteria listed in RCW 50.60.030 and this chapter will be approved for a maximum of fifty-two weeks.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901, 06-22-004, § 192-250-010, filed 10/19/06, effective 11/19/06.]

WAC 192-250-015 When is an employer eligible to participate in the shared work program?

A business must be legally registered in the state of Washington for at least six months (one hundred eighty days) before applying for the shared work program. "Registration" includes being issued an employment security (ES) reference number as well as a unified business identifier (UBI) number.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901, 06-22-004, § 192-250-015, filed 10/19/06, effective 11/19/06.]

WAC 192-250-020 What is the criteria for having a shared work plan approved? In addition to the criteria listed in RCW 50.60.030, employers must:

(1) Be current in the payment of all unemployment insurance taxes required under Title 50 RCW, or have an approved deferred payment contract on file with the department;

(2) Include their ES reference number on the plan application; and

(3) Designate a representative to be a liaison between the department and the employees who participate in the shared work plan.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901. 06-22-004, § 192-250-020, filed 10/19/06, effective 11/19/06.]

WAC 192-250-025 What are the requirements for employers with an approved shared work plan? (1) What information am I responsible for providing to my employees? When your shared work plan is approved, you are responsible for telling your employees:

(a) They are approved for participation in the shared work program;

(b) How to apply for shared work benefits; and

(c) How to file their weekly claims.

(2) What employee fringe benefits do I have to provide while participating in the shared work program?

(a) You must continue to provide your employees with health benefits and with retirement benefits for defined pension plans under Section 3(35) of the Employee Retirement Income Security Act of 1974. You must maintain these benefits for your shared work employees as though their weekly hours had not been reduced.

(b) You must continue to provide paid vacation, holiday, and sick leave on the same basis as before their hours were reduced.

(c) Other benefits such as long-term disability and life insurance are optional. You may choose to provide these benefits but they are not a requirement for participation in the program.

(3) What is required if the business name is changed? You must report any change in your business name to the shared work program unit within ten working days.

(4) What is required if the designated employer representative is changed? You must notify the shared work unit of the change within ten working days.

(5) Can I modify an approved shared work plan? Answering "yes" to plan modification on your application allows additional employees or units of your business to be added after the approved plan start date. You may also modify the number of hours an employee works during a week according to the needs of your business. Adding new employees or units to an approved plan is subject to the same eligibility review that applied to the original plan.

(6) Can I change the definition of full-time work for my employees? No. Once you have established the number of hours that are full-time for the worker on the original application, this number may not be modified.

(7) What other information am I responsible for giving the department? In addition to the application for participation in the program, you are responsible for verifying the information on the report of shared work payments sent by the department. You must report any discrepancies to the shared work unit in writing within ten working days.

(8) How many shared work plans may I have?

(a) You may have two shared work plans within a three year period beginning with the effective date of the first plan. We will review each shared work plan application to see if it meets the eligibility requirements. Even if a previous plan

was approved, this does not mean subsequent plans are automatically approved.

(b) You will not be eligible for a new plan until at least twelve months after the expiration date of the second approved plan.

(c) A plan may be approved for up to twelve months from the effective date. Plans approved for fewer than twelve months still count as one plan.

(d) If your business is approved for a shared work plan, but your employees do not claim shared work benefits during the life of the plan, it will still be treated as one plan.

(e) The commissioner may, in individual cases and at his or her discretion, waive the twelve month waiting period in subsection (b).

(9) What if my ES reference number changes? You must report the change to the shared work unit within ten working days. A change in ES reference number represents a change in employer and the existing shared work plan will be canceled. The successor employer may submit a new shared work plan application to the department for review.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901. 06-22-004, § 192-250-025, filed 10/19/06, effective 11/19/06.]

WAC 192-250-030 What are the grounds for revoking a shared work plan?—RCW 50.60.070. The department may revoke a shared work plan for good cause. In addition to the factors listed in RCW 50.60.070, "good cause" includes, but is not limited to:

(1) An employer's failure within ten working days to:

(a) Report a change in their ES reference number.

(b) Report an impending sale or transfer of the business or company.

(c) Report a change in the designated employer representative.

(d) Provide wage and hour reports, documents, or other information needed by the shared work unit to decide if the employer or employee(s) is eligible for participation in the shared work program.

(e) Verify the information on the employer's shared work payments report, and notify the shared work unit of any discrepancies in writing.

(2) An employer's failure to maintain employee fringe benefits as required by WAC 192-250-025(2) while participating in the program.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901. 06-22-004, § 192-250-030, filed 10/19/06, effective 11/19/06.]

WAC 192-250-035 Information for employees participating in an approved shared work plan. (1) What are the requirements for participating in my employer's plan? You must have at least four hundred sixty hours of work with this employer in the calendar quarter before the quarter in which your employer's application is submitted.

(2) When do I apply for benefits? Your employer representative will tell you if you need to apply for benefits and how to do so. If you have a current valid claim, you do not need to apply again.

(3) How do I file my weekly claim for benefits? See WAC 192-140-005 for instructions on filing weekly claims. You must also report the number of hours you were paid for holidays, vacations, or sick leave. You must report hours and

gross earnings for part-time and second jobs, plus your hours and net earnings from any self-employment. You can file weekly claims by telephone or over the internet.

(4) **What happens if the total number of hours worked is not a whole number?** If the total number of hours you worked in a week includes a fraction of an hour, the department will round the total down to the next whole number. This rounded number will be compared to your usual hours of work to calculate your shared work benefit payment for the week. For example: You work 28.5 hours of a normal 40 hour week. The 28.5 hours is rounded down to 28 hours and then divided by 40, meaning you worked 70 percent of the available hours. Your shared work payment would be 30 percent of your regular weekly benefit amount.

(5) **What happens if I don't work all scheduled hours for my shared work employer?**

(a) You are not eligible for shared work benefits for any week that you do not work all hours you have been scheduled by your shared work employer.

(b) You must be available for additional hours of work, up to full time, with the shared work employer. If your employer gives you at least twenty-four hours' notice that additional work is available and you do not work those additional hours, you are not eligible for shared work benefits for that week.

(c) When you are not eligible for shared work benefits in any week claimed, your claim will be processed as a regular unemployment claim.

(6) **Do I have to look for work while participating in the shared work program?** No. You are not required to look for work while participating in the shared work program.

(7) **Is there a minimum or maximum number of hours I can work in a week and still receive shared work benefits?** You must have twenty to thirty-six hours of paid time during a week to receive shared work benefits. In any week you are paid for fewer than twenty hours or more than thirty-six hours, your claim will be processed as a regular unemployment claim.

(8) **How long can I receive shared work benefits?** You can receive up to twenty-six weeks of shared work payments during your benefit year, depending on the maximum amount of benefits available on your claim. The twenty-six weeks do not have to be claimed consecutively. Your waiting week counts as one of the twenty-six weeks of shared work payments.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901. 06-22-004, § 192-250-035, filed 10/19/06, effective 11/19/06.]

WAC 192-250-045 Who is not eligible for participation in the shared work program? (1) The following employees are not eligible for participation in the shared work program:

(a) Employees paid on any basis other than hourly wage. This includes, but is not limited to, employees paid on a piece rate, mileage rate, job rate, salary, or commission basis. The commissioner may waive this provision for employees paid on a piece rate basis if an hourly rate of pay can be established.

(b) Officers of the corporation that is applying for participation.

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(2) The following businesses are not eligible for participation in the shared work program:

(a) Businesses with a benefit ratio of more than 5.4 percent.

(b) Nonqualified employers, meaning employers who have reported no payroll for four consecutive quarters.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.60.901. 06-22-004, § 192-250-045, filed 10/19/06, effective 11/19/06.]

Chapter 192-270 WAC

TRAINING BENEFITS FOR DISLOCATED WORKERS

WAC

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WAC 192-270-005 Definitions. The definitions below apply to this chapter and RCW 50.22.150:

(1) "Labor market" means the geographic area in which workers in your particular occupation or with your particular set of skills have customarily found work. For the purpose of determining whether you are a dislocated worker, "labor market" is based on your place of residence at the time you separated from employment. You will not be considered a dislocated worker if, following your separation from work, you move from a labor market area where your skills are in demand to an area where they are declining.

(2) "NAICS" means the North American industry classification system code.

(3) "Plurality of wages" means the largest proportion of wages earned within a particular occupation or skill set. These wages must be earned in:

(a) Your base year, and

(b) At least two of the four twelve-month periods preceding your base year.

(4) "SIC" means the standard industrial classification code.

(5) "Skill set" means the work-related knowledge and abilities needed to produce a particular product or provide a particular service.

(6) "Training benefits" means the additional benefits paid under RCW 50.22.150 to eligible dislocated workers enrolled in and making satisfactory progress in a training program approved by the commissioner.

(7) "Wages" means remuneration earned in employment as defined in Title 50 RCW or the comparable laws of another state. This means that only wages in covered employment can be considered in determining whether you have sufficient tenure in an occupation or in work with a particular skill set.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-005, filed 5/16/01, effective 6/16/01.]

WAC 192-270-010 Employment separations. You must have been terminated or received a notice of termination from your employer to be eligible for training benefits. Training benefits are not available if you left work voluntarily as provided in RCW 50.20.050, regardless of whether you had good cause for leaving, or if you are disqualified from benefits for work-related misconduct under RCW 50.20.060, and have not requalified for benefits.

When determining whether your separation from employment makes you eligible for training benefits, the department will look at the last job you held for a period of at least seven weeks that was in employment covered by Title 50 RCW or the comparable laws of another state.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-010, filed 5/16/01, effective 6/16/01.]

WAC 192-270-015 Unlikely to return to employment. Except as provided in RCW 50.22.150(3), the term "unlikely to return to employment" means, but is not limited to, situations where:

(1) You have:

(a) Become unemployed due to a permanent plant closure;

(b) Received a federal WARN act notice; or

(c) Received a notice of indefinite layoff as a result of a permanent reduction of operations at your place of employment; and

(2) Suitable work for individuals with your skills is in diminishing demand within your labor market.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-015, filed 5/16/01, effective 6/16/01.]

WAC 192-270-020 Employment in the aerospace industry. (1) Employment in the following SIC codes is considered employment in the aerospace industry:

3721	Aircraft
3724	Aircraft engines and engine parts
3728	Aircraft parts and auxiliary equipment

(2) Employment in the following NAICS code is considered employment in the aerospace industry:

336411	Aircraft manufacturing
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[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-020, filed 5/16/01, effective 6/16/01.]

WAC 192-270-025 Employment in the forest products industry. (1) As provided in RCW 50.22.150(2)(b), the department has determined that employment in industries assigned the following SIC or NAICS codes is considered employment in the forest products industry:

(a) SIC codes:

24	Lumber and wood products, except furniture
26	Paper and allied products
08	Forestry
2861	Gum and wood chemicals
3553	Woodworking machinery

3554	Paper industry machinery manufacturing
5031	Lumber, plywood, millwork and wood panels

(b) NAICS codes:

321	Wood product manufacturing
322	Paper manufacturing
113110	Timber tract operations
113210	Forest nurseries and gathering of forest products
113310	Logging
115310	Support activities for forestry
325191	Gum and wood chemical manufacturing
333210	Sawmill and woodworking machinery manufacturing
333291	Paper industry machinery manufacturing
337110	Wood kitchen cabinet and countertop manufacturing
421310	Lumber, plywood, millwork and wood panel wholesalers

(2) The department further determines that employment reported in industries assigned the following SIC or NAICS codes may be employment in the forest products industry. The department may review the specific nature of the employer's business to determine whether it represents employment in the forest products industry:

(a) SIC codes:

2823	Cellulosic manmade fibers
3425	Saw blades and handsaws
4212	Local trucking without storage (log trucking; trucking timber)
4449	Water transportation of freight, NEC (log rafting and towing)
5113	Industrial and personal service paper

(b) NAICS codes:

325221	Cellulosic organic fiber manufacturing
332213	Saw blade and handsaw manufacturing
337215	Showcase, partition, shelving and locker manufacturing
422130	Industrial and personal service paper wholesalers

(3) Other employment may be considered to be employment in the forest products industry if it involves:

(a) The planting and/or cultivation of trees for eventual harvest for lumber or paper manufacturing;

(b) The harvest of logs for lumber or pulp production;

(c) Hauling or shipping logs;

(d) Hauling or shipping lumber or paper products from point of manufacture;

(e) Scaling logs;

(f) Repair of logging trucks or equipment;

(g) Manufacture of wood processing, logging or forestry equipment, including but not limited to logging trucks, log splitters, draglines, or chippers;

(i) Sale, rental or leasing of wood processing or logging equipment; or

(j) Other activities clearly involved in the forest products industry, even if performed for an employer whose primary business is not in the forest products industry.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-025, filed 5/16/01, effective 6/16/01.]

WAC 192-270-030 Employment in the fishing industry. Employment reported in industries assigned SIC code 0912, Finfish (commercial fishing), or NAICS code 114111, Fishing (finfish), is considered to be employment in the fishing industry.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-030, filed 5/16/01, effective 6/16/01.]

WAC 192-270-035 Time frames. Information about training benefits will be included in the claimant information booklet mailed to you at the time you file your application for unemployment benefits (see WAC 192-120-010).

(1) **Submitting a training plan.** You have 60 calendar days to submit a training plan to the department for approval, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be 65 calendar days from the date your application for benefits is filed, which represents 60 days plus five days for the booklet to reach you by mail.

(2) **Enrollment in training.** You must be enrolled in training within 90 calendar days, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be 95 calendar days from the date your application for benefits is filed, which represents 90 days plus five days for the booklet to reach you by mail.

(3) If you return to work, and subsequently become unemployed, the time frames described in subsections (1) and (2) begin with the date you file your additional claim for benefits.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-035, filed 5/16/01, effective 6/16/01.]

WAC 192-270-040 Enrollment in training. To receive training benefits, you must be enrolled in an approved training program on a full-time basis as determined by the educational institution. You are enrolled in training if:

- (1) You have preregistered for classes or are on a waiting list; and
- (2) You have a starting date of training; and
- (3) The starting date is not more than one quarter or term away.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-040, filed 5/16/01, effective 6/16/01.]

WAC 192-270-045 Requirements for applying for training benefits. The following information must be included in your application for training benefits:

- (1) Your name and Social Security account number;
- (2) The name of the educational institution;
- (3) The address of the educational institution;
- (4) The department of the educational institution, if applicable;
- (5) The name of the training program;
- (6) A description of the training program, including remedial requirements if necessary;
- (7) Your enrollment date or your place on the waiting list and expected enrollment date;

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(8) The duration of the training program, including the dates you plan to begin and complete training;

(9) The occupation(s) trained for;

(10) A verification of your enrollment provided by the educational institution;

(11) A release of information form authorizing the educational institution to release grades, attendance, and other measures of program progress to the department; and

(12) Your signature.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-045, filed 5/16/01, effective 6/16/01.]

WAC 192-270-050 Criteria for approving training plans. (1) The department will consider the following factors when reviewing your application for training benefits:

(a) Whether you have a current benefit year as required by RCW 50.22.010(9);

(b) Whether suitable employment is available in the labor market in which you currently reside (if you were originally determined to be a dislocated worker, but moved from the area where your skills were declining to an area where your skills are in demand, you are not eligible for training benefits);

(c) Your plan for completion of the training including, but not limited to, what financial resources you intend to use to fund the complete training plan when training benefits run out;

(d) Whether you have the qualifications and aptitudes to successfully complete the training;

(e) Whether the training relates to a high demand occupation, meaning that the number of job openings in the labor market for the occupation or with that skill set exceeds the supply of qualified workers;

(f) Whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your employment prospects would be if training were not approved; and

(g) Effective July 1, 2001, whether the educational institution meets the performance criteria established by the workforce training and education coordinating board.

(2) Academic training may be approved if it meets the criteria of subsection (1) and it meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

(3) The department may approve educational training that has been identified as necessary by the training facility as a prerequisite to a vocational training program that meets the criteria of subsection (1).

(4) In the case of individuals with physical or sensory disabilities, or in other unusual circumstances, a written decision of the commissioner may waive any of the requirements of this section on an individual basis.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-050, filed 5/16/01, effective 6/16/01.]

WAC 192-270-055 Funding—Waiting lists. Payment of training benefits is contingent upon the availability of funding. Training will not be approved under RCW 50.22.-150 unless the department has determined that funds are available to support your training plan.

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(1) The amount of funds obligated will be the amount necessary to complete your training plan or the maximum amount authorized by RCW 50.22.150 (5)(a), whichever is less.

(2) If you have been denied training benefits due to lack of funds, the department will consider whether you are eligible for commissioner approved training under WAC 192-200-020.

(3) Funds will be obligated in the following order:

(a) First, otherwise eligible dislocated workers who are enrolled in training approved by the department as of February 13, 2000;

(b) Second, other eligible dislocated workers on a first-come, first-served basis, determined by the date the completed training application is received by the department.

(4) Once all available funds have been obligated, individuals who have been denied training benefits due solely to the lack of funds will be placed on a waiting list. Priority on the waiting list will be determined by the date the claimant's completed training application was received by the department. As additional funds become available, this date will be used when obligating funds to claimants on the waiting list. In the event two or more claimants on the waiting list have the same date, priority will be given to that person who is closest to exhausting regular unemployment benefits.

(5) An individual's name may be removed from the waiting list, upon written notice, when the department determines it is appropriate. Examples include, but are not limited to:

(a) Written correspondence to the claimant from the department is returned by the U.S. postal service for lack of a current address, and the claimant has not filed a change of address with the department;

(b) The claimant fails to respond to written correspondence from the department by the date indicated in the correspondence;

(c) The claimant is not enrolled in or making satisfactory progress in full-time training; or

(d) Implementation of the approved training program would result in benefits being paid more than two years beyond the end of the claimant's benefit year.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-055, filed 5/16/01, effective 6/16/01.]

WAC 192-270-060 Occupation in high demand outside labor market. A training plan may be approved in an occupation not in demand in your local labor market if:

(1) The occupation is in high demand in another labor market; and

(2) You are willing and able to relocate to that labor market when the training is completed; and

(3) There is not a current demand for workers with your present skills in that labor market. The demand for workers in that labor market must be at wages comparable to those paid in your current labor market, based on any differences in the cost of living between the two areas.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-060, filed 5/16/01, effective 6/16/01.]

WAC 192-270-065 Certification of satisfactory progress. (1) In order to continue your eligibility for training benefits, the certification that you are making satisfactory

progress in full-time training must be signed by the registrar or an equivalent person designated by your educational institution.

(2) Except as provided in subsection (3), for training benefits purposes the term "satisfactory progress" means:

(a) Your grade point average does not fall below 2.0 for more than one quarter;

(b) You maintain a grade point average sufficient to graduate from, or receive certification in, your approved area of study; and

(c) You are completing sufficient credit hours to finish your approved course of study within the time frame established under your approved training plan.

(3) In the case of self-paced or ungraded learning programs, "satisfactory progress" means participating in classes and passing certification examinations within the time frame established under your approved training plan.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-065, filed 5/16/01, effective 6/16/01.]

WAC 192-270-070 Modifying a training plan. (1) You must notify the department prior to making a significant modification to your approved training plan. A significant modification is one that impacts any of the approval criteria listed in WAC 192-270-050 and includes, but is not limited to, changes in:

(a) Your course of study or major;

(b) The educational institution;

(c) The projected start or end dates for the training; or

(d) Your enrolled credit hours.

(2) The department must determine your continued eligibility for training benefits any time you make a significant modification to your training plan, using the criteria listed in WAC 192-270-050 (1)(b)-(g). Approval of a modification that increases the projected cost of the training is subject to the availability of funding. The department will conditionally pay benefits on a modified training plan until the modification is approved or denied.

(3) In general, you may make a significant modification to your plan one time. Subsequent modifications will not be approved except in unusual individual circumstances. However, this restriction does not apply while you are enrolled in educational courses that are a prerequisite to vocational training.

(4) If you modified your training plan without approval by the department, and that modification is subsequently disapproved, you are ineligible for training benefits for at least five years.

(5) Any benefits paid for a modified training plan that is not approved by the department constitute an overpayment and shall be subject to recovery under RCW 50.20.190.

[Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). 01-11-085, § 192-270-070, filed 5/16/01, effective 6/16/01.]

Chapter 192-300 WAC REGISTERING FOR UNEMPLOYMENT INSURANCE TAXES

WAC

192-300-010

What documentation and liability requirements apply to employer representatives?

192-300-060 What are reimbursable employers?
 192-300-100 Immediate family member of partners or corporate officers for RCW 50.04.150.
 192-300-150 Employer election to cover individual—Interstate reciprocal coverage agreement.
 192-300-170 Requirements for election of unemployment insurance coverage.
 192-300-180 Joint accounts.
 192-300-185 Branch accounts.
 192-300-190 Owners of entities are not covered for unemployment insurance purposes.
 192-300-200 What is a professional employer organization (PEO)?
 192-300-210 What requirements apply to professional employer organizations and client employers?
 192-300-220 What unemployment taxes apply to professional employer organizations and client employers?
 192-300-230 What enforcement, penalties, and collection procedures apply to professional employer organizations and client employers?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-300-050 What is a predecessor-successor relationship? [Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-300-050, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-300-050, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010, 50.12.040, 00-05-068, § 192-300-050, filed 2/15/00, effective 3/17/00.] Repealed by 07-23-131, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064.

WAC 192-300-010 What documentation and liability requirements apply to employer representatives? (1) In order to represent an employer before the department, a representative from a third party must file with the department a power of attorney in a form acceptable to the department. The department may accept a signed power of attorney form by fax or in other electronic form. The department will send a letter to the employer confirming that the employer has authorized the employer representative to represent it before the department.

(2) The employer remains liable for the payments of any taxes, interest, or penalties due if its third party representative errs in registering, filing reports, or paying unemployment taxes.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-300-010, filed 11/21/07, effective 1/1/08.]

WAC 192-300-060 What are reimbursable employers? (1) Some nonprofit organizations, states and political subdivisions of the state, and Indian tribes may qualify under chapters 50.44 and 50.50 RCW as reimbursable employers which reimburse the department for unemployment benefits actually paid to separated employees instead of paying unemployment taxes.

(2) In order to qualify, a nonprofit organization must be a section 501 (c)(3) tax-exempt organization under the federal tax code and must provide the department with a copy of its section 501 (c)(3) letter.

(3) If a new employer chooses and qualifies for the reimbursable method, the department may require it to post a bond or security deposit under RCW 50.44.070. Political subdivisions and nonprofit hospitals, colleges, and universities are not required to post a bond or security deposit. For a new employer, the department will base the amount of any required bond on the projected taxable payroll for the coming

year, multiplied by the industry average tax rate, with the result rounded down.

(4) For an existing reimbursable employer, the department will base the amount of any required bond based on individual wages of each employee for the previous four complete calendar quarters, multiplied by new taxable wage amounts using the maximum taxable wage base assigned for the coming year, with the result rounded down.

(5) If a reimbursable employer switches to the taxable method, the employer will be assigned the industry average rate until it satisfies the requirements to become a "qualified employer" under RCW 50.29.010. This does not apply to delinquent employers under WAC 192-330-110.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-300-060, filed 11/21/07, effective 1/1/08.]

WAC 192-300-100 Immediate family member of partners or corporate officers for RCW 50.04.150. The exemption in RCW 50.04.150 for family members employed on "corporate farms" includes family membership of all legal entities operating the farm.

[Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.04.150. 99-20-127, § 192-300-100, filed 10/6/99, effective 11/6/99.]

WAC 192-300-150 Employer election to cover individuals—Interstate reciprocal coverage agreement. The commissioner may enter into interstate reciprocal coverage agreements with other states for the purpose of covering services performed by a person for a single employer where the services were performed in more than one state (RCW 50.12.060). These services are to be considered performed entirely in one state where:

- a. Any part of the person's service is performed;
- b. The person has a residence; or
- c. The employer keeps a place of business.

(1) Election process

(a) **Filing.** An employer for whom personal services are performed, may file an election for coverage under the laws of a single state, for individuals who normally perform services in more than one state (or other jurisdiction) using a Form RC-1 "Employer's Election to Cover Multi-State Workers." Our department also requires that any employee to be covered sign the Form RC-2A "Notice to and Acquiescence of Employee as to Unemployment Compensation Coverage" which must accompany the Form RC-1.

(b) **Approval.** The agency of the elected state approves or disapproves the election.

If the agency approves the election, it forwards a copy of the election to any other participating states where the individual(s) might be covered by unemployment compensation law. Each participating state approves/disapproves the election as quickly as possible and notifies the appropriate agency of the elected state. If disapproved, the disapproving state notifies the elected state of its action and reason(s) for disapproval.

(c) **Withdrawal of election.** If an election is not approved, the employer may withdraw its election within ten days of notification.

(d) **Effective date of election.** An approved election is effective at the beginning of the calendar quarter when the election was submitted.

(e) **Termination of election.** A request for election will be automatically terminated if an employee ceases to perform work in more than one state. This termination would take place at the end of the calendar quarter when the change was discovered.

2. Reports/notices to employees by employer or electing unit.

(a) The employer notifies each person affected of any approved election and sends the elected agency a copy of such notice.

(b) If a person covered by this election becomes unemployed, the employer, or electing unit will notify him/her as to which state covers any unemployment insurance claim.

(c) If an election ceases to apply to an individual, the employer will notify the affected individual in writing.

3. Other jurisdictions.

The commissioner may also enter into such reciprocal coverage agreements with the federal government, or foreign governments.

[Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.12.060, 99-20-132, § 192-300-150, filed 10/6/99, effective 11/6/99.]

WAC 192-300-170 Requirements for election of unemployment insurance coverage. The department applies RCW 50.04.165 and 50.24.160 to establish the election of coverage for unemployment insurance by employers where personal services are not considered employment under the law:

(1) RCW 50.24.160 allows any business to request unemployment insurance coverage for personal services that are not covered as employment:

(a) The request must be in writing to the department;

(b) The department must approve the request for election of coverage in writing; and

(c) The request must be signed by someone legally authorized to bind the business.

(2) All changes in elected coverage remain in effect for at least two calendar years. The business may terminate coverage only at the end of a calendar year. To terminate coverage, the employer must send a written request to the department by January 15.

(3) The department reserves the right to disapprove a request for coverage because:

(a) The applicant is not liable for federal unemployment taxes (FUTA);

(b) The occupation or industry is seasonal; or

(c) Other reasons apply.

(4) The department reserves the right to cancel unemployment insurance coverage for a voluntary election employer because:

(a) Of nonpayment of unemployment insurance taxes or failure to file an unemployment insurance tax and wage report;

(b) Of misrepresentation of facts;

(c) Coverage is not used for involuntary unemployment as outlined in RCW 50.01.010; or

(d) Other reasons apply.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 07-23-127, § 192-300-170, filed 11/21/07, effective 1/1/09; 00-05-064, § 192-300-170, filed 2/15/00, effective 3/17/00.]

WAC 192-300-180 Joint accounts. (RCW 50.24.170.)

(1) Any two or more employers may form joint accounts (consolidate) for the purposes of reporting and dealing with the department.

(2) Joint accounts must be acceptable to the department and cannot:

(a) Impair any obligation by these employers to the department;

(b) Interfere with the payment of benefits to claimants;

(c) Increase administrative costs to the department; or

(d) Allow an employer to receive an experience rate to which it was not entitled.

(3) Joint accounts must provide for the maintenance of all records required under Title 50 RCW.

(4) Joint accounts may not be formed until the department has approved in writing the consolidation plan.

(5) A joint account may not be established for a third-party payer under RCW 50.04.248, a common paymaster under RCW 50.04.065, or a professional employer organization under RCW 50.04.298.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 07-23-130, § 192-300-180, filed 11/21/07, effective 1/1/08. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.24.170, 99-20-128, § 192-300-180, filed 10/6/99, effective 11/6/99.]

WAC 192-300-185 Branch accounts. The department may establish branch accounts for a single registered employer. All branch accounts shall be consolidated for purposes of establishing a single tax rate for the employer.

[Statutory Authority: RCW 50.12.010 and 50.12.040, 07-23-127, § 192-300-185, filed 11/21/07, effective 1/1/08.]

WAC 192-300-190 Owners of entities are not covered for unemployment insurance purposes. The owners of a business as identified in RCW 50.04.090 include business entities such as limited liability companies, limited liability partnerships, etc. There is no employer-employee relationship in the services provided to the business by the owners, as defined in RCW 50.04.100. Therefore, owners are not covered for unemployment insurance purposes.

[Statutory Authority: RCW 50.12.010, 50.12.040, 00-05-067, § 192-300-190, filed 2/15/00, effective 3/17/00.]

WAC 192-300-200 What is a professional employer organization (PEO)? A "professional employer organization," as further defined in RCW 50.04.298(1), is a person or entity that enters into an agreement with one or more client employers to provide professional employer services in a coemployment relationship. The professional employer services may include functions such as human resources, risk management, payroll administration services, or unemployment insurance. Both the professional employer organization and the client employer are considered coemployers.

A "professional employer organization" includes entities that use the term "staff leasing company," "permanent leasing company," "registered staff leasing company," "employee leasing company," or "administrative employer" and provide professional employer services to client employers. It does not include independent contractors under RCW 50.04.140, temporary staffing services companies and services referral agencies under RCW 50.04.245, third-party payers under

RCW 50.04.248, labor organizations, or common paymasters or common pay agents under RCW 50.04.065.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-130, § 192-300-200, filed 11/21/07, effective 1/1/08.]

WAC 192-300-210 What requirements apply to professional employer organizations and client employers?

(1) Both professional employer organizations and client employers must comply with all applicable state laws. Professional employment agreements may not allocate rights and obligations between professional employer organizations and client employers other than in compliance with state law.

(2) Professional employer organizations must file a master business application with the state. They must register with the department under RCW 50.12.070 and obtain an employer reference number issued by the department (employment security number). This applies to professional employer organizations that have their own employees in this state and to professional employer organizations that have client employers who do business or have employees in this state.

(3) Professional employer organizations must ensure that their client employers are registered with the department under RCW 50.12.070. Professional employer organizations may only file papers to register the client employer if they also have filed with the department a power of attorney form signed by an authorized representative of the client employer.

(4) In order to represent a client employer to the department, a professional employer organization must file with the department a power of attorney in a form acceptable to the department. The signed power of attorney form may be sent by fax or in other electronic form acceptable to the department. The department will acknowledge receipt of the power of attorney to the sender and will send a letter to the client employer confirming that the professional employer organization is authorized to represent it to the department.

(5)(a) Professional employer organizations shall provide the department with the following information for client employers: Names, addresses, unified business identifier numbers, employment security numbers, names and Social Security numbers of corporate officers, owners and partners (if not a corporation or limited liability company), or limited liability company members, effective date the relationship between the professional employer organization and client employer began, and a business location in Washington state where payroll and business records for the client employer will be made available for review or inspection when requested by the department.

Information is due:

(i) By September 1, 2007, for all then existing client employers;

(ii) Within thirty days for any client employer registering with the department for the first time; and

(iii) Within thirty days of the effective date whenever the professional employer organization and a client employer enter a professional employer agreement.

(b) Professional employer organizations shall notify the department within thirty days of the termination of a relationship with a client employer. The notice shall include the name, address, unified business identifier number, employ-

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ment security number, effective date, and contact information for the client employer.

(c) The department shall provide forms for the information required in this subsection. The department may require professional employer organizations to submit the information in an electronic format.

(6) Professional employer organizations shall maintain accurate payroll records for each client employer and make them available for review and inspection at a business location in Washington state when requested by the department. The location may vary for different client employers. Appropriate department facilities may be used for this purpose with the consent of the department. The department may require client employers or professional employer organizations to produce other business and financial records at an in-state location in the same manner it requires other employers to do so under WAC 192-310-050.

(7) Professional employer organizations shall file quarterly tax and wage reports for client employers they represent in a format specified by the department. Reports shall contain separate and distinct information for each client employer, regardless of the format used. Professional employer organizations may file a single electronic report for multiple client employers, separate paper or electronic reports for individual client employers, or a combination of electronic and paper filing.

(8) The department shall provide an electronic system for filing quarterly tax and wage reports which allows a professional employer organization to make payments when filing for multiple client employers with a single payment for those employers.

(9) If the professional employer organization files separate quarterly tax and wage reports for individual client employers, it shall make separate payments for each employer.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-130, § 192-300-210, filed 11/21/07, effective 1/1/08.]

WAC 192-300-220 What unemployment taxes apply to professional employer organizations and client employers?

(1) Effective January 1, 2008, each professional employer organization and each client employer shall be assigned an individual tax rate based on its own experience.

(2)(a) This subsection applies to professional employer organizations and client employers which have a coemployment relationship as of January 1, 2008.

(b) Except as provided in (d) and (e) of this subsection, the tax rate for professional employer organizations and client employers shall be determined on the basis that the client employer transferred from the professional employer organization effective January 1, 2008. A client employer's proportionate experience (benefits charged and taxable payroll) for the entire first quarter beginning January 1, 2008, shall transfer to the client employer. On or after January 1, 2008, experience shall transfer to a client employer regardless of whether the professional employer organization was the base year employer prior to that date.

(c) The client employer's tax rate shall remain unchanged for the remainder of the rate year in which the transfer occurred.

(d) Client employers that are qualified employers under RCW 50.29.010 or are delinquent under RCW 50.29.025 (2)(c)(i) and that joined a professional employment organization after the computation date of July 1, 2007, shall be assigned their own tax rate for 2008 as if they had not joined the professional employer organization. Any experience from July 1, 2007, to December 31, 2007, assigned to the professional employer organization for those client employers shall transfer to the client employer for purposes of setting future rates.

(e) If an employer is registered with the department and has its own tax rate, but is also a client employer for purposes of some of its employees, it shall keep its own tax rate for 2008 and that rate shall apply to all its employees. Any employees of a client employer that is in a coemployment relationship with a professional employer organization shall be considered a branch account under the registered employer.

(f) Beginning on January 1 of the year after the transfer, the client employer's tax rate for each rate year shall be based on a combination of:

(i) The client employer's experience with payrolls and benefits; and

(ii) The experience assigned to the professional employer organization which is attributable to the client employer, based on the percentage of employees transferred as of January 1, 2008, regardless of the date the client employer joined the professional employer organization.

(g)(i) The professional employer organization's tax rate on any payroll retained by the professional employer organization shall remain unchanged for the remainder of the year in which the transfer occurs.

(ii) Beginning on January 1 of the year after the transfer, the professional employer organization's tax rate for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year excluding the experience that has been attributed to client employers.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-130, § 192-300-220, filed 11/21/07, effective 1/1/08.]

WAC 192-300-230 What enforcement, penalties, and collection procedures apply to professional employer organizations and client employers? (1) A professional employer organization may collect and make payments on behalf of a client employer, but the client employer remains liable for the payments of any taxes, interest, or penalties due.

(2) Unless the professional employer organization has already notified the department that it has not received payments from the client employer, the department shall first attempt to collect any payments due from the professional employer organization and shall not attempt to collect from the client employer until at least ten days from the date payment was due. Collection procedures shall follow the requirements of chapter 50.24 RCW.

(3) A professional employer organization may elect to provide a bond to cover payments due. Any bond for this purpose shall be filed with the department, shall be in a form satisfactory to the commissioner, and shall be in an amount not less than the amount of contributions due in the highest quarter of the preceding calendar year. A bond does not relieve

the professional employer organization or its client employers of ultimate liability for payments due.

(4) In case of error by a professional employer organization in which reports are incomplete, inaccurate, or late, or if the professional employer organization makes a single payment that does not match the amount due for multiple employers, the department will initially apply any penalty and interest charges for all amounts due against the professional employer organization, regardless of whether the professional employer organization has employees in Washington. However, the client employer ultimately remains liable for any taxes, penalties, or interest due.

All client employers of a professional employer organization may be subject to the tax rate for delinquent taxpayers if a delinquency under WAC 192-320-035 cannot be assigned to a specific client employer.

(5) If a professional employer organization reports employees of a client employer as its own employees, a first violation will be considered an incorrect report for the professional employer organization and an untimely report for the client employer under RCW 50.12.220(2). A second violation will be considered knowing misrepresentation under RCW 50.12.220(3). A third violation will be considered grounds for revocation of the authority of a professional employer organization to act on behalf of its client employers.

(6) The department may revoke the authority of a professional employer organization to act on behalf of its client employers if the professional employer organization substantially fails to comply with the provisions of RCW 50.12.300. An order to revoke the authority of a professional employer organization shall be considered an appealable order under chapter 34.05 RCW comparable to an order and notice of assessment under RCW 50.32.030.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-130, § 192-300-230, filed 11/21/07, effective 1/1/08.]

Chapter 192-310 WAC REPORTING OF WAGES AND TAXES DUE

WAC

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WAC 192-310-010 What reports are required from an employer? (RCW 50.12.070.) (1) Master business application.

Every person or unit with one or more individuals performing services for it in the state of Washington must file a master business application with the department of licensing.

(2) Employer registration:

(a) Every employer shall register with the department and obtain an employment security account number. Registration shall include the names, Social Security numbers, mailing addresses, telephone numbers, and the effective dates in that role of natural persons who are spouses of owners and owners, partners, members, or corporate officers of an employer. Registration of corporations shall include the percentage of stock ownership for each corporate officer, delineated as zero percent, less than ten percent, or ten percent or more, and the family relationship of corporate officers to other corporate officers who own ten percent or more. Every employer shall report changes in owners, partners, members, corporate officers, and percentage of ownership of the outstanding stock of the corporation by corporate officers. The report of changes is due each calendar quarter at the same time that the quarterly tax and wage report is due.

(b) A nonprofit corporation that is an employer shall register with the department, but is not required to provide names, Social Security numbers, mailing addresses, or telephone numbers for corporate officers who receive no compensation from the nonprofit corporation with respect to their services for the nonprofit corporation.

(c) For purposes of this subsection:

(i) "Owner" means the owner of an employer operated as a sole proprietorship;

(ii) "Partner" means a general partner of an employer organized as a partnership, other than limited partners of a limited partnership who are not also general partners of the partnership;

(iii) "Member" means a member of an employer organized as a limited liability company, other than members who, pursuant to applicable law or the terms of the limited liability company's operating agreement or other governing documents, have no right to participate in the management of the limited liability company; and

(iv) "Corporate officer" means an officer described in the bylaws or appointed or elected by the board of directors in accordance with the bylaws or articles or certificates of incorporation of an employer organized as a for-profit or nonprofit corporation.

(3) Quarterly tax and wage reports:

(a) Tax report. Each calendar quarter, every employer must file a tax report with the commissioner. The report must list the total wages paid to every employee during that quarter.

(b) Report of employees' wages. Each calendar quarter, every employer must file a report of employees' wages with the commissioner. This report must list each employee by full name, Social Security number, and total hours worked and wages paid during that quarter.

(i) Social Security numbers are required for persons working in the United States;

(ii) If an individual has a Social Security card, he or she must present the card to the employer at the time of hire or shortly after that. This does not apply to agricultural workers who, under federal rules, may show their Social Security card on the first day they are paid;

(iii) If the individual does not have a Social Security card, Internal Revenue Service rules allow an employer to hire the individual with the clear understanding that the individual will apply for a Social Security number within seven calendar days of starting work for the employer. The individual must give the employer a document showing he or she has applied for a Social Security card. When the card is received, the individual must give the employer a copy of the card itself. An employer should keep copies of the document(s) for his or her records; and

(iv) If the employee does not show his or her Social Security card or application for a card within seven days and the employer continues to employ the worker, the employer does not meet the reporting requirements of this section. The department will not allow waiver of the incomplete report penalty (see WAC 192-310-030).

(c) Format. Employers must file the quarterly tax and wage reports in one of the following formats:

(i) Electronically, using the current version of *UIFastTax*, *UIWebTax*, or *ICESA* Washington; or

(ii) Paper forms supplied by the department (or an approved version of those forms). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.

(d) Due dates. The quarterly tax and wage reports are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. So, reports are due by April 30, July 31, October 31, and January 31, in that order. If these dates fall on a Saturday, Sunday, or a legal holiday, the reports will be due on the next business day. Reports submitted by mail will be considered filed on the postmarked date. The commissioner must approve exceptions to the time and method of filing in advance.

(e) Termination of business. Each employer who stops doing business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due on the date the account is closed; and

(ii) A report of employees' wages for the current calendar quarter which includes all wages paid as of the date the account is closed.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-010, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12-010, 50.12.040, and 50.12.042. 05-19-017, § 192-310-010, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-310-010, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.070. 98-14-068, § 192-310-010, filed 6/30/98, effective 7/31/98.]

WAC 192-310-020 Tax payments by employers (RCW 50.24.010). (1) Taxes must be paid each quarter. Each quarterly payment must include the taxes owed on all wages paid during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which taxes are due. Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Saturday, Sunday, or a legal holiday, the tax payment must be received or postmarked on the next business day.

(2) Tax payments are due immediately when an employer goes out of business or the account is closed by the department. Taxes not paid immediately are delinquent. However, interest will not be added until the first day of the second month following the end of the calendar quarter for which the taxes are owed.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-020, filed 11/21/07, effective 1/1/08; 07-22-055, § 192-310-020, filed 11/1/07, effective 12/2/07; 98-14-068, § 192-310-020, filed 6/30/98, effective 7/31/98.]

WAC 192-310-025 Application of payments. (1) A payment received with a tax report will be applied to the quarter for which the report is filed. A payment exceeding the legal fees, penalties, interests and taxes due for that quarter will be applied to any other debt as provided in subsection (2). If no debt exists, a credit statement will be issued for any overpayments.

(2) A payment received without a tax report will be applied in the following order of priority, beginning with the oldest quarter:

- (a) Costs of audit and collection.
- (b) Penalties for willful misrepresentation of payroll.
- (c) Lien fees.
- (d) Warrant fees.
- (e) Late tax report penalty.
- (f) Penalties for incomplete reporting or reporting using incorrect format.
- (g) Late tax payment penalty.
- (h) Interest charges.
- (i) Tax payments.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 04-23-058, § 192-310-025, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010 and 50.12.040. 98-14-068, § 192-310-025, filed 6/30/98, effective 7/31/98.]

WAC 192-310-030 What are the report and tax payment penalties? (RCW 50.12.220.) (1) **Penalty for late tax reports.** An employer who does not file a tax report within the time frame required by WAC 192-310-010 (3)(d) must pay a penalty of twenty-five dollars for each violation, unless the penalty is waived by the department.

(2) **Definition of incomplete or incorrect format tax report.** An employer must file a tax report that is complete and in the format required by the commissioner.

(a) An "incomplete report" is any report filed by any employer or their agent where:

- (i) The entire wage report is not filed on time; or
 - (ii) A required element is not reported (Social Security number, name, hours worked, or wages paid); or
 - (iii) A significant number of employees are not reported;
- or

(iv) A significant number of any given element is not reported, for example, missing Social Security numbers, names, hours, or wages; or

(v) Either the employer reference number or Unified Business Identifier (UBI) number is not included with the tax or wage report; or

(vi) The report includes duplicate Social Security numbers, or impossible Social Security numbers as shown by the Social Security Administration (such as 999-99-9991, 999-99-9992, etc.).

(b) An "incorrect format" means any report that is not filed in the format required by the commissioner under WAC 192-310-010 (3)(c). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.

(c) For purposes of this section, the term "significant" means an employer who has:

(i) One employee and reports incomplete wage elements for the one employee; or

(ii) Two to nineteen employees and reports incomplete wage elements for two or more employees; or

(iii) Twenty to forty-nine employees and reports incomplete wage elements for three or more employees; or

(iv) Fifty or more employees and reports incomplete wage elements for four or more employees.

(3) **Penalty for filing an incomplete or incorrect format tax report.** An employer who files an incomplete or incorrectly formatted tax and wage report will receive a warning letter for the first occurrence. For subsequent occurrences of either an incomplete or incorrectly formatted report within five years of the date of the last occurrence (whether or not the last occurrence was before the effective date of this amendatory section), the employer must pay a penalty as follows:

(a) When quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter: Ten percent of the quarterly contributions for each occurrence, up to a maximum of \$250.00, but not less than:

(i)	2nd occurrence	\$75.00
(ii)	3rd occurrence	\$150.00
(iii)	4th and subsequent occurrences	\$250.00

(b) When no quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter:

(i)	2nd occurrence	\$75.00
(ii)	3rd occurrence	\$150.00
(iii)	4th and subsequent occurrences	\$250.00

(c) After five years without an occurrence, prior occurrences will not count and the employer shall receive a warning letter instead of a penalty on the next occurrence.

(4) **Penalty for knowingly misrepresenting amount of payroll.** If an employer knowingly (on purpose) misrepresents to the department the amount of his or her payroll that is subject to unemployment taxes, the penalty is up to ten times, in the discretion of the department, the difference

between the taxes paid, if any, and the amount of taxes the employer should have paid for the period. This penalty is in addition to the amount the employer should have paid. The employer must also pay the department for the reasonable expenses of auditing his or her books and collecting taxes and penalties due as provided in WAC 192-340-100.

(5) **Late tax payments.** All employers must file a tax report every quarter, including employers who have no payroll for a given quarter. If an employer does not report on time, it will be charged a late fee of \$25.00 for each report. If the payment is late, the employer will be charged interest at a rate of one percent of taxes due per month. A late payment penalty is also charged for overdue taxes:

(a) First month: Five percent of the total taxes due or \$10.00, whichever is greater;

(b) Second month: An additional five percent of total taxes due or \$10.00, whichever is greater; and

(c) Third month: An additional ten percent of total taxes due or \$10.00, whichever is greater.

(6) **Waivers of late filing and late payment penalties.** The department may, for good cause, waive penalties for late filing of a report and late payment of taxes that are due with a report. The commissioner must decide if the failure to file reports or pay taxes on time was not the employer's fault.

(a) The department may waive late penalties when there are circumstances beyond the control of the employer. These circumstances include, but may not be limited to, the following:

(i) The return was filed on time with payment but inadvertently mailed to another agency;

(ii) The delinquency was caused by an employee of the department, such as providing incorrect information to the employer, when the source can be identified;

(iii) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family;

(iv) The delinquency was caused by the unavoidable absence of the employer or key employee before the filing deadline. "Unavoidable absence" does not include absences because of business trips, vacations, personnel turnover, or terminations;

(v) The delinquency was caused by the accidental destruction of the employer's place of business or business records;

(vi) The delinquency was caused by fraud, embezzlement, theft, or conversion by the employer's employee or other persons contracted with the employer, which the employer could not immediately detect or prevent. The employer must have had reasonable safeguards or internal controls in place; or

(vii) The employer, before the filing deadline, requested proper forms from the department's central office or a district tax office, and the forms were not supplied in enough time to allow the completed report to be filed and paid before the due date. The request must have been timely, which means at least three days before the filing deadline.

(b) The department may waive late penalties if it finds the employer to be out of compliance during an employer-requested audit, but the department decides the employer

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made a good faith effort to comply with all applicable laws and rules; and

(c) The department will not waive late penalties if the employer has been late with filing or with payment in any of the last eight consecutive quarters immediately preceding the quarter for which a waiver is requested. If an employer has been in business for fewer than the eight preceding quarters, then all preceding quarters must have been filed and paid on time and a one-time only waiver may be granted.

(7) **Incomplete reports or incorrect format penalty waivers.** For good cause, the department may waive penalties or not count occurrences for incomplete reports or reports in an incorrect format when the employer can demonstrate that the incomplete or incorrectly formatted report was not due to the fault of the employer.

(8) **Missing and impossible Social Security numbers.** When a Social Security number is impossible or missing, the department may waive penalties for incomplete reports only once for each worker and only when:

(a) The report was incomplete because it included impossible Social Security numbers, but the employer can show that the impossible Social Security numbers were provided to the employer by the employees; or

(b) The report was incomplete because of missing Social Security numbers, but the employer can show that the employee did not work for the employer after failing to provide a valid Social Security card or application for Social Security number within seven days of employment.

(9) **Penalty waiver requests.**

(a) An employer must request a waiver of penalties in writing, include all relevant facts, attach available proof, and file the request with a tax office. In all cases the burden of proving the facts is on the employer.

(b) At its discretion, the department may waive penalties on its own motion without requiring a request from the employer if it finds that the penalty was caused by the department's own error or for other good cause.

(10) **Extensions.** The department, for good cause, may extend the due date for filing a report. If granted, the employer must make a deposit with the department in an amount equal to the estimated tax due for the reporting period or periods. This deposit will be applied to the employer's debt. The amount of the deposit must be approved by the department.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-030, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-310-030, filed 9/9/05, effective 10/10/05; 04-23-058, § 192-310-030, filed 11/15/04, effective 12/16/04. Statutory Authority: RCW 50.12.010 and 50.12.040. 98-14-068, § 192-310-030, filed 6/30/98, effective 7/31/98.]

WAC 192-310-035 Employer reports—Failure to report or incorrectly reporting hours or wages. (1) If an employer does not report hours worked and a former employee applies for benefits, the department will divide the wages earned by the state's minimum wage (RCW 49.46.020) in effect at the time to estimate the hours worked.

(2) If the employer later provides the actual hours worked, the department will recalculate the former employee's claim.

(3) If the claim is voided or benefits are reduced as a result of the recalculation, the claimant will not be required to repay any benefits that were overpaid and WAC 192-220-070 will apply.

(4) The employer will be charged under WAC 192-320-080 for benefits paid.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-035, filed 11/21/07, effective 1/1/08. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 49.46.020. 99-20-134, § 192-310-035, filed 10/6/99, effective 11/6/99.]

WAC 192-310-040 Employer reports—Further defining hours worked (RCW 50.12.070). This section defines the hours that employers must include on the quarterly tax and wage report.

(1) **Vacation pay.** Report the number of hours an employee is on paid leave. Do not report payments made in place of vacation time as hours worked.

(2) **Sick leave pay.** As provided in RCW 50.04.330(1), any payments made to an employee under a qualified plan for sickness or accident disability, insurance or annuities, medical or hospitalization expenses in connection with sickness or accident disability, death or retirement are not considered wages or compensation. Do not report these as hours or wages. For payments under a nonqualified plan, report both wages and hours.

(3) **Overtime.** Report the number of hours actually worked for which overtime pay or compensatory time is provided, without regard to the amount of wages or compensation paid.

(4) **Commissioned or piecework employees.** Report the actual number of hours worked by employees paid by commission or by piecework. If there are no reliable time keeping records, report a full-time commissioned or piecework employee for forty hours worked for each week in which any of their duties were performed.

(5) **Wages in lieu of notice.** When an employee is paid wages in lieu of notice of termination, report the actual number of hours for which they were paid. Wages in lieu of notice of termination pays the employee whose services have been terminated by the employer for the amount of wages they would have earned during the notice period.

(6) **Employees on salary.** If a salaried employee works other than the regular forty-hour week, report the actual number of hours worked. If there are no reliable time keeping records, report forty hours for each week in which a full-time salaried employee worked.

(7) **Faculty employees.** Faculty members of community and technical colleges must teach at least fifteen classroom or laboratory hours to be considered full-time. A teaching load of less than fifteen hours of instruction is considered part-time.

(a) If there is no reliable hourly information, report the hours of instruction as part-time based on fifteen credits as a full-time teaching load and thirty-five hours as full-time employment for a week. For example, an instructor teaches twelve credits per week. Twelve divided by fifteen equals eighty percent. Thirty-five hours times eighty percent equals twenty-eight hours. The employer should report the twenty-eight hours to the department on the employer's quarterly tax and wage report.

(b) Any part-time salaried instructor who does not establish a valid claim because of this formula may provide the department with evidence of hours worked that exceeds the hours reported by the employer.

(8) **Severance pay.** Do not report additional hours for severance pay. Report only the dollar amount paid to the employee. Severance pay is taxable because it is based on past service and compensates the employee upon job separation.

(9) **Payment in kind.** Report the actual hours worked for performing services which are compensated only by payment in kind.

(10) **Bonuses, tips and other gratuities.** Do not report additional hours for bonuses, tips or other gratuities if they are received by an employee who is working regular hours if bonuses, tips and gratuities are the only sources of compensation.

(11) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, round the total to the next higher whole number.

(12) **Practice, preparation, and rehearsal time.** If an employee who is part of a performing group is paid for a performance, but is also required by the employer to attend practice, preparation, and rehearsal on an organized group basis, report the hours spent in the required practice, preparation, and rehearsal as well as the performance.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-040, filed 11/21/07, effective 1/1/08. Statutory Authority: Chapters 34.05 and 50.12 RCW, RCW 50.12.070 and 50.04.330(1). 99-20-141, § 192-310-040, filed 10/6/99, effective 11/6/99.]

WAC 192-310-050 Employer records. The commissioner requires every employer to keep true and accurate business, financial, and employment records which are deemed necessary for the effective administration of chapter 50.12 RCW.

Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for four calendar years following the calendar year in which employment occurred:

- a. The name of each worker;
- b. The Social Security number of each worker;
- c. The beginning date of employment for each worker and, if applicable, the separation date of employment of each worker;
- d. The basis upon which wages and/or remuneration are paid to each worker;
- e. The location where such services were performed;
- f. A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each day;
- g. The workers' total gross pay period earnings;
- h. The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld to equate to net pay; and
- i. The cause for any discharge where a worker was separated from the job due to discharge; or the cause of any quit where a worker quit the job if the cause for the quit is known.

[Statutory Authority: Chapters 34.05 and 50.12 RCW. 00-01-164, § 192-310-050, filed 12/21/99, effective 1/21/00. Formerly WAC 192-12-050 (part).]

WAC 192-310-055 Employer records—Farm operator or farm labor contractor—RCW 50.12.070. Every employer is required to keep true and accurate employment records.

(1) Farm operators and farm labor contractors must keep the records required under WAC 192-310-050.

(2) Farm operators who contract with a crew leader or a farm labor contractor must keep original records containing the following information:

- (a) The beginning and ending dates of the contract;
- (b) The types of services performed;
- (c) The number of persons performing such services;
- (d) The name of the contractor or crew leader; and
- (e) Evidence the farm labor contractor is licensed as required by chapter 19.30 RCW.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-310-055, filed 11/1/07, effective 12/2/07. Statutory Authority: Chapters 34.05 and 50.12 RCW. 00-01-166, § 192-310-055, filed 12/21/99, effective 1/21/00. Formerly WAC 192-12-050 (part).]

WAC 192-310-060 Tips as wages. "Tips as wages" are those tips an employee is required to report to the employer by federal law.

(1) The employer must report tips each quarter on an "as paid" basis. Tips are considered paid when the employee reports them to the employer for federal income tax purposes; or when they are distributed by the employer to the employee.

(2) Tips will not be treated as wages when an individual's benefits are calculated if the individual did not report their value to the employer.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-310-060, filed 11/1/07, effective 12/2/07. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.04.320. 99-20-129, § 192-310-060, filed 10/6/99, effective 11/6/99.]

WAC 192-310-070 Value of meals, lodging and in kind compensation—Payment by means other than cash—RCW 50.04.320. (1) The employer should not report the value of meals or lodging provided to an employee for the convenience of the employer unless the value equals twenty-five percent or more of the employee's total pay during a pay period. Meals or lodging provided on the employer's premises or as a condition of employment will be considered as provided for the convenience of the employer.

(2) Compensation for personal services paid in kind (in any form other than cash), will be given its current prevailing market value. This value will be treated as wages in computing the unemployment insurance taxes that are due. If the value of an item is set by a hiring contract, the department will treat the value set by the contract as the actual value.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-22-055, § 192-310-070, filed 11/1/07, effective 12/2/07. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.04.320. 99-20-130, § 192-310-070, filed 10/6/99, effective 11/6/99.]

WAC 192-310-080 When are performers in small performing arts industries who receive stipends not considered to be in employment? (RCW 50.04.275.) (1) A person who is participating in a performance for an employer in subsection (2) of this section is not considered to be in

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employment if the person receives no remuneration other than a nominal stipend.

(2) This section only applies to employers that are classified in the North American industry classification system as theater companies, dinner theaters, dance companies, musical groups and musical artists, and museums. The employer may not employ more than three individuals during any portion of a day during a calendar year. If an organization employs no more than three individuals who regularly exceed half-time employment, it will be presumed to meet this test.

If an employer becomes ineligible during the course of a year, the employer must from that time forward until the end of the calendar year treat persons who receive only a nominal stipend as in employment.

(3) As used in this section, "participating in a performance" includes serving as an actor or actress, musician, lighting technician, costume designer, stagehand, or in performing other functions relating specifically to the performance.

(4) A stipend is nominal when it is a fixed sum of money which the employer pays periodically to defray incidental expenses involved in participating in a performance and which does not exceed the amount specified under WAC 192-100-500(5).

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-080, filed 11/21/07, effective 1/1/08.]

WAC 192-310-090 When is "casual labor" exempt from unemployment insurance? (RCW 50.04.270.) "Casual labor" that is not in the course of the employer's trade or business and does not promote or advance the employer's trade or business is not considered employment. This exemption only applies to services such as yard work or minor repair work which is performed for a private individual on nonbusiness property. Any employment which is treated as a business expense does not qualify for this exemption.

"Domestic service" is considered a separate exemption under RCW 50.05.160.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-090, filed 11/21/07, effective 1/1/08.]

WAC 192-310-095 When are musicians and entertainers exempt from unemployment insurance? (RCW 50.04.148.) Musicians or entertainers who contract to perform specific engagements with a purchaser are not considered in employment when they provide no other duties for the purchaser and are not regularly and continuously employed by the purchaser. This exemption only applies if the primary business purpose of the purchaser is not music or entertainment. The music or entertainment provided must be incidental to the primary business activity of the purchaser. An example would be a tavern that periodically contracts with different bands to play live music.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-095, filed 11/21/07, effective 1/1/08.]

WAC 192-310-100 What notices does the department require or recommend employers to post? (Relating to RCW 50.20.140, 50.12.290, and 50.44.045.)

[Title 192 WAC—p. 79]

(1) Employers who are responsible for unemployment insurance coverage of their employees must post and maintain printed notices to individuals who are employed by the employer. The notices provide information to individuals who may be unemployed about how to apply for benefits. The notices are to be posted in conspicuous places close to the actual location where the personal services are performed.

(2) The department will provide required notices to employers without charge. The department will send required notices to employers when they file a master application for a business license registering for unemployment insurance. The department will send updated notices to employers when there are substantive changes in the information.

(3) The department may also make recommendations of additional materials to post.

(4) A church, a convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or a convention or association of churches shall display in a conspicuous place a poster giving notice that its employees are not considered in employment for purposes of unemployment insurance. The department shall make these posters available without charge.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-100, filed 11/21/07, effective 1/1/08. Statutory Authority: Chapters 34.05, 50.12 RCW and RCW 50.20.140. 99-20-133, § 192-310-100, filed 10/6/99, effective 11/6/99.]

WAC 192-310-150 Are corporate officers covered for unemployment insurance? (1) For purposes of WAC 192-310-150 through 192-310-190:

(a) "Bona fide officer" means any person empowered in good faith by stockholders or directors, in accordance with articles of incorporation or bylaws, to discharge the duties of a corporate officer;

(b) "Corporate officer" means an officer of a corporation as described or authorized in bylaws under RCW 23B.08.-400;

(c) "Exercise substantial control in the daily management of the corporation" means that the individual makes managerial decisions over a business function or functions that have some effect on the entire corporation.

(d) "Nonpublic company" means a corporation that does not meet the definition of a public company;

(e) "Public company" means a corporation that has a class of shares registered with the Federal Securities and Exchange Commission as defined in RCW 23B.01.400;

(f) "Related by blood within the third degree" means the degree of kinship as computed according to the rules of the civil law. For example, if measured for descendants, it would include a person and that person's children, grandchildren, great grandchildren, brothers and sisters, and nephews and nieces. Alternatively, if measured for ancestors, it would include a person and that person's parents, grandparents, great grandparents, brothers and sisters, and aunts and uncles. Cousins are not related by blood within the third degree under the rules of the civil law and are not included. Legal adoptions or step-relatives are considered as if genetically related.

(g) "Related by marriage" means the union subject to legal recognition under the domestic relations laws of this state.

(2) Unless specifically exempted under WAC 192-310-160 or 192-310-180, services performed by corporate officers are considered services in employment and are covered for purposes of unemployment insurance to the same extent other employment is covered.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-150, filed 11/21/07, effective 1/1/09.]

WAC 192-310-160 How may corporations exempt corporate officers from unemployment insurance coverage?

(1) Subject to RCW 50.04.165 and the other requirements of this section, a corporation may exempt one or more corporate officers from coverage by notifying the department on a form approved by the department. The form must be signed by each exempted officer. Unless the corporate officer exempted is the only officer of the corporation, the form must also be signed by another corporate officer verifying the decision to be exempt from coverage.

(2) The election to exempt corporate officers is effective immediately if made when the corporation first registers with the department as an employer under RCW 50.12.070. If the election to exempt corporate officers is made after that, the exemption is effective on January 1 of the following calendar year. The corporation must send written notice to the department by January 15 for the exemption to be effective on January 1 of that year. The exemption is not effective until filed with the department and will not be applied retroactively, except for the period from January 1 to January 15 if the notice is sent by January 15. A corporation is not eligible for refund or credit for periods before the effective date of the exemption.

(3) A public company as defined in RCW 23B.01.400 may exempt any bona fide corporate officer:

(a) Who is voluntarily elected or voluntarily appointed under the articles of incorporation or bylaws of the corporation;

(b) Who is a shareholder of the corporation;

(c) Who exercises substantial control in the daily management of the corporation; and

(d) Whose primary responsibilities do not include the performance of manual labor.

(4) A corporation that is not a public company may exempt eight or fewer bona fide corporate officers who voluntarily agree to be exempted from coverage and sign a form approved by the department verifying this. These corporate officers must be voluntarily elected or voluntarily appointed under the articles of incorporation or bylaws of the corporation and must exercise substantial control in the daily management of the corporation.

(5) A corporation that is not a public company may exempt any number of corporate officers if all officers of the corporation are related by blood within the third degree or by marriage to a person related by blood within the third degree. If any of the corporate officers fail to qualify for this exemption because they are not related by blood or marriage as required, then none of the corporate officers may qualify under this subsection, although they may still qualify under subsection (4) of this section. This is an alternative and not an addition to exemptions under subsection (4) of this section.

For example, a husband and wife, their biological or adopted children or stepchildren, grandchildren, and great

grandchildren, their brothers and sisters, their nephews and nieces, and the spouses of any of these people could qualify for exemption as corporate officers under this section without being limited to eight individuals. However, if any of the corporate officers do not meet this test, then this subsection does not apply.

(6) This section does not apply to officers of a corporation covered by chapter 50.44 RCW (some nonprofit or government organizations) or chapter 50.50 RCW (Indian tribes).

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-160, filed 11/21/07, effective 1/1/09.]

WAC 192-310-170 How is unemployment insurance coverage of corporate officers reinstated? (1) Unemployment insurance coverage of corporate officers who have been exempted from coverage may be reinstated under subsection (2) of this section by termination of an exemption or under subsection (3) of this section by election of the corporation.

(2)(a) An exemption for a corporate officer of a public corporation who has been exempted from unemployment insurance coverage under WAC 192-310-160(3) terminates immediately if the officer no longer qualifies for the exemption. For example, the worker may no longer be a bona fide elected or appointed corporate officer, may no longer be a shareholder of the corporation, may no longer exercise substantial control in the daily management of the corporation, or now has primary responsibilities which include the performance of manual labor.

(b) An exemption for a corporate officer of a nonpublic corporation who has been exempted from unemployment insurance coverage under WAC 192-310-160(4) terminates immediately if the officer no longer qualifies for the exemption for reasons other than revocation of a voluntary agreement to be exempted from coverage. For example, the worker may no longer be a bona fide elected or appointed corporate officer or may no longer exercise substantial control in the daily management of the corporation. However, the exemption does not terminate solely because the officer withdraws a voluntary agreement to be exempted from coverage.

(c) An exemption for a corporate officer of a nonpublic corporation who has been exempted from unemployment insurance coverage under WAC 192-310-160(5) terminates immediately if the officer no longer qualifies for the exemption because of a change in family relationship, such as a change in marital status. The exemption for all other corporate officers also terminates immediately if the entire group of corporate officers no longer qualifies under WAC 192-310-160(5), except to the extent some or all may remain exempt under WAC 192-310-160(4).

(d) A corporation must notify the department on a form approved by the department of a change in status in which an exemption terminates for a corporate officer who had been exempted. The notice is due by the time the next quarterly tax and wage report is due from the corporation. In addition, a corporate officer may notify the department that the exemption has terminated.

(e) A corporation is responsible for any taxes, penalties, and interest due if an exemption terminates and coverage is reinstated, regardless of whether the corporation provided notice to the department of the termination of the exemption.

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(3) A corporation that has exempted one or more corporate officers may elect to reinstate coverage for one or more of those previously exempted corporate officers only under the following conditions:

(a) The window of opportunity to reinstate coverage only exists every five years, beginning in 2014. Corporations may reinstate coverage in calendar years 2014, 2019, and every five years thereafter.

(b) Reinstatement is only effective on January 1, 2014, January 1, 2019, and every five years thereafter. The corporation must send written notice to the department by January 15 for the reinstatement to be effective on January 1 of that year. If written notice is sent after January 15, reinstatement will not be allowed until the next window of opportunity five years thereafter. Reinstatement will not be applied retroactively, except for the period from January 1 to January 15 if notice is sent by January 15.

(c) Coverage will not be reinstated if the corporation committed fraud related to the payment of contributions within the previous five years, is delinquent in the payment of taxes at the time of the request to reinstate corporate officers, is currently assigned a tax rate for employers who are delinquent on taxes under WAC 192-320-035, or if the commissioner exercises his or her discretion to determine that there are related reasons why the corporation should not be allowed to reinstate coverage of corporate officers.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-170, filed 11/21/07, effective 1/1/09.]

WAC 192-310-180 Are corporate officers covered for unemployment insurance when the corporation has no other employees? (1) If a corporation has no employees and all personal services are performed only by bona fide corporate officers, the corporation is not considered an "employer" or "employing unit" under RCW 50.04.080 and 50.04.090. Services of these corporate officers are not considered "services in employment" under RCW 50.04.165 or WAC 192-310-150 and are not covered for purposes of unemployment insurance unless they specifically elect coverage under subsection (2) of this section.

(2) A corporation that has no employees and in which all personal services are performed only by bona fide corporate officers may elect unemployment insurance coverage if it registers with the department under RCW 50.12.070, elects coverage under RCW 50.24.160, and complies with WAC 192-300-170. The election must cover at least two calendar years and is only effective upon the written approval of the commissioner. Once the election for coverage is approved, it may only be terminated effective January 1 after at least two calendar years and only if the corporation filed a written application for termination of coverage by January 15 of that year.

(3) This section does not apply to officers of a corporation covered by chapter 50.44 RCW (some nonprofit or government organizations) or chapter 50.50 RCW (Indian tribes).

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-180, filed 11/21/07, effective 1/1/08.]

WAC 192-310-190 When is a corporate officer with ten percent ownership considered unemployed? (1) This section applies to:

(a) A corporate officer who owns ten percent or more of the outstanding stock of the corporation; or

(b) A corporate officer who is a family member of another corporate officer who owns ten percent or more of the outstanding stock of the corporation. For purposes of this section, a "family member" is a person related by blood or marriage as parent, stepparent, grandparent, spouse, child, brother, sister, stepchild, adopted child, or grandchild.

(2) A corporate officer whose claim for benefits is based on any wages with that corporation is not considered unemployed in any week during the individual's term of office, even if wages are not being paid at the time. The corporate officer is considered unemployed and potentially eligible for benefits if the corporation dissolves or if the officer permanently resigns or is permanently removed as a corporate officer under the articles of incorporation or bylaws.

(3) For purposes of this section, "permanently" means for a period of indefinite duration, but expected to extend at least through the claimant's benefit year end date. If at any time during the benefit year the claimant resumes his or her position as an officer with the corporation, all benefits paid during that benefit year will be considered an overpayment and the claimant will be liable for repayment.

(4) A corporation must provide notice to the department in a format approved by the department when the ownership of the percentage of stock increases to become ten percent or more or decreases to become less than ten percent. The notice is due by the time the next quarterly tax and wage report is due from the corporation.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-310-190, filed 11/21/07, effective 1/1/08.]

Chapter 192-320 WAC

EXPERIENCE RATING AND BENEFIT CHARGING

WAC

192-320-005	What is "experience?"—RCW 50.29.021.
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192-320-020	How is the industry average calculated for rate years 2005, 2006, and 2007? (RCW 50.29.025.)
192-320-025	How are unemployment insurance tax rates determined for new employers? (RCW 50.29.025.)
192-320-030	How are unemployment insurance tax rates determined for a current "qualified employer"?
192-320-035	How are unemployment insurance tax rates determined for employers who are delinquent on taxes?
192-320-040	When will the department recalculate employer tax rates? (RCW 50.29.080.)
192-320-065	Relief of benefit charges.
192-320-070	Conditions for relief of benefit charges due to a voluntary quit.
192-320-075	Charges to the separating employer—RCW 50.29.021 (2)(c).
192-320-080	Overpayments caused by incorrect reporting of wages and hours—RCW 50.12.070 (2)(c) and 50.29.021 (3)(a).

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-320-050	What are the requirements of partial successors under chapter 50.29 RCW? [Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-050, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-068, §
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192-320-050, filed 2/15/00, effective 3/17/00.] Repealed by 07-23-131, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064.

192-320-051 What are the requirements of partial predecessors under chapter 50.29 RCW? [Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-051, filed 9/9/05, effective 10/10/05.] Repealed by 07-23-131, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064.

192-320-055 Predecessor-successor transfers through intermediaries. [Statutory Authority: Chapters 34.05, 50.12 RCW, RCW 50.04.320 and 50.29.062. 99-20-131, § 192-320-055, filed 10/6/99, effective 11/6/99.] Repealed by 07-23-131, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064.

192-320-060 Delinquent predecessor taxes. [Statutory Authority: Chapters 34.05, 50.12 RCW and portion of RCW 50.29.062. 00-01-165, § 192-320-060, filed 12/21/99, effective 1/21/00. Formerly WAC 192-12-076.] Repealed by 05-19-017, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042.

WAC 192-320-005 What is "experience?"—RCW 50.29.021. As used in this chapter, the term "experience" includes matters that have a direct relation to the risk of unemployment. Any benefits paid that are based on wages paid by the employer and chargeable under RCW 50.29.020 are considered experience.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-005, filed 9/9/05, effective 10/10/05.]

WAC 192-320-010 When is experience transferred to a successor employer? (1) Any benefits paid which are based on wages paid by the predecessor employer before the transfer of ownership must be charged to the successor employer. Just as the successor employer gets the organization, trade, business, assets, and experience of a predecessor employer as of the date of transfer, it must also get the benefit charges for past, current, or future claims connected to the predecessor employer (or a part of the predecessor employer that can be singled out) prior to the transfer.

(2) Once experience has been transferred, it becomes the successor employer's experience. It must be used to decide the successor's rates for any rate year that follows the year in which the transfer occurs. (There is an exception when, following the transfer, the successor does not have enough experience to be a qualified employer under RCW 50.29.010(6).) Since the transferred experience belongs to the successor employer, it may no longer be used to compute rates for the predecessor employer for rate years that follow.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-010, filed 9/9/05, effective 10/10/05.]

WAC 192-320-020 How is the industry average calculated for rate years 2005, 2006, and 2007? (RCW 50.29.025.) (1) As used in this title:

(a) "NAICS" is an abbreviation for North American Industry Classification System;

(b) "Industry average array calculation factor rate" means the average experience-based tax rate for a particular industry. It will be referred to as the "experience tax."

(c) "Industry average graduated social cost factor rate" is the average social tax rate for a particular industry. It will be referred to as the "social tax."

(2) When calculating the experience tax and social tax, the department will use the first four digits of the NAICS code of the industry being calculated.

(3) Experience tax.

(a) The department will calculate the experience tax as follows:

(i) A table will be prepared that contains each of the 40 rate classes;

(ii) For each rate class, we will multiply, total, and display the taxable payrolls for all qualified employers assigned to that rate class with the NAICS code being calculated, by the percentage assigned to that rate class;

(iii) We will total the tax rates for the 40 industry rate classes and divide the sum by the total of all payrolls used in the calculation; and

(iv) We will add fifteen percent to the result, and show the final amount as a percentage rounded to two decimal places.

(b) The experience tax must be at least 1.00 percent and not more than 5.4 percent.

(4) Social tax.

(a) The department will calculate the social tax as follows:

(i) The experience tax table will show the percentage of the social tax assigned to each of the 40 rate classes;

(ii) We will multiply, total, and display the total payroll in each industry rate class by the percentage of social tax assigned to that rate class;

(iii) We will total the social tax rate for the 40 industry rate classes and divide the sum by the total of all payrolls used in the calculation; and

(iv) We will add fifteen percent to the result, and show the final amount as a percentage rounded to two decimal places.

(b) The social tax for an industry cannot be higher than the percentage of social tax assigned to rate class 40.

(5) If there are no qualified employers in the four digit level of the NAICS code, we will calculate the rates using the corresponding three digit level and assign the result to the four digit level. If there are no qualified employers in the three digit level, we will calculate the rates using the corresponding two digit level and assign the result to both the three and four digit levels.

(6) This section applies to rate years 2005, 2006, and 2007.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-320-020, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.12.042. 05-19-017, § 192-320-020, filed 9/9/05, effective 10/10/05.]

WAC 192-320-025 How are unemployment insurance tax rates determined for new employers? (RCW 50.29.025.) (1) Beginning in rate year 2008, unemployment insurance tax rates for new employers shall be based on the history factor of new employers over the last three fiscal years applied to the experience tax and the social cost factor tax for each industry. The history factor shall be ninety percent, one hundred percent, or one hundred fifteen percent, based on the experience of new employers over the last three years, and shall be calculated under RCW 50.29.025.

(2) As used in this section:

(a) "NAICS" is an abbreviation for North American Industry Classification System;

(b) "Industry average array calculation factor rate" means the average experience-based tax rate for a particular industry. When multiplied by the history factor, it will be referred to as the "experience tax."

(c) "Industry average social cost factor rate" means the average social tax rate for a particular industry. When multiplied by the history factor, it will be referred to as the "social cost factor tax."

(d) "History factor" shall be ninety percent, one hundred percent, or one hundred fifteen percent, depending on the ratio of benefits charged and contributions paid in the last three fiscal years by employers who were not considered a "qualified employer" under WAC 192-320-030 or were not delinquent on taxes under WAC 192-320-035. It shall be computed annually and is not limited to a particular industry.

(3) When calculating the experience tax and social cost factor tax, the department will use the first four digits of the NAICS code of the industry being calculated.

(4) Experience tax.

(a) The department will calculate the experience tax as follows:

(i) A table will be prepared that contains each of the forty rate classes;

(ii) For each rate class, the department will multiply, total, and display the taxable payrolls for all qualified employers assigned to that rate class with the NAICS code being calculated, by the percentage assigned to that rate class;

(iii) The department will total the tax rates for the forty industry rate classes and divide the sum by the total of all payrolls used in the calculation; and

(iv) The department will multiply the result by the history factor for that year, and show the final amount as a percentage rounded to two decimal places.

(b) The experience tax must be at least 1.00 percent and not more than 5.4 percent.

(5) Social cost factor tax.

(a) The department will calculate the social cost factor tax as follows:

(i) The experience tax table will show the percentage of the social cost factor tax assigned to each of the forty rate classes;

(ii) The department will multiply, total, and display the total payroll in each industry rate class by the percentage of social cost factor tax assigned to that rate class;

(iii) The department will total the social cost factor tax rate for the forty industry rate classes and divide the sum by the total of all payrolls used in the calculation; and

(iv) The department will multiply the result by the history factor for that year, and show the final amount as a percentage rounded to two decimal places.

(b) The social cost factor tax for an industry cannot be higher than the percentage of social cost factor tax assigned to rate class forty.

(6) If there are no qualified employers in the four-digit level of the NAICS code, the department will calculate the rates using the corresponding three-digit level and assign the result to the four-digit level. If there are no qualified employers in the three-digit level, the department will calculate the

rates using the corresponding two-digit level and assign the result to both the three-digit and four-digit levels.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-320-025, filed 11/21/07, effective 1/1/08.]

WAC 192-320-030 How are unemployment insurance tax rates determined for a current "qualified employer"? (1) A "qualified employer" means an employer who:

(a) Reported some employment in the twelve-month period beginning with April 1 of the second year preceding the computation date;

(b) Had no period of four or more consecutive calendar quarters for which he or she reported no employment in the two calendar years immediately preceding the July 1 computation date; and

(c) Was not delinquent on taxes under WAC 192-320-035.

(2) Unemployment insurance tax rates for a "qualified employer" are determined under RCW 50.29.025.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-320-030, filed 11/21/07, effective 1/1/08.]

WAC 192-320-035 How are unemployment insurance tax rates determined for employers who are delinquent on taxes? (1) An employer that has not submitted by September 30 all reports, taxes, interest, and penalties required under Title 50 RCW for the period preceding July 1 of any year is not a "qualified employer."

(2) For purposes of this section, the department will disregard unpaid taxes, interest, and penalties if they constitute less than either one hundred dollars or one-half of one percent of the employer's total tax reported for the twelve-month period immediately preceding July 1.

(3) This section does not apply to services under RCW 50.04.160 performed in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if the otherwise qualified domestic employer shows to the satisfaction of the commissioner that he or she acted in good faith and that application of the rate for delinquent taxes would be inequitable.

(4) The department shall provide notice to the employer that he or she may be subject to the higher rate for delinquent taxes if the employer does not comply with this section. Notice may be in the form of an insert in July, August, or September billing statements or in a notice of assessment. Evidence of the routine practice of the department in mailing notice in billing statements or in a notice of assessment shall be sufficient to establish that the department provided this notice.

(5) An employer that is not a "qualified employer" because of failure to pay contributions when due shall be assigned an array calculation factor rate two-tenths higher than that in rate class 40, unless the department approves a deferred payment contract with the employer by September 30 of the previous rate year. If an employer with an approved deferred payment contract fails to make any one of the payments or fails to submit any tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than in rate class 40.

(6) An employer that is not a "qualified employer" because of failure to pay contributions when due shall be assigned a social cost factor rate in rate class 40.

(7) Assignment of the rate for delinquent taxes is not considered a penalty which is subject to waiver under WAC 192-310-030.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-320-035, filed 11/21/07, effective 1/1/08.]

WAC 192-320-040 When will the department recalculate employer tax rates? (RCW 50.29.080.) (1) The department may, at its discretion, recalculate the tax rate for any employer if it determines, within three years of the July 1 computation date, that the rate as originally computed was erroneous.

(2) Except as provided in subsection (1) of this section, an employer must submit a written request for rate review or recalculation before the department will recalculate a rate. This does not apply if the department determines that the department's error caused an incorrect tax rate.

(3) The department will not recalculate a tax rate at the request of the employer more than once in a calendar year.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-320-040, filed 11/21/07, effective 1/1/08.]

WAC 192-320-065 Relief of benefit charges. For purposes of RCW 50.20.020(2) a contribution-paying nonlocal government base year employer may request relief from certain benefit charges which result from the payment of benefits to an individual.

(1) **Employer added to a monetary determination as the result of a redetermination.** The employer's request for relief of benefit charges must be received or postmarked within thirty days of mailing the notification of redetermination (Notice to Base Year Employer - EMS 166).

(2) **Timely response.** The commissioner may consider a request for relief of benefit charges that has not been received or postmarked within thirty days as timely if the employer establishes good cause for the untimely response.

(3) **Additional information.**

(a) The employer shall provide the information requested by the department within thirty days of the mailing date of the department's request.

(b) It shall be the responsibility of the employer to provide all pertinent facts to the satisfaction of the department to make a determination of relief of benefits charges, or good cause for failure to respond in a timely manner.

(c) Failure to respond within thirty days will result in a denial of the employer's request for relief of benefit charges unless the employer establishes good cause for the untimely response.

(4) **Denial and appeal of request.** Any denial of a request for relief of benefit charges shall be in writing and will be the basis of appeal pursuant to RCW 50.32.050.

[Statutory Authority: Chapter 34.05 RCW and RCW 50.20.020(2). 00-01-167, § 192-320-065, filed 12/21/99, effective 1/21/00.]

WAC 192-320-070 Conditions for relief of benefit charges due to a voluntary quit. (1) A contribution-paying nonlocal government base year employer, who has not been

granted relief of charges under RCW 50.29.021(3), may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.021(4) and WAC 192-320-065.

(2) **Reasons for a voluntary quit not attributable to the employer.** A claimant may have been denied unemployment benefits for voluntarily quitting work without good cause, but subsequently requalify for unemployment benefits through work and earnings. Even if the claimant has requalified for benefits, the following reasons for leaving work will be considered reasons not attributable to the employer:

(a) The claimant's illness or disability or the illness, disability or death of a member(s) of the claimant's immediate family;

(b) The claimant's domestic responsibilities;

(c) Accepting a job with another employer;

(d) Relocating for a spouse's employment;

(e) Starting or resuming school or training;

(f) Being in jail;

(g) The distance to the job site when the job was accepted and the distance at the time of the quit remained the same; or the job location may have changed but the distance traveled or difficulty of travel was not increased;

(h) Being dissatisfied with wages, hours or other working conditions generally known when the job was accepted; and the working conditions are determined suitable for the occupation in the claimant's labor market; and

(i) Domestic violence which causes the claimant reasonably to believe that continued employment would jeopardize the safety of the claimant or any member of the claimant's immediate family.

(3) **Reasons for a voluntary quit considered attributable to employer** are those work-related factors of such a compelling nature as to cause a reasonably prudent person to leave employment. The work factors must have been reported to the employer if the employer has reasons not to be aware of the conditions, and the employer failed to improve the factors within a reasonable period of time. The reason for quitting may or may not have been determined good cause for voluntarily leaving work under RCW 50.20.050. For benefit charging purposes, however, such work-related factors may include, but are not limited to:

(a) Change in work location which causes an increase in distance and/or difficulty of travel, but only if it is clearly greater than is customary for workers in the individual's classification and labor market;

(b) Deterioration of work site safety provided the employee has reported such safety deterioration to the employer and the employer has failed to correct the hazards within a reasonable period of time;

(c) Employee skills no longer required for the job;

(d) Unreasonable hardship on the health or morals of the employee;

(e) Reductions in hours;

(f) Reduction in pay;

(g) Notification of impending layoff; and

(h) Other work-related factors the commissioner considers pertinent.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-320-070, filed 11/21/07, effective 1/1/08. Statutory Authority: RCW 50.12.-010, 50.12.040, 50.12.042. 04-23-058, § 192-320-070, filed 11/15/04, effective 12/16/04.]

(2009 Ed.)

ive 12/16/04. Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-069, § 192-320-070, filed 2/15/00, effective 3/17/00.]

WAC 192-320-075 Charges to the separating employer—RCW 50.29.021 (2)(c). (1) If a claimant voluntarily quits work to accept a job with a new employer, one hundred percent of benefits paid on the claim will be charged to the new employer when this new employer is the claimant's last employer, a base period employer, and a contribution-paying employer.

(2) If a claimant quits work because of the working conditions listed in this subsection, the employer from whom the separation occurred will be charged for one hundred percent of benefits paid on the claim if the employer is the claimant's last employer, a base period employer, and a contribution-paying employer. These working conditions include:

(a) A reduction in the individual's usual compensation of twenty-five percent or more under WAC 192-150-115;

(b) A reduction in the individual's usual hours of twenty-five percent or more under WAC 192-150-120;

(c) A change in the work location which caused a substantial increase in distance or difficulty of travel under WAC 192-150-125;

(d) A deterioration in the individual's worksite safety under WAC 192-150-130;

(e) Illegal activities in the individual's worksite under WAC 192-150-135; or

(f) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs under WAC 192-150-140.

(3) Benefits based on wages paid by the following entities will **not** be charged to the experience-rating account of the separating employer as described in subsections (1) and (2) if they were earned:

(a) In another state;

(b) From a local government employer;

(c) From the federal government; or

(d) From any branch of the United States military.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 04-23-058, § 192-320-075, filed 11/15/04, effective 12/16/04.]

WAC 192-320-080 Overpayments caused by incorrect reporting of wages and hours—RCW 50.12.070 (2)(c) and 50.29.021 (3)(a). (1) When an employer incorrectly reports an individual's wages or hours, and the claim becomes invalid due to a later correction in wages or hours, the department will charge that employer one hundred percent of benefits paid to that individual, except as provided in subsection (2).

(2) This section does not apply to the entities listed below. The department will charge only for the percentage of benefits that represent their percentage of base period wages. These include wages earned:

(a) In another state;

(b) From a local government employer;

(c) From the federal government; or

(d) From any branch of the United States military.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. 07-23-128, § 192-320-080, filed 11/21/07, effective 1/1/08.]

Chapter 192-330 WAC
COLLECTIONS AND REFUNDS

WAC

192-330-100	Adjustments and refunds—Reduction of refund if wages reported in error—RCW 50.24.150.
192-330-110	Delinquencies.
192-330-150	Tribes and tribal entities—RCW 50.50.040.
192-330-155	Notification to tribes.

WAC 192-330-100 Adjustments and refunds—Reduction of refund if wages reported in error—RCW 50.24.150. (1) An employer may file a written request for refund of, or adjustment to, incorrectly paid taxes, interest, or penalties within three years of the date they were paid. The commissioner may also make adjustments for incorrectly paid taxes, interest, or penalties within three years of the date they were paid using his/her own initiative.

(2) When the wages of an employee have been reported in error and the department has paid a claimant benefits based on those wages, any request for refund of the tax will be offset by the amount of benefits paid. If there is any refund of taxes due the employer, it will be reduced by the amount of benefits paid against the claim(s) and any associated wages.

(3) Refunds will not usually be issued to an ongoing, active business when the credit can be applied to subsequent quarterly reports. Refunds will be allowed for:

- (a) Accounts that are no longer active;
- (b) Duplicate payments of one thousand dollars or more;
- (c) Cases where the business can prove financial hardship from lack of a refund;
- (d) The incorrect payment is due to agency error; or
- (e) Other incorrect payments of one hundred dollars or more, at the discretion of the department.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-330-100, filed 11/21/07, effective 1/1/08; 00-05-066, § 192-330-100, filed 2/15/00, effective 3/17/00.]

WAC 192-330-110 Delinquencies. RCW 50.29.025 (1)(f)(i) and (2)(c)(i) specifies the tax rate that shall be charged to employers who have failed to pay their contributions and who are not in compliance with a deferred payment contract. The tax rate established by that section shall also be assigned to a reimbursable employer (one who makes payments in lieu of contributions) who is delinquent in its payments and elects or is required to become a contribution-paying employer.

[Statutory Authority: RCW 50.12.010, 50.12.040. 03-22-032, § 192-330-110, filed 10/28/03, effective 11/28/03.]

WAC 192-330-150 Tribes and tribal entities—RCW 50.50.040. (1) In any revocation action, the department will treat the entire tribe as a single entity. If any tribal entity or unit becomes delinquent, the entire tribe will be treated as delinquent. If any entity of the tribe is a contribution-paying employer and is delinquent, the entire tribe will be treated as a contribution-paying employer and will be subject to revocation of coverage.

(2) The ninety and one hundred eighty day response periods begin with the date the tax statement is mailed to the employer by the department.

[Statutory Authority: RCW 50.12.010, 50.12.040. 03-22-032, § 192-330-150, filed 10/28/03, effective 11/28/03.]

WAC 192-330-155 Notification to tribes. (1) A copy of any notice of payment or reporting delinquency required by RCW 50.50.050, issued to a tribe or tribal unit, will be provided to the tribal chairperson and to such other person(s) designated by the tribe or tribal unit.

(2) The tribe will be responsible for notifying its employees of the potential loss of coverage.

[Statutory Authority: RCW 50.12.010, 50.12.040. 03-22-032, § 192-330-155, filed 10/28/03, effective 11/28/03.]

Chapter 192-340 WAC
AUDITS AND TECHNICAL ASSISTANCE

WAC

192-340-010	Field audit expansion.
192-340-020	How may auditors determine payroll and wage information which the employer fails to provide?
192-340-100	Reasonable audit expenses—RCW 50.12.220 (1)(b).

WAC 192-340-010 Field audit expansion. The department's audit expansion requirements are as follows:

(1) If underreported or overreported wages for employees are discovered for the year being audited, the department may expand the audit to prior years within the limits of RCW 50.24.190 and to subsequent years up to the most recently completed calendar quarters where the tax and wages are reported.

(2) In the post-audit interview, it is the responsibility of the department to ensure that audit findings or exceptions are discussed and future reporting requirements are understood by the business being audited.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-340-010, filed 11/21/07, effective 1/1/08; 00-05-065, § 192-340-010, filed 2/15/00, effective 3/17/00.]

WAC 192-340-020 How may auditors determine payroll and wage information which the employer fails to provide? If an employer fails or refuses to provide necessary payroll or other wage information during an audit, the department may use RCW 50.12.080 to determine payroll and wage information based on information otherwise available to the department. This may include information from labor market and economic analysis, information provided to other state or local agencies, and the best information otherwise available to the department.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 07-23-127, § 192-340-020, filed 11/21/07, effective 1/1/08.]

WAC 192-340-100 Reasonable audit expenses—RCW 50.12.220 (1)(b). Reasonable expenses for auditing an employer's books and collecting taxes may include:

(1) Salaries and benefits based on the payrolls documented for state staff conducting the audit (including reporting and follow-up costs);

(2) Communication costs such as telephone charges for arranging the audit, e-mails, mail or similar communication services;

(3) Travel costs for expenses such as transportation, lodging, subsistence and related items incurred by state employees traveling for the purpose of conducting the audit. Such costs may be charged on an actual cost basis or on a per diem or mileage basis in lieu of actual costs incurred, or on a

combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed by the department;

(4) Customary standard commercial airfare costs (coach or equivalent);

(5) Costs for materials and supplies (including the costs of producing reports and audit findings);

(6) Equipment costs necessary for conducting the audit;

(7) Collection costs, including court costs, lien and warrant fees, and related costs; and

(8) Other costs which the department establishes that are directly related to the audit or collection of the penalty (i.e. appeal costs).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 04-23-058, § 192-340-100, filed 11/15/04, effective 12/16/04.]

Chapter 192-350 WAC
TRANSFER OF BUSINESS

WAC

192-350-010	What is a predecessor-successor relationship?
192-350-020	What are examples of when a predecessor-successor relationship exists?
192-350-030	Predecessor-successor transfers through intermediaries.
192-350-040	What notice must a predecessor or partial predecessor provide to the department?
192-350-050	What notice must a successor or partial successor provide to the department?
192-350-060	What are the consequences if the predecessor or successor employer fails to respond to requests for information?
192-350-070	What effect does a predecessor-successor relationship have on tax rates?
192-350-080	How does the department determine the percentage of operating assets transferred to a partial successor?
192-350-100	What is "SUTA dumping" and what are the consequences if a significant purpose for the transfer of a business is SUTA dumping?
192-350-110	What elements must the department prove to establish "SUTA dumping"?
192-350-120	What penalties apply if there is intent to knowingly evade successorship or knowingly promote the evasion of successorship provisions?

WAC 192-350-010 What is a predecessor-successor relationship? (1) This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(2) A predecessor-successor relationship exists when a transfer occurs and one business (successor) acquires all or part of another business (predecessor). It may arise from the transfer of operating assets, including but not limited to the transfer of one or more employees from a predecessor to a successor. It may also arise from an internal reorganization of affiliated companies. Whether or not a predecessor-successor relationship (including a "partial successor" relationship) exists depends on the totality of the circumstances.

(3) **Predecessor.** An employer may be a "predecessor" if, during any calendar year, it transfers any of the following to another individual or organization:

(a) All or part of its operating assets as defined in subsection (5) of this section; or

(b) A separate unit or branch of its trade or business.

(4) **Successor.** An employer may be a "successor" if, during any calendar year, it acquires substantially all of a predecessor employer's operating assets. It may be a "partial successor" if, during any calendar year, it acquires:

(a) Part of a predecessor employer's operating assets; or
(b) A separate unit or branch of a predecessor employer's trade or business.

(5) **Operating assets.** "Operating assets" include the resources used in the normal course of business to produce operating income. They may include resources that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, employees, or goodwill. "Goodwill" includes the value of a trade or business based on expected continued customer patronage due to its name, reputation, or any other factor.

(6) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (9) of this section.

(7) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that resulted from acquiring or reorganizing the business, beginning when the acquisition started and ending when the primary unit is transferred.

(8) **Factors.** No single factor is necessarily conclusive, but some of the factors which the department may consider as favoring establishment of a predecessor-successor (including a "partial successor") relationship are:

(a) Whether the employers are in the same or a like business (e.g., providing similar or comparable goods or services or serving the same market);

(b) Whether the asset(s) transferred constitute a substantial or key portion of similar assets for either the predecessor or successor;

(c) Whether the assets were transferred directly and not through an independent third party;

(d) Whether multiple types of assets (e.g., employees, real property, equipment, goodwill) transferred;

(e) Whether a significant number or significant group of employees transferred between employers;

(f) Whether the assets transferred at the same time or in a connected sequence, as opposed to several independent transfers;

(g) Whether the business name of the first employer continued or was used in some way by the second employer;

(h) Whether the second employer retained or attempted to retain customers of the first employer;

(i) Whether there was relative continuity and not a significant lapse in time between the operations of the first and second employers;

(j) Whether there was continuity of management between employers;

(k) Whether the employers shared one or more of the same or related owners;

(l) Whether documents, such as a contract or corporate minutes, show the sale or transfer of a business or a portion of a business; and

(m) Whether other factors indicate that a predecessor-successor relationship exists.

(9) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security inter-

est, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by the predecessor, successor, or a combination of both.

(10) **Burden of proof.** The department has the burden to prove by a preponderance of the evidence that a business is the successor or partial successor to a predecessor business. However, if a business fails to respond to requests for information necessary to determine a predecessor-successor relationship, the department may meet its burden by applying RCW 50.12.080 to determine the necessary facts.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-010, filed 11/21/07, effective 1/1/08.]

WAC 192-350-020 What are examples of when a predecessor-successor relationship exists? The following examples are intended to illustrate factors that the department may consider in determining whether or not a predecessor-successor relationship exists.

(1) Business A, a sole proprietor widget manufacturer, sells its operations to new business B, a corporation. B plans to continue in the same type of widget manufacturing business as A. The sale includes the name of the business, goodwill, existing inventory, manufacturing equipment, and an ongoing lease. All employees of A transfer to B. This is a predecessor-successor relationship.

(2) Business A, a sole proprietorship retailer, goes out of business. It decides to sell some of its assets, including a company car. Business B, a retailer in a different business, decides to buy the car. It does not acquire any other assets, including employees, from A. Even though B has acquired an asset from A, there is no predecessor-successor relationship because the only relationship is a single asset which is incidental to the primary business of the employers.

(3) Business A and business B are independent corporations, but subdivisions of another entity C. C reorganizes and decides to eliminate A, lay off some employees, and transfer the remaining employees to B. B is the successor to A.

(4) Business A, a small sole proprietorship taxicab company, sells its one taxicab to business B, a much larger taxicab company. No employees transfer, but B tries to retain as much of A's customer base as possible. B is in the same business as A and is in a predecessor-successor relationship.

(5) Business A, a large taxicab company, sells one of its many taxicabs to business B, a small sole proprietorship taxicab company. No employees transfer, but B tries to retain as much of A's customer base as possible. B is in the same business as A and has acquired part of a predecessor employer's operating assets, so B is a partial successor.

(6) Business A, a sit-down restaurant for families which operates in a leased facility, closes. A month later business B, a family restaurant operating under a different name and under a new lease reopens in the same location. One of five servers laid off when business A closed is rehired by business B. If this is the full extent of the relationship between business A and business B, this is not a predecessor-successor relationship. Examples of some of the factors which might change this to a predecessor-successor relationship are: If

business B shares some of the same ownership with business A; the extent to which they advertise the same, use the same suppliers, maintain the same restaurant motif and decor, or use the same menu; the extent to which they use the same equipment and dishes; the extent to which the terms of the new lease appear to continue the previous one; and the extent to which other key employees continue from one employer to the other.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-020, filed 11/21/07, effective 1/1/08.]

WAC 192-350-030 Predecessor-successor transfers through intermediaries. When operating assets are transferred from one employer to another by using an intermediary whose role is to arrange or assist the transfer process (RCW 50.04.320 and 50.29.062), the department will decide on a case-by-case basis whether a predecessor-successor relationship exists. The fact that an intermediary was used does not preclude the existence of a predecessor-successor relationship.

In determining if a predecessor-successor relationship exists, the department will consider the intent of the parties involved and the economic reality of the transactions, as opposed to the strict legal format of the multiple transfers.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-030, filed 11/21/07, effective 1/1/08.]

WAC 192-350-040 What notice must a predecessor or partial predecessor provide to the department? (1) A predecessor or partial predecessor that quits or disposes of a business is liable for unemployment taxes under RCW 50.24.210. The predecessor or partial predecessor may give notice through the master business license; otherwise, it shall notify the department in writing within thirty days. The notice shall include the predecessor's or partial predecessor's department registration number and the name and contact information for the successor. All unemployment taxes payable are due immediately and shall be paid within ten days.

(2) A partial predecessor that does not quit or dispose of a business shall give written notice to the department within thirty days. The notice shall include the predecessor's or partial predecessor's department registration number and the name and contact information for the successor.

(3) In addition, a predecessor or partial predecessor shall provide the department with requested information about the transfer under WAC 192-350-060.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-040, filed 11/21/07, effective 1/1/08.]

WAC 192-350-050 What notice must a successor or partial successor provide to the department? (1) A successor or partial successor may be liable for unemployment taxes under RCW 50.24.210.

(2) A successor or partial successor may notify the department through the master business application that it bought, leased, or acquired all or part of an existing business. Otherwise, a successor or partial successor shall notify the department in writing within thirty days. The notice shall include the successor's or partial successor's department registration number and the name of the predecessor.

(3) In addition, a successor or partial successor shall provide the department with requested information about the transfer under WAC 192-350-060.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-050, filed 11/21/07, effective 1/1/08.]

WAC 192-350-060 What are the consequences if the predecessor or successor employer fails to respond to requests for information? (1) The department may send a letter to a predecessor or successor employer to determine a partial transfer of experience. A partial successor or predecessor employer must respond to the letter within thirty days of the mailing date. The response must show the percentage of operating assets transferred to the partial successor. Operating assets include the employees of the business.

(2) If the employer does not respond, the department may apply RCW 50.12.080 to determine necessary facts. In addition, for subsequent rate years the commissioner may estimate the percentage of operating assets transferred based on the best available information, which may include employment reports filed. That percentage will transfer to the successor until it provides compelling evidence to change the estimate. Any change in the estimate will be prospective only.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-060, filed 11/21/07, effective 1/1/08.]

WAC 192-350-070 What effect does a predecessor-successor relationship have on tax rates? (1) Under RCW 50.29.062(1), if the successor is an employer at the time of the transfer of a business, the successor's tax rate shall remain unchanged for the rest of the calendar year. Beginning on January 1 of the year after the transfer and until the successor qualifies for its own rate, the successor's tax rate for each rate year shall combine the successor's experience with the experience of the predecessor or the relevant portions of the partial predecessor.

(2)(a) Under RCW 50.29.062 (2)(b), if the successor is not an employer at the time of the transfer of a business and if the transfer occurs after January 1, 2005, the successor's tax rate for the rest of the calendar year shall be the same as the predecessor employer at the time of the transfer. Any experience attributable to the predecessor shall be transferred to the successor.

(b) Under RCW 50.29.062 (2)(b)(ii), if there is a substantial continuity of ownership, control, or management by the successor, beginning on January 1 after the transfer, the successor's tax rate shall be based on a combination of the successor's experience and the transferred experience from the predecessor.

(c) Under RCW 50.29.062 (2)(b)(i), if there is not a substantial continuity of ownership, control, or management by the successor, beginning on January 1 after the transfer, the successor's tax rate shall be assigned under RCW 50.29.062 (2)(b)(i)(B).

(3) If the successor simultaneously acquires businesses from two or more employers with different tax rates, the successor's tax rate shall be assigned under RCW 50.29.062 (2)(b)(iii).

(4) The tax rate on any payroll retained by a predecessor employer shall remain unchanged for the rest of the rate year

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in which the transfer occurs. Beginning on January 1 after the transfer, the predecessor's tax rate shall be assigned under RCW 50.29.062 (3)(b).

(5) Changes in rate class for a predecessor or successor are effective only for the rate year the information was provided and for subsequent rate years.

(6) This section does not apply to a transfer of less than one percent of a business.

(7) This section does not apply if there is "SUTA dumping" under RCW 50.29.063.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-070, filed 11/21/07, effective 1/1/08.]

WAC 192-350-080 How does the department determine the percentage of operating assets transferred to a partial successor? The department will determine the percentage of operating assets transferred primarily by considering employees transferred. The department will first consider the number of employees transferred, but may also consider the total salaries and wages involved in the transfer and other factors.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-080, filed 11/21/07, effective 1/1/08.]

WAC 192-350-100 What is "SUTA dumping" and what are the consequences if a significant purpose for the transfer of a business is SUTA dumping? (1) Congress enacted the "SUTA Dumping Act of 2004" to establish nationwide minimum standards for curbing unlawful manipulation of unemployment taxes by employers. "SUTA" stands for state unemployment tax acts. Federal law describes "SUTA dumping" as the practice by some employers and financial advisors of manipulating state unemployment experience tax rating systems so that employers pay lower state unemployment insurance taxes than their unemployment experience would otherwise allow. Most frequently, it involves merger, acquisition, or restructuring schemes, especially those that shift workforce or payroll.

To comply with federal requirements, Washington enacted RCW 50.29.063, which imposes higher unemployment insurance tax rates on employers if a significant purpose of the transfer of a business was to obtain a lower tax rate. The law also imposes penalties if the intent was to knowingly evade successorship tax provisions or to knowingly promote the evasion of successorship tax provisions.

(2) Examples of SUTA dumping include an employer with a high tax rate because of its experience that:

(a) Dissolves the business in its present structure and reorganizes into a new entity to obtain a lower tax rate;

(b) Buys a smaller business with a low rate, then transfers employees to the smaller business to obtain the low rate; or

(c) Reorganizes and intentionally gives a false description of its business to obtain a lower rate based on a lower industry average.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-100, filed 11/21/07, effective 1/1/08.]

WAC 192-350-110 What elements must the department prove to establish "SUTA dumping"? (1) In order to

prove SUTA dumping, the department must prove by a preponderance of the evidence that:

(a) A business is a successor or partial successor to a predecessor business under WAC 192-350-010; and

(b) A significant purpose for the transfer of a business was to obtain a lower tax rate under RCW 50.29.063(1).

(2) A "significant purpose" must be more than an incidental purpose, but may be one of many purposes. The department may show that a significant purpose for the transfer was to obtain a lower tax rate by factors such as:

(a) Business records, such as corporate minutes or other documents, show that a lower tax rate was considered as part of the decision for the transfer;

(b) An outside party, such as an accounting firm or tax advisor, recommended the transfer in order to lower the tax rate; or

(c) The employer knew or should have known that transfer of employees to the successor would lower the tax rate and the actual effect of the transfer was to lower taxes significantly.

(3) For additional penalties under RCW 50.29.063 (2) or (3), the department must also prove that an employer intended to knowingly evade or knowingly evaded successorship provisions or that a nonemployer knowingly promoted the evasion of successorship provisions. "Knowingly" means having actual knowledge or acting with deliberate ignorance or reckless disregard for the prohibitions. "Knowingly" includes an intent to evade, misrepresentation, or willful non-disclosure.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-110, filed 11/21/07, effective 1/1/08.]

WAC 192-350-120 What penalties apply if there is intent to knowingly evade successorship or knowingly promote the evasion of successorship provisions? If the department determines that there was intent to knowingly evade successorship or knowingly promote the evasion of successorship provisions, it may assess penalties under RCW 50.29.063 (2) and (3).

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.29.064. 07-23-131, § 192-350-120, filed 11/21/07, effective 1/1/08.]