

WSR 24-14-005  
PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 21, 2024, 7:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-08-006.

Title of Rule and Other Identifying Information: Amending WAC 192-140-035 What happens if I do not respond to a request for information?

Hearing Location(s): On August 15, 2024, at 10:00 a.m., Zoom <https://esd-wa-gov.zoom.us/j/89485884233?pwd=VlQ9rBuDpkiOfV-golNv6LmaDdrCnri.1>, Meeting ID 894 8588 4233, Passcode 689782; or One-tap mobile +12532158782,,89485884233#,,,,\*689782# US (Tacoma), +12532050468,,89485884233#,,,,\*689782# US.

Date of Intended Adoption: August 16, 2024.

Submit Written Comments to: Lawrence Larson, P.O. Box 9046, Olympia, WA 98507-9046, email [esdgpuirules@esd.wa.gov](mailto:esdgpuirules@esd.wa.gov), fax 844-652-7096, by August 15, 2024.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email [Teresa.eckstein@esd.wa.gov](mailto:Teresa.eckstein@esd.wa.gov), by August 8, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, WAC 192-140-035 is internally inconsistent because it sets forth a presumption of disqualification if a claimant fails to respond to a request for information. The rule then speaks of denial of benefits under RCW 50.20.010. RCW 50.20.010 is not a disqualification statute; it is a statute that sets out a claimant's eligibility requirements for unemployment benefits. Eligibility for benefits under RCW 50.20.010 is a determination related to filing a weekly claim, while disqualification from receiving benefits is for a specific period of time.

Reasons Supporting Proposal: Currently, WAC 192-140-035 is internally inconsistent because it sets forth a presumption of disqualification if a claimant fails to respond to a request for information. The rule then states that if a claimant fails to respond to a request for specific information, the employment security department (department) will deny unemployment benefits under RCW 50.20.010. RCW 50.20.010 is not a disqualification statute; it is a statute that sets out a claimant's eligibility requirements for unemployment benefits. Eligibility for benefits under RCW 50.20.010 is a determination related to filing a weekly claim, while disqualification from receiving benefits is for a specific period of time. Therefore, this rule making is needed to make WAC 192-140-035 consistent.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.12.042, 50.20.010, 50.20.050, 50.20.060, 50.20.066, 50.20.070, 50.20.080, 50.20.090, 50.20.095.

Statute Being Implemented: RCW 50.20.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Lawrence Larson, Olympia, Washington, 360-890-3460; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Lawrence Larson, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3460, fax 844-652-7096, TTY relay 771 [711], email esdgpuirules@esd.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The rule addresses how the department interacts with a claimant under certain situations. This rule making and WAC 192-140-035 do not place an obligation on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

June 21, 2024

Joy Adams

Employment Security Policy Director

### OTS-5413.1

AMENDATORY SECTION (Amending WSR 23-19-006, filed 9/6/23, effective 10/7/23)

**WAC 192-140-035 What happens if I do not respond to a request for information?** (1) The department will presume that you are disqualified from or ineligible for benefits if you provide information indicating you are potentially (~~(disqualifying information)~~) disqualified from or ineligible for benefits, or fail to provide necessary information(~~(r)~~) and (~~(then)~~) do not respond to a request for specific information. The department will deny benefits (~~((under RCW 50.20.010))~~) based on this presumption.

(2) This denial is for an indefinite period of time and will continue until either:

(a) You provide the requested information;

(b) You qualify and are eligible for a new, separate unemployment claim and the information requested under subsection (1) of this section is not relevant for your new claim; or

(c) The request for information was made pursuant to a quality control review under 20 C.F.R. § 602.11 and your response is no longer needed for the quality control review.

(3) Once you provide the requested information, the department may issue a redetermination under RCW 50.20.160. The department will issue a new decision allowing benefits if you provide enough information to establish your qualification and eligibility for benefits.