

Title 192 WAC

EMPLOYMENT SECURITY DEPARTMENT

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DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 192-08 PRACTICE AND PROCEDURE

Later promulgation, see chapter 192-09 WAC, Practice and procedure.

192-08-001	Promulgation. [Regulation 15 (part), adopted 5/18/58.] Repealed by Order 2602, filed 4/24/70.
192-08-002	Promulgation. [Regulation 16, last paragraph, effective 1/1/66.] Repealed by Order 2602, filed 4/24/70.
192-08-009	Preamble. [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 Repealed by Order 2602, filed 4/24/70.
192-08-010	Appearance and practice before the employment security department—Who may appear. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53. Prior: Regulation 15, adopted and effective 5/15/58. Later promulgation, see WAC 192-08-070.] Repealed by Order 2602, filed 4/24/70.
192-08-020	Appearance and practice before the employment security department—Appearance in certain proceedings may be limited to attorneys. [Regulation 16 (part), effective 1/1/66; Regulation 16 (part), adopted 6/10/53, effective 6/20/53. Prior: Regulation 16 (part), adopted 6/10/53, effective 6/20/53.] As reenacted effective

192-08-030	1/1/66, now codified as WAC 192-08-002, 192-08-010 through 192-08-060, and 192-08-080 et seq. Repealed by Order 2602, filed 4/24/70.
192-08-040	Appearance and practice before the employment security department—Solicitation of business unethical. [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 Repealed by Order 2602, filed 4/24/70.
192-08-050	Appearance and practice before the employment security department—Standards of ethical conduct. [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 Repealed by Order 2602, filed 4/24/70.
192-08-060	Appearance and practice before the employment security department—Appearance by former employee of agency or former member of attorney general's staff. [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 Repealed by Order 2602, filed 4/24/70.
192-08-061	Examiners—Conflicts of interest—Change of examiner. [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 Repealed by Order 2602, filed 4/24/70.
192-08-070	Computation of time. [Regulation 15, adopted and effective 5/15/58. Prior: WAC 192-08-010.] Repealed by Order 2602, filed 4/24/70.
192-08-080	Notice and opportunity for hearing 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.
192-08-090	Service of process—By whom served. [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.
192-08-100	Service of process—Upon whom served. [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.
192-08-110	Service of process—Service upon 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.
192-08-120	Service of process—Method 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.
192-08-130	Service of process—When service complete. [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.
192-08-140	Service of process—Filing with agency. [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.
192-08-141	Interested 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.
192-08-142	Filing appeals. [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.
192-08-143	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.
192-08-150	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.

192-08-160	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	Expert or opinion testimony and testimony based on economic and statistical data—Continuances. [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.
192-08-330	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.	192-08-530	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.
192-08-340	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.		

192-08-540	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.		effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.
192-08-550	Petitions for rule-making, amendment or repeal—Requisites. [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.	192-09-100	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.
192-08-560	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.	192-09-105	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.
192-08-570	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.	192-09-110	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.
192-08-580	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.	192-09-115	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.
192-08-590	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.	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.
192-09-010	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.	192-09-125	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.
192-09-020	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.	192-09-130	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.
192-09-030	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.	192-09-135	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.
192-09-035	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.	192-09-140	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.
192-09-040	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.	192-09-145	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.
192-09-050	Appearence—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.	192-09-150	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.
192-09-060	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.	192-09-155	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.
192-09-062	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.	192-09-160	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.
192-09-063	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.	192-09-165	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.
192-09-065	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.	192-09-170	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.
192-09-070	Appeals—Withdrawal of. [Order 2602, § 192-09-070, filed 4/24/70.] Repealed by 89-24-030, filed 11/30/89,	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-
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192-09-225	030, filed 11/30/89, effective 1/1/90. Statutory Authority: RCW 50.12.010 and 50.12.040.	192-09-445	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—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.	192-09-450	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.
192-09-235	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.	192-09-455	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.
192-09-240	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.	192-09-460	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.
192-09-300	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.	192-10-010	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.
192-09-305	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.	192-10-015	Chapter 192-10 HEARING AND REVIEW UNDER THE WORK INCENTIVE PROGRAM
192-09-310	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.	192-10-020	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.
192-09-315	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.	192-10-030	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.
192-09-400	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.	192-10-040	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.
192-09-405	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.	192-10-050	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.
192-09-410	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.	192-10-060	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.
192-09-415	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.	192-10-070	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.
192-09-420	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.	192-10-080	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.
192-09-425	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.	192-10-090	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.
192-09-430	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.	192-10-100	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.
192-09-435	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.		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.
192-09-440	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.		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.	192-10-290	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.
192-10-120	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.	192-10-300	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.
192-10-130	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.	192-10-310	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.
192-10-140	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.	192-10-320	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.
192-10-150	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.	192-10-330	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.
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.		Chapter 192-14 PUBLIC DISCLOSURE
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.	192-14-010	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.
192-10-180	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.	192-14-020	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.
192-10-190	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.	192-14-030	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.
192-10-200	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.	192-14-040	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.
192-10-210	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.	192-14-050	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.
192-10-220	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.	192-14-060	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.
192-10-230	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.	192-14-070	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.
192-10-240	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.	192-14-080	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.
192-10-250	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.	192-14-090	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.
192-10-260	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.	192-14-100	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.
192-10-265	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.	192-14-110	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.
192-10-270	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.	192-14-120	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,
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.		

	74.22.110 and 74.23.120. Later promulgation, see chapter 192-15 WAC.		073, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.20.010 and 50.12.040.
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.	192-24-020	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.
192-14-140	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.	192-24-030	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.
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		Chapter 192-30 MARGINAL LABOR FORCE ATTACHMENT
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.	192-30-010	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.
192-18-012	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.	192-30-020	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.
192-18-020	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.	192-30-030	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.
192-18-030	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.	192-30-040	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.
192-18-040	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.	192-30-100	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.
192-18-050	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.	192-30-200	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.
192-18-060	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.	192-30-210	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.
192-18-070	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.	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.
192-20-010	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.	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 192-20 OLD-AGE AND SURVIVORS INSURANCE		Chapter 192-42 FAMILY INDEPENDENCE PROGRAM EMPLOYMENT, TRAINING, AND EDUCATION RULES
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.	192-42-005	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
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-		

192-42-010	3/13/95. Statutory Authority: RCW 50.12.010 and 50.12.040. 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

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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 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. The claimant and any employer entitled to notice under WAC 192-12-320 or defined as an interested employer 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 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.

[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.

(2003 Ed.)

[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.

[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

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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 informational 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 Advisement 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 advisement 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 advisement. 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 advisement.

[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

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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.
192-12-015	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.
192-12-025	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.	192-12-115	effective 6/20/53.] Repealed by 99-20-120, filed 10/6/99, effective 11/6/99.
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.	192-12-120	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.
192-12-043	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.	192-12-130	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.
192-12-050	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 99-20-164, 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.	192-12-131	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.
192-12-060	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 50.04.24.170.	192-12-132	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.
192-12-066	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.	192-12-134	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.
192-12-070	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.	192-12-140	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.
192-12-072	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.	192-12-141	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.
192-12-074	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.	192-12-150	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.
192-12-076	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.	192-12-157	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.
192-12-080	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.	192-12-158	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.
192-12-090	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.	192-12-182	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.
192-12-100	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.	192-12-305	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.
192-12-110	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,		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,

192-12-350	filed 7/26/96, effective 8/26/96. Statutory Authority: RCW 50.12.010 and 50.12.040. 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. 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.
192-12-380	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).
192-12-400	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.
192-12-405	

WAC 192-12-011 Continued claim definitions. (1) A continued claim recipient is a claimant who has been:

- (a) Determined to be monetarily entitled to benefits; and
- (b) Determined to be nonmonetarily eligible for benefits; and

(c) Granted waiting period credit and/or benefits for one or more weeks in the benefit year and in the current continued claim series. Provided that: Any combination of four or more consecutive weeks for which claims are not filed, or weeks during which the claimant is not an unemployed individual as defined in RCW 50.04.310, ends continued claim status.

[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.]

WAC 192-12-012 Conditional payment of continued claim recipients when eligibility is questioned. An otherwise eligible continued claim recipient whose eligibility is questioned by the department shall be conditionally paid benefits without delay, for any week or weeks for which a claim for benefits is filed, until and unless the claimant has been afforded adequate notice and an opportunity to be heard except as provided in WAC 192-23-800 and 192-23-810.

[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.]

WAC 192-12-020 Week defined. Section 37 of the act (RCW 50.04.360) provides: "Week" means any period of seven consecutive calendar days ending at midnight as the commissioner may by regulation prescribe."

The commissioner accordingly prescribes: The term "week" shall mean a period of seven consecutive calendar days commencing with Sunday and ending at midnight the following Saturday.

(2003 Ed.)

[Regulation 2, adopted 6/10/53, effective 6/20/53.]

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).

[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 192-12-180 Training defined. (1) As used in RCW 50.20.043 the term "training" means a course of education with the primary purpose of training the applicant in skills that will allow him or her to obtain employment.

(2) The term "training" does not include beginning a course of education primarily intended to meet the requirements of a baccalaureate or higher degree.

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[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.]

WAC 192-12-184 Training—Unemployment benefits while pursuing training. The commissioner prescribes the following:

(1) Training shall be full-time and the training facility will determine whether the claimant is enrolled in training on a full-time basis and whether he or she is making satisfactory progress.

(2) The claimant shall notify the department if he or she discontinues or suspends the training, or reduces enrollment to less than full-time.

(3) If enrollment drops below full-time or satisfactory progress is not being made, the claimant may be required to show that he or she is meeting the availability for work and active search for work requirements of RCW 50.20.010(3) and the provisions of RCW 50.20.080 relating to failure to apply for, or refusal to accept suitable work.

(4) For the purposes of RCW 50.20.050(3), participation in training previously approved by the commissioner works an unreasonable hardship on the individual when he or she would be required to continue in employment beyond the start or resumption date of the 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.]

WAC 192-12-186 Training—Commissioner approval or denial of training. The decision of the commissioner to approve or disapprove an application for training shall be in writing and shall set forth the reasons therefor. Decisions of the commissioner pursuant to these regulations shall be served upon all interested parties and shall be subject to appeal and review as provided under RCW 50.32.020, 50.32.070, and these regulations.

[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.]

WAC 192-12-190 Directive to attend job search workshop or training or retraining course according to RCW 50.20.044. (1) The commissioner may direct a claimant, in writing, to attend a job search workshop or training or retraining course if the commissioner finds that a claimant's chance to become reemployed will be enhanced by enrollment in a job search workshop, training or retraining course.

(2) The department shall not direct a claimant to attend a job search workshop, training or retraining course, if:

(a) The individual has a verifiable bona fide job offer beginning within two weeks; or

(b) The workshop or training location is outside the individual's labor market; or

(c) Cost of child care, transportation, or other training related expense would substantially exceed the costs of conducting an active work search and would result in an unreasonable hardship on the individual; or

(d) Attendance at the workshop or course would work an unreasonable hardship on the individual; or

(e) The individual is a member in good standing of a full referral union, unless such individual is also being required to begin an independent search for work or has been identified as a dislocated worker as defined in RCW 50.04.075.

(3) Directives to attend training or retraining courses will be subject to periodic review of appropriateness of attendance in courses exceeding three weeks in duration.

(4) An individual who has received a directive and who fails without good cause to attend a substantial portion of the training course or workshop during a week will be ineligible for the entire week. Good cause shall include illness or disability of the claimant or the claimant's immediate family, or claimant's presence at a job interview scheduled with an employer. Reasons for absence shall be subject to verification.

(5) An individual attending a job search workshop shall not be ineligible as the result of such attendance for failure to be available for work or to actively seek work under the provisions of:

- (a) RCW 50.20.010(3); or
- (b) RCW 50.22.020(1).

(6) An individual attending a training or retraining course resulting from a directive shall not be ineligible as the result of such attendance for failure to seek work or failure to apply for or to accept work under the provisions of:

- (a) RCW 50.20.010(3);
- (b) RCW 50.20.080; or
- (c) RCW 50.22.020 (1).

(7) Definitions. For purposes of this regulation:

(a) "Available at public expense" means a job search workshop, training or retraining course that is offered at no expense to the individual by:

- (i) The employment security department; or
- (ii) Any other governmental or publicly funded organization; or
- (iii) Any organization offering a job search workshop or training or retraining program funded privately, but open to the general public; or
- (iv) Any educational institution, if expenses are paid by the institution, by a grant to the institution, or a grant to the individual for training expenses.

(b) "Unreasonable hardship" means a result, not due to the individual's voluntary action, that would cause a reasonable person to be unable to attend.

[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.]

WAC 192-12-300 Mailing addresses for notice to employer. Notices to employers required by RCW 50.20.150 and WAC 192-12-310 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 job service center knows an 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 job service center 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 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.]

WAC 192-12-310 Notice to employer. (1) At the time of filing any new claim (the filing of an application for initial determination) 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 (without sufficient subsequent employment to purge a separation disqualification)

(2) The notice in subsection (1) above will provide the employer with information provided to the department by the claimant and request that the employer provide information to the department if the separation was for reasons of other than lack of work.

(3) At the time of filing any new claim (the filing of an application for initial determination) that results in the establishment of a benefit year 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 employer response if wage information is incorrect or if the employer wishes to request relief of benefit charging.

(4) At the time of filing an additional claim for benefits (reopening a claim after subsequent employment) a notice will be mailed to the last employer reported by the claimant and to any prior employer from who the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) and who has not previously been notified.

[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.]

WAC 192-12-320 Mailing of determination notices under RCW 50.20.180. (1) The claimant will be mailed a notice of determination

(a) That denies the claimant benefits; or

(b) That allows benefits and is also mailed to an employer.

(2) The last employer will be mailed a determination notice if the claimant was separated from employment for reasons other than lack of work.

(3) Any employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) will be mailed a determination notice if the claimant was separated from employment for reasons other than lack of work.

(4) A determination of eligibility will be made and a notice mailed to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged as a result of a felony or gross misdemeanor connected with the work.

(5) A determination of eligibility for benefits 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 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.]

WAC 192-12-330 Predetermination procedure—Separation issue. (1) No determination on a separation issue (RCW 50.20.050, 50.20.060) will be issued until both parties to the separation have had an opportunity to present information and rebuttal, if necessary and appropriate, on the matters at issue.

(2) If an employer does not respond within ten days to the notice required by WAC 192-12-310, the department may at that time make a determination based on available information.

(3) If the department receives information from the employer after the end of the ten-day response period, but before the determination has been made, the information provided by the employer will be considered prior to making the determination if the information was mailed to the unemployment claims telecenter identified on the notice.

(4) If the department receives information from the employer after the end of the ten-day period and within thirty days following the mailing of a determination, the department will consider that information for the purposes of a redetermination under RCW 50.20.160 or as an appeal of the determination.

(5) Any information received within thirty days of the mailing of the notice required by WAC 192-12-310 may be considered a request for relief of benefit charges under RCW 50.29.020.

[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.]

WAC 192-12-340 Discharges for misconduct for felony or gross misdemeanor—Responsibility for providing information. In any separation where there is a potential disqualification under RCW 50.20.065 it is the responsibility of the employer to notify the department in a timely manner of any resolution of issues.

In any case where the employer has raised the potential of a disqualification under RCW 50.20.065 within ten days of receiving the notice required by WAC 192-12-310 and the

department establishes that there is a possibility of such disqualification, the department will review the claimant's eligibility for benefits.

[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.]

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.]

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 con-

cerning 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 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 com-

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pliance 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 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.

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(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 par-

ties 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

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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.

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.	192-16-011	95-09-085, filed 4/19/95, effective 5/20/95. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. Interpretive 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).
192-16-005	Interpretative regulations—Applications for initial determinations—Backdating—RCW 50.04.030.	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.
192-16-009	Interpretative regulations—Disqualification for leaving work voluntarily—Meaning of good cause—RCW 50.20.050 (1) and (3).	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).
192-16-015	Interpretative regulations—Leaving work for marital or domestic reasons—RCW 50.20.050(4).	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.
192-16-016	Interpretive regulations—Satisfying disqualification under RCW 50.20.050(4) when separation is for reasons of marital status and marriage occurs after date of separation.	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.
192-16-019	Interpretative regulations—Effective date of RCW 50.20.065—Discharges for felony or gross misdemeanor.	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.
192-16-023	Interpretative regulations—Disqualification of students—RCW 50.20.095.	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.
192-16-025	Lump sum retirement payment.	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.
192-16-030	Interpretive regulation—Computation of pension deductions under RCW 50.04.323.	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.
192-16-033	Interpretive regulation—Regular shareable benefits defined.	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.
192-16-036	Interpretive regulation—Requalification for regular shareable, extended, or additional benefits under RCW 50.20.050(4).	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.
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.		
192-16-042	Interpretive regulation—Failure to apply for or accept work under RCW 50.22.020 (4)(b)—Shareable, extended, or additional benefits.		
192-16-045	Interpretive regulation—Disqualification for failing to accept an offer of or to apply for suitable work—Shareable, extended, or additional benefits.		
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.		
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

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.]

(2003 Ed.)

WAC 192-16-009 Interpretative regulations—Disqualification for leaving work voluntarily—Meaning of good cause—RCW 50.20.050 (1) and (3). (1) General rule. Except as provided in WAC 192-16-011 and 192-16-013, 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

(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 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 Interpretative regulations—Leaving work for marital or domestic reasons—RCW 50.20-050(4). (1) General rule. An individual whose marital status

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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(4). 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 192-16-013.

(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 192-16-013 and who establishes good cause under RCW 50.20.050 (2)(b), will not be subject to disqualification under RCW 50.20.050(4): Provided, That if such individual fails to establish good cause under RCW 50.20.050 (2)(b), disqualification will be imposed under RCW 50.20.050(4) rather than under RCW 50.20.050(1).

[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 Interpretive regulations—Satisfying disqualification under RCW 50.20.050(4) when separation is for reasons of marital status and marriage occurs after date of separation. 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(4) 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(4) 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(4) 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(4) described as the alternate method of satisfying the disqualification in WAC 192-16-017(2), for any week ending prior to marriage or relocation, whichever is the latter.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 82-17-052 (Order 6-82), § 192-16-016, filed 8/17/82.]

WAC 192-16-019 Interpretative regulations—Effective date of RCW 50.20.065—Discharges for felony or gross misdemeanor. (1) Effective date. The provisions of RCW 50.20.065 are effective as to all discharges or suspensions occurring on July 3, 1993, and thereafter.

(2) Definitions.

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(a) "Felony" means every crime which is defined as such by the applicable state or federal statutes.

(b) "Gross misdemeanor" means every crime which is defined as such by the applicable state or federal statutes.

(c) A "competent authority" may be:

(i) A court (including magistrate or court commissioner), prosecuting attorney, or law enforcement agency, or;

(ii) An assistant attorney general or an administrative law judge, or;

(iii) A regulatory agency or professional association charged by statute with maintaining professional standards or codes of conduct, or;

(iv) Any other person or body exclusive of the employer with authority to administer disciplinary action with regard to the claimant.

(d) Admissions of commission of a felony or gross misdemeanor to the employer or to an employee of the employment security department are not to be considered admissions to a competent authority for the purposes of RCW 50.20.065.

(3) Any individual who has been discharged because of a felony or gross misdemeanor of which he or she has been convicted or has admitted committing shall have all hourly wage credits based on that employment canceled when:

(a) The felony or gross misdemeanor is connected with the individual's work; and

(b) The admission is made to each and every element of the felony or gross misdemeanor which caused the individual to be discharged; and

(c) The admission is made to a competent authority.

[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.]

WAC 192-16-023 Interpretative regulations—Disqualification of students—RCW 50.20.095. (1) General rule. An individual registered at an established school in a course of study providing scholastic instruction of twelve or more hours per week, or the equivalent thereof, is disqualified from receiving benefits or waiting period credit.

(2) The period of disqualification. The period of disqualification begins with either the first week of such scholastic instruction or the week of leaving employment to return to school, whichever is earlier. The disqualification ends midnight Saturday of the week that precedes the first full week in which the individual is no longer registered for twelve or more hours of scholastic instruction: Provided, That such individual shall be required to certify to the department that he or she is not currently registered for twelve or more credit hours and will not be registered for 12 or more credit hours for at least 60 days. An individual who fails to abide by the terms of the certification will be deemed to have been overpaid all benefits paid based on the certification. Such overpayment will be subject to assessment and recovery under RCW 50.20.190. Preregistration for classes beginning 60 or more days in the future will not serve to extend the disqualification described in this subsection.

(3) Full-time students to whom disqualification does not apply. The disqualification shall not apply to any individual who:

(a) Is in approved training within the meaning of RCW 50.20.043; or

(b) At the time he or she applies for benefits, demonstrates by a preponderance of the evidence that his or her student status does not significantly interfere with his or her actual availability for work.

(4) Definitions. As used in this section:

(a) "School" includes primary schools, secondary schools, and institutions of higher education, as that phrase is defined in RCW 50.44.030;

(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 192-12-180.

(c) "Twelve or more hours per week" means twelve or more credit hours per week or the equivalent thereof;

(d) "Preponderance of evidence" means evidence sufficient to persuade a reasonable person considering all the evidence, that the proposition sought to be established by that evidence is more probably true than not true.

(5) Other sections of act not preempted by student disqualification. Students who claim benefits are subject to all of the provisions of the Employment Security Act including:

(a) RCW 50.20.050 dealing with those who leave work voluntarily without good cause; and

(b) RCW 50.20.010(3) requiring claimants to be able and available for and actively seeking work.

[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.]

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 192-16-033 Interpretive regulation—Regular shareable benefits defined. The term "regular shareable benefits" refers to regular benefits in excess of 26 times an individual's weekly benefit amount, paid with respect to weeks of unemployment which occur during an extended benefit period.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 81-13-016 (Order 2-81), § 192-16-033, filed 6/11/81.]

WAC 192-16-036 Interpretive regulation—Requalification for regular shareable, extended, or additional benefits under RCW 50.20.050(4). An individual disqualified under RCW 50.20.050(4) who has requalified on the basis of reporting for ten weeks will not be eligible for regular shareable, extended, or additional benefits unless such an individual has, subsequent to the disqualifying separation, obtained work and earned wages equal to five times his or her suspended weekly benefit amount. This requirement shall not apply to weeks of unemployment exempted by RCW 50.22-020.

[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.]

WAC 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. As provided in RCW 50.22.020, an individual shall be deemed to have a good prospect for work within a reasonably short period of time if said individual has (1) a definite recall or hire date, within five weeks, or (2) a probable recall or hire date within five weeks, based on an extremely favorable position on a union out-of-work list, seasonal factors, or historical experience. This provision shall not apply to any week of unemployment specifically exempted by the statute.

[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.]

WAC 192-16-042 Interpretive regulation—Failure to apply for or accept work under RCW 50.22.020(4)(b)—Shareable, extended, or additional benefits. As provided in RCW 50.22.020, a person will be disqualified from receiving extended, shareable, or additional benefits for failure to accept or apply for suitable work if the job at issue was either offered to the person in writing or was listed with the employment security department and the other requirements of the statute have been met. 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, § 192-16-042, 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.]

WAC 192-16-045 Interpretive regulation—Disqualification for failing to accept an offer of or to apply for suitable work—Shareable, extended, or additional benefits. (1) If, during a week for which an individual has claimed regular shareable, extended, or additional benefits, he or she fails to accept any offer of work or fails to apply for any work to which he or she was referred by the employment security department:

(a) Such individual will be disqualified from benefits under the terms of RCW 50.20.080 if the work was "suitable" under the provisions of RCW 50.20.100 and RCW 50.20.110 and if the individual's failure was without "good cause";

(b) Such individual, if disqualified from benefits under RCW 50.20.080 as provided in subparagraph (a) above, will further be disqualified from regular shareable, extended, and additional benefits as provided by RCW 50.22.020;

(c) Such individual may be disqualified from benefits under only the provisions of RCW 50.22.020 if the provisions of RCW 50.20.100 and RCW 50.20.080 have been met.

(2) This regulation shall not apply to any week of unemployment exempted by RCW 50.22.020.

[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.]

WAC 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. Work search efforts for individuals claiming shareable and extended benefits must be of a quality and frequency that would clearly indicate that the individual is making sincere efforts to immediately return to gainful employment.

The completed work search section of the continued claim form which includes the date of work seeking contact, the name of the employer or union involved, and the type of work sought will be considered as tangible but not conclusive evidence of a systematic and sustained effort to obtain work.

An individual engaged in a training program approved by the commissioner in accordance with the requirements of 26 U.S.C. §3304 (a)(8), WAC 192-12-182, and 192-12-184

will be deemed to meet the requirements of RCW 50.22.020(5).

This regulation shall not apply to any week of unemployment exempted by RCW 50.22.020.

[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.]

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 entitlement 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.]

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.
192-23-014	Failure to establish ability to or availability for work.
192-23-015	Failure to establish active search for work.
192-23-016	Failure to meet work search requirements.

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192-23-017	Failure to respond to a request for information regarding late filing of claims.
192-23-019	Directive to report for reemployment services.
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.
192-23-061	Failure to respond to a request for information regarding a discharge from work.
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.
192-23-096	Failure to provide information regarding attendance at school.
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.
192-23-800	Certification of ineligibility.
192-23-810	Certification of return to full-time work or report of hours worked consistent with full-time work.
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.
192-23-018	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.

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 192-23-014 Failure to establish ability to or availability for work. (1) If a claimant certifies that he or she was not able to work or not available for work in any week or fails to certify whether he or she was able to work or was available for work, and fails to respond to provide details relating to his or her ability to and or availability for work, the claimant will be presumed to be not able or not available for work and subject to denial of 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 information on the claimant's ability to work or availability for work is incomplete.

(2) If a claimant certifies to a condition of continuing ineligibility and provides information supporting a finding that he or she is not able to work or not available for work because of a circumstance expected to continue beyond the

immediate week or weeks claimed, and if the claimant fails to respond to a request to provide information regarding his or her ability to and/or availability for work, the individual shall be subject to denial of benefits pursuant to RCW 50.20.010(3).

The denial of benefits authorized by this section is indefinite in nature, and will be applied beginning with the first week claimed to which the circumstances apply and remain in effect until the circumstances no longer exist.

[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.]

WAC 192-23-015 Failure to establish active search for work.

(1) If a claimant certifies that he or she was not actively seeking work, fails to certify whether he or she made an active search for work, and/or fails to provide complete work search details and other information as directed and fails to respond to provide details relating to work search activity, the individual will be presumed to be not actively seeking work and will be subject to denial pursuant to RCW 50.20.010(3).

(2) For the purpose of this subsection complete work search details include:

- (a) Names of employers contacted,
- (b) Date of each employer contact,
- (c) Employer location,
- (d) Type of work sought, and
- (e) Methods of contact.

(3) The denial of benefits authorized by this section is a denial for a definite period of time, being the week or weeks for which work search information is incomplete.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-015, filed 6/18/84.]

WAC 192-23-016 Failure to meet work search requirements.

(1) If a claimant has been directed pursuant to WAC 192-24-030 to meet specific work search requirements, fails to report a work search that meets those requirements, and fails to respond to a request to provide additional work search information or responds with information that does not meet the specific requirements, the claimant will be presumed to not be actively seeking work as directed and subject to denial pursuant to RCW 50.20.010(3).

(2) 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 search information does not meet specific 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.]

WAC 192-23-017 Failure to respond to a request for information regarding late filing of claims. (1) If a claimant files a claim late as defined in WAC 192-12-141 and fails to respond to a request for an explanation of why the claim was filed late, it shall be presumed that the claim has not been filed as required and the individual will be subject to denial pursuant to RCW 50.20.010(2) and WAC 192-12-141.

(2) The denial of benefits authorized by this section is a denial for a definite period of time, being the week or weeks which were filed late.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-017, filed 6/18/84.]

WAC 192-23-019 Directive to report for reemployment services. The commissioner may direct a claimant in writing to report in person for reemployment services as provided in RCW 50.20.010(5).

(1) **Exceptions.** An individual will not be required to participate in reemployment services if the individual:

- (a) Is a member in good standing of a full referral union;
- (b) Is partially unemployed or on standby as defined by WAC 192-12-150; or

- (c) Within the previous year has completed, or is 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) Information about the local labor market;
- (b) Information about available reemployment and retraining 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.** An individual who has received a directive, and fails to participate in reemployment services during a week, 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 the individual which would cause a reasonable person in similar circumstances to fail to participate. Justifiable cause includes, but is not limited to:

- (a) Illness or disability of the individual or the individual's immediate family;
- (b) The individual's presence at a job interview scheduled with an employer; or
- (c) Severe weather conditions precluding safe travel.

Reasons for absence will be subject to verification. In all such cases, the individual's ability or availability for work is an issue.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 95-12-014, § 192-23-019, filed 5/30/95, effective 6/30/95.]

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 192-23-061 Failure to respond to a request for information regarding a discharge from work. (1) If a claimant fails to respond to a request for information regarding a discharge from work and has provided insufficient information to identify or contact the employer, the claimant may be presumed to be discharged for misconduct connected with the work and denied benefits pursuant to RCW 50.20.060. If the claimant has supplied the agency with sufficient information to contact the employer, the claimant may not be denied benefits pursuant to RCW 50.20.060 unless the employer has established by a preponderance of evidence that the claimant has been discharged for misconduct connected with the work.

(2) The denial of this section is indefinite in nature and will be applied until the claimant meets the requalification provisions of RCW 50.20.060.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-061, 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 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 192-23-096 Failure to provide information regarding attendance at school. (1) If claimant or another party notifies the agency that the claimant is in school and the claimant fails to respond to a request for information regarding school attendance, the claimant shall be presumed to be registered for academic instruction of twelve or more hours and to have a limited attachment to the labor market, and to be not available for work, and shall be subject to denial of benefits pursuant to RCW 50.20.095 and 50.20.010(3).

(2) The denial of benefits under this section is indefinite in nature and continues until the individual reestablishes eligibility pursuant to RCW 50.20.095 and 50.20.010(3).

[Statutory Authority: RCW 50.12.010 and 50.12.040. 84-13-050 (Order 4-84), § 192-23-096, 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 192-23-800 Certification of ineligibility. (1) If a claimant submits a claim form certifying that he or she was not available for work, or was not able to work on one or two days of a week or weeks being claimed, and if the day or days to which the condition of ineligibility applies are normal working days in the claimant's regular occupation, and if the information supplied clearly supports this certification, benefits shall be reduced pursuant to RCW 50.20.010(3) and 50.20.130 without requiring additional information or interview.

The denial of benefits authorized by this section is for a definite period of time and applies only to the day or days for which the claimant specifically indicates ineligibility.

(2) If a claimant submits a claim form certifying that he or she was not available for work, or was not able to work for three or more days of a week or weeks being claimed, and if the days to which the condition of ineligibility applies are normal working days in the claimant's regular occupation, and if the information supplied clearly supports this certification benefits shall be denied pursuant to RCW 50.20.010(3) without requiring additional information or interview.

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 the claimant specifically indicates ineligibility.

(3) If a claimant submits a claim form certifying to a condition of continuing ineligibility and the information supplied clearly supports a finding that he or she is not able to work or not available for work because of a circumstance expected to continue beyond the immediate week or weeks claimed, benefits shall be denied pursuant to RCW 50.20.010(3) without requiring additional information or interview.

The denial of benefits authorized by this section is indefinite in nature and will be applied beginning with the first week claimed to which the circumstance applies and will remain in effect until the circumstance no longer exists.

(4) If a claimant submits a claim form with information clearly certifying that he or she does not intend to claim benefits for the week or weeks, benefits shall be denied pursuant to RCW 50.20.010(2) without requiring additional information or interview.

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 the claimant specifically indicates ineligibility.

(5) Any denial of benefits issued pursuant to this section shall be issued without delay.

[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.]

WAC 192-23-810 Certification of return to full-time work or report of hours worked consistent with full-time work. (1) If a claimant certifies that he or she has returned to full-time work or reports hours worked consistent with full-time work for that occupation, the certification shall be sufficient to determine that the claimant is no longer an unemployed individual as defined in RCW 50.04.310 and is subject to denial pursuant to RCW 50.20.010 without requiring additional information or interview.

(2) The denial of benefits authorized by this section is for a definite period of time, and applies only to the week or weeks claimed at the time of the certification of return to full-time work or report of hours worked consistent with full-time work.

(3) Any denial of benefits issued pursuant to this section shall be issued without delay.

[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.]

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 192-28 WAC RECOVERY OF BENEFIT OVERPAYMENTS

WAC

192-28-105	Recovery of benefit overpayment—Notification to individual.
192-28-110	Recovery of benefit overpayment—Fault provisions.
192-28-115	Recovery of benefit overpayment—Equity and good conscience provisions.
192-28-120	Recovery of benefit overpayment—By repayment or offset against past or future benefits.
192-28-122	Application of offsets or cash repayments.
192-28-125	Recovery of benefit overpayment—Notification of right to appeal.
192-28-130	Minimum payment calculation.
192-28-135	Recovery of benefit overpayment—Overpayment collection and maximum benefit payable.
192-28-145	Overpayment subject to interest charges.
192-28-150	Benefit overpayment interest charges—Definitions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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.

WAC 192-28-105 Recovery of benefit overpayment—Notification to individual. (1) If a potential overpayment exists, the department will provide you with an overpayment advice of rights, in writing, 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 192-28-120;
- (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, garnishment of salaries, and possible sale of real and personal properties;
- (f) An explanation that if you are not at fault, you may request a waiver of the overpayment. Waiver means the overpayment does not have to be repaid; and
- (g) A statement that you have 10 days to submit information about the possible overpayment and whether you are at fault. Failure to do so means the department will make a decision based on available information about the overpayment and your eligibility for waiver.

[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.]

WAC 192-28-110 Recovery of benefit overpayment—Fault provisions. (1) When an overpayment occurs, the department will make a finding of fault or nonfault based on information provided by the individual and/or by the employer and from information contained in the department's records. After reviewing all such information, the individual will be considered to be at fault when the overpayment is:

- (a) The result of fraud, misrepresentation, wilful nondisclosure; or
- (b) The result of a discharge for a felony or gross misdemeanor pursuant to the provisions of RCW 50.20.065; or
- (c) Based on the presence of all of the following three elements:
 - (i) The individual was paid benefits in an amount greater than he or she was entitled to receive and he or she accepted and retained those benefits; and
 - (ii) The payment of these benefits was based on incorrect information or a failure to furnish information which the individual should have provided as outlined in the information for claimants booklet, claimant directives and other reasonable written communications issued by the department; or information which the individual caused another to fail to disclose; and
 - (iii) The individual had sufficient notice that the information should have been reported.
- (2) In accordance with WAC 192-23-900, an individual who is overpaid as the result of a conditional payment is liable for repayment.

(3) The individual may be considered to be at fault, even though he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision, if the overpayment is the result of payment that the individual should reasonably have known was improper. Following are some, but not all, examples of instances in which an individual should reasonably have known that a payment was improper and therefore is at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The individual correctly reported earnings but the department paid benefits at the full amount or incorrectly deducted the earnings.

(b) The individual reported that he or she was 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) The individual received a retroactive pension payment that he or she had applied for and was reasonably sure would be awarded.

(d) The individual did not inform the department that he or she was 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 the individual failed to disclose to the department.

(f) Other circumstances in which department fact finding indicates that the individual knew the payment was improper.

(4) In determining whether or not an individual is at fault, the department shall also consider education, mental abilities, emotional state, the individual's experience with claiming unemployment insurance and other elements of the individual's personal situation which affect his or her knowledge and ability to comply with reporting all material information that is relevant to benefit eligibility. This includes information contained in the information for claimants booklet, claimant directives and other reasonable written communications issued by the department.

(5) The individual will be considered without fault when he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision and the overpayment is the result of payment that the individual would not reasonably have known was improper. Following are some, but not all, examples of instances in which an individual may not reasonably have known that a payment was improper and therefore is not at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The department erroneously removed a payment stop, resulting in improper payment.

(b) The individual received a retroactive pension which was backdated by the pension source, not at the individual's 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 the individual would have been eligible for a new claim against this or another state.

(e) A lower level decision, in which all information was provided by the individual, was reversed by the office of administrative hearings, the commissioner or a court.

(f) Other circumstances in which department fact finding indicates that the individual did not know the payment was improper.

(6) Fault and waiver are not considered if the individual agrees to an account adjustment as explained in WAC 192-28-120(4).

[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.]

WAC 192-28-115 Recovery of benefit overpayment—Equity and good conscience provisions. (1) The department will not consider or grant waiver of an overpayment and will not consider or accept an offer in compromise of an overpayment, when the overpayment is based on an overpayment decision written by a state other than Washington.

(2) The department will grant waiver of an overpayment when it is found that the individual was without fault in the overpayment and when it is determined that to require repayment would be against equity and good conscience. It will be against equity and good conscience to deny waiver when repayment of the overpayment would deprive the individual of income required for necessary living expenses unless there are unusual circumstances which would militate against waiver.

(3) The individual will be required to provide financial information for the determination of waiver of the overpayment. Failure on the part of the individual to provide such information within 10 days from the request date will result in the department making a decision, based on available information, regarding the individual's eligibility for waiver. All such information is subject to verification by the department. Any overpayment amount waived on the basis of information which is later determined to be fraudulent or misrepresented shall be restored to the overpayment balance.

(4) The financial information requested shall include:

(a) An account of the individual's income and to the extent available to the individual, other financially contributing members of the household for the month preceding, the current month and the month following the date the financial information is requested.

(b) An account of the individual's current and readily available liquid assets. Liquid assets may include, but are not limited to, checking and savings account balances, stocks, bonds and cash on hand.

(c) An account of the individual's expenses for the month preceding, the current month and the month following the date the financial information is requested.

(5) If average monthly expenses equal or exceed average monthly income and there are no substantial liquid assets available, waiver of the overpayment will be considered. The presence of unusual circumstances may justify waiver on other than a financial basis when not to waive would be unconscionable.

(6) When an individual has been denied waiver or waiver was not considered, the individual may enter into a payment agreement with the department.

(7) When an individual has been denied waiver or has been unable to reach a payment agreement with the department, he or she may make an offer in compromise pursuant to the provisions of RCW 50.24.020. The allowance or denial of an offer in compromise will be in accordance with the same criteria used by the department for allowance or denial of waiver of an overpayment. Any overpayment amount compromised on the basis of information which is later determined to be fraudulent or misrepresented shall be restored to the overpayment balance.

[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.]

WAC 192-28-120 Recovery of benefit overpayment—By repayment or offset against past or future benefits. (1) If you do not repay an overpayment in full or make the minimum monthly payments provided for in WAC 192-28-130, the overpayment will be deducted from benefits payable for any week(s) you claim.

(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 two or more payments as provided in WAC 192-28-130. If you have missed 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 wilful 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.

(4) If the overpayment has been assessed by another state, the amount deducted will be as follows:

(a) If the overpayment was caused by a denial for fraud, misrepresentation, or wilful 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.

(5) If you have been denied waiver, or if waiver was not considered, you will be notified in writing of your right to enter into a payment agreement with the department or to make an offer in compromise. An offer in compromise will

not be approved if the overpayment was caused by a denial under RCW 50.20.065 or 50.20.070 unless there are unusual circumstances which would justify a compromise.

[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.]

WAC 192-28-122 Application of offsets or cash repayments. (1) Offsets will only be applied against the overpayment assessment.

(2) Cash repayments will be applied against the outstanding balance as follows:

- (a) Court assessments and warrant fees.
- (b) Interest charges.
- (c) The overpayment assessment.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 90-17-105, § 192-28-122, filed 8/21/90, effective 9/21/90.]

WAC 192-28-125 Recovery of benefit overpayment—Notification of right to appeal. (1) The department shall ensure that all interested employers and the individual to whom the overpayment is assessed are notified in writing of the overpayment assessment and their right to appeal any or all of the following elements of the overpayment assessment:

- (a) The reason for the overpayment;
- (b) The amount of the overpayment;
- (c) The finding of fault or nonfault;
- (d) The reason for waiver or denial of waiver of the overpayment.

(2) For the purposes of this chapter, interested employer means (1) any employer who provides information to the department which results in an overpayment assessment and (2) when waiver has been allowed all base year employers who make payments in lieu of contributions to the department.

[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.]

WAC 192-28-130 Minimum payment calculation. Unless otherwise authorized by the commissioner or his/her designee, the minimum monthly payment shall be as follows:

(1) A minimum monthly payment will not be calculated for overpayments assessed by states other than Washington. Recovery of benefit overpayments by offset against future benefits will be done in accordance to WAC 192-28-120 (5)(a) and (b).

(2) For overpayments assessed under RCW 50.20.070, the minimum monthly payment amount will be the individual's weekly benefit amount or three percent of the remaining overpayment balance at the time of the billing statement rounded to the next lower multiple of one dollar, whichever is greater.

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(3) For all other overpayments, the minimum monthly payment amount will be one-third of the weekly benefit amount, three percent of the remaining overpayment balance at the time of the billing statement rounded to the next lower multiple of one dollar, or twenty-five dollars, whichever is greater.

[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.]

WAC 192-28-135 Recovery of benefit overpayment—Overpayment collection and maximum benefit payable. (1) No otherwise eligible individual shall receive as benefit payment an amount in excess of the maximum benefit payable from an entitlement as established pursuant to the provisions of RCW 50.20.120 and/or 50.22.040 and 50.22-050.

(2) An individual may certify for offset of an overpayment on a valid benefit year as provided in WAC 192-28-120.

(a) Provided, when the new balance available on a valid benefit year is equal to or less than the balance of an overpayment on that benefit year, the offset shall be at the rate of one hundred percent, regardless of the provisions of WAC 192-28-120 and/or 192-28-130.

(b) Overpayments established on other than the current benefit year shall be offset from a valid benefit year as provided in WAC 192-28-120 and/or 192-28-130.

(3) Within a valid benefit year the total benefits properly paid plus the offset credits properly granted shall not exceed the maximum benefits payable.

(4) Any offset of an overpayment granted on the basis of information later determined to be fraudulent or misrepresented shall be cancelled and the amount restored to the overpayment balance.

(5) If any provision of this section is in conflict with federal regulation, the federal regulation shall apply.

[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.]

WAC 192-28-145 Overpayment subject to interest charges. (1) Overpayments assessed by another state, but collected by this department, will not be charged interest.

(2) No interest will be charged in months when the minimum monthly payment is received on or before the due date except on overpayments assessed pursuant to RCW 50.20-070. If a claimant appeals a charge of misrepresentation, interest continues to accrue during the period of the appeal. Interest is assessed if the overpayment is upheld.

(3) Overpayments based on misrepresentation (RCW 50.20.070) will be charged interest at the rate of one percent per month.

(4) Overpayments not based on misrepresentation will be charged interest at the rate of one percent per month if two or more minimum monthly payments are delinquent.

(5) Overpayments containing both misrepresentation and nonmisrepresentation will be charged interest in accordance with (3) and (4) above.

(6) If unusual circumstances exist, the commissioner or authorized delegate may suspend the assessment or collection of interest charges.

(7) A month, with respect to the charging of interest, 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 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.]

WAC 192-28-150 Benefit overpayment interest charges—Definitions. (1) The "outstanding balance" is defined as the total of all unpaid overpayment assessments, warrant fees, court assessments and interest charges.

(2) The "due date" is defined as the date shown on the department's monthly statement, mailed to the claimant's last known address.

(3) "Delinquent" is defined as the minimum payment due, not being received on or before the due date.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 90-17-105, § 192-28-150, filed 8/21/90, effective 9/21/90.]

Chapter 192-32 WAC TIMBER RETRAINING BENEFITS

WAC

192-32-010	Definitions.
192-32-035	Residence in rural natural resources impact area at time of last separation from employment.
192-32-050	Benefits payable only to workers enrolled in approved training.
192-32-085	Full-time training.
192-32-095	Certification of satisfactory progress.
192-32-100	Modifying a training plan.
192-32-115	Out-of-state training.
192-32-130	Five weeks for work search following training.
192-32-135	Thirteen weeks for remedial education.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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.
192-32-015	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.
192-32-040	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 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.
192-32-055	Training program deadlines. [Statutory Authority: 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.
192-32-105	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.
192-32-120	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.

WAC 192-32-010 Definitions. For the purpose of this chapter and RCW 50.22.090:

(1) "Commissioner" means commissioner of the employment security department.

(2) "Department" means the employment security department.

(3) "Displaced worker" means an individual who is unlikely to return to employment in his or her principal occupation or previous industry because of a diminishing demand within his or her labor market for his or her skills in the occupation or industry;

(4) "Labor market" means the area in which workers of specific occupation customarily have found work. Labor market is based on the worker's place of residence and occupation.

(5) "Satisfactory progress" means maintaining a grade point average sufficient to graduate, and taking sufficient

credit hours to complete the approved course of study within the time frame established under the approved training plan.

(6) "Timber retraining benefits," abbreviated TRB, means the additional unemployment insurance benefits authorized by RCW 50.22.090(3).

(7) "Wages" means wages earned in employment as defined in chapter 50.04 RCW. This means that only wages in covered employment can be considered in determining if a worker has earned wages in employment in the forest products industry or in the fishing industry assigned Standard Industrial Code 0912.

[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.]

WAC 192-32-035 Residence in rural natural resources impact area at time of last separation from employment. (1) If you met the residence requirements at the time you filed your initial claim for benefits, you have met those requirements until you establish a new benefit year, regardless of subsequent employment or relocation to another area.

(2) If you met the residence requirements when you filed your initial claim, you have met those requirements until a new benefit year is established, even if your residence ceases to fall within a designated rural natural resources impact area.

[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.]

WAC 192-32-050 Benefits payable only to workers enrolled in approved training. To receive timber retraining benefits, you must be enrolled in and making satisfactory progress in an approved training program. You are enrolled in training if:

- (1) Preregistered for classes or on a waiting list; and
- (2) 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, 50.12.040, 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.]

WAC 192-32-085 Full-time training. The educational institution providing the training will determine whether you are enrolled full time.

[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.]

WAC 192-32-095 Certification of satisfactory progress. You will be determined to be making satisfactory progress in a training program if the educational institution certifies to the department that you are maintaining a grade point average sufficient to graduate and attending all sched-

uled classes included in your approved training plan for the current academic period. This certification must be signed by the registrar or an equivalent person designated by the educational institution.

[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.]

WAC 192-32-100 Modifying a training plan. (1) You must notify the department immediately upon making a significant modification to your approved training plan. A significant modification is one that impacts any of the approval criteria listed in WAC 192-12-182 and includes, but is not limited to, changes in your course of study or major, training institution, projected start and completion dates, and enrolled credit hours. The department will review these changes to determine whether approval of your training plan will be continued.

(2) You may change your course of study or major one time. Your new course of study must be for an occupation or skill for which there are reasonable employment opportunities in the labor market in which you intend to seek work. Subsequent changes in your course of study or major will not be approved except in unusual individual circumstances.

(3) You may withdraw from training and reenroll at a later date one time. Subsequent applications to reenroll in a training program will not be approved except in unusual individual circumstances.

(4) The restriction in subsection (2) does not apply while you are enrolled in remedial training.

[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.]

WAC 192-32-115 Out-of-state training. Out-of-state training may be approved at educational institutions equivalent to those described in RCW 28B.10.016 and 28C.04.410(3).

[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.]

WAC 192-32-130 Five weeks for work search following training. The five weeks of additional benefits provided by RCW 50.22.090 (3)(c) are available for work search activities following completion of or termination or withdrawal from training. Once you begin work, these additional benefits are not available during any subsequent period of unemployment.

[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.]

WAC 192-32-135 Thirteen weeks for remedial education. The thirteen weeks of additional benefits provided by RCW 50.22.090 (3)(d) are payable under the following conditions:

- (1) The remedial education program deemed necessary by the educational institution delayed the start date, or

extended the completion date, of your approved training program; and

(2) The TRB benefits provided by RCW 50.22.090

(3)(b) have been exhausted; and

(3) You have not yet completed your approved training program.

[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.]

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.]

Chapter 192-36 WAC SHARED WORK

WAC

192-36-010	Information for employees participating in an approved shared work plan.
192-36-015	Criteria for approving a shared work plan.
192-36-020	Information for employers with an approved shared work plan.
192-36-025	Are corporate officers eligible for participation in the shared work program?

WAC 192-36-010 Information for employees participating in an approved shared work plan. (1) **How do I file a claim for benefits?** Follow the instructions contained in WAC 192-12-141 when filing an initial application or a continued claim for unemployment benefits, except that:

(a) In addition to the information required by WAC 192-12-141 (5)(a) to be included in your claim, you must also report the number of hours for which you received holiday, vacation, or sick pay; and

(b) Your initial application must be filed at the job service center designated by the department. Continued claims can be filed in person, by mail, or by telephone. The job service center at which your initial application was filed will remain the office of record for your claim as long as you participate in the shared work plan.

(2) **How will my shared work benefits be calculated 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 number down to the next whole number. This rounded number will be calculated against your usual hours of work to determine your shared work weekly benefit amount. Example: You work 28.5 hours of a normal 40-hour work week; 28 hours

divided by 40 means you worked 70% of the available hours. Your shared work weekly benefit amount would be 30% of your regular weekly unemployment compensation benefit amount.

(3) **What if I don't accept all hours of work offered by the shared work employer?** (a) You must work all hours for which you have been scheduled or you are not eligible for the shared work program for that week.

(b) You must be available for additional hours of work, up to full-time, with the shared work employer. If your employer provides you at least 24 hours notice that additional work is available and you do not work those additional hours, you are not eligible for benefits under the shared work program for that week.

(c) Your eligibility for other unemployment compensation benefits for any week in which you are not eligible for shared work benefits will be determined according to the provisions of Title 50 RCW.

[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.]

WAC 192-36-015 Criteria for approving a shared work plan. In addition to meeting the criteria listed in RCW 50.60.030, an employer who wishes to participate in the shared work program must:

(1) Be current in the payment of all unemployment insurance taxes required under Title 50 RCW; or

(2) Have an approved deferred payment contract on file with the department.

[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.]

WAC 192-36-020 Information for employers with an approved shared work plan. (1) **What information am I responsible for providing to my employees?** Once your shared work plan is approved, you are responsible for advising your employees:

(a) That they are approved for participation in the shared work program; and

(b) The location of the job service center where they must file their claim for benefits.

(2) **What if I want to modify an approved plan?**

(a) If you want to make a change to an approved plan, such as modifying the work unit(s) affected or the percentage of employees included in the plan, you must submit a written modification in advance to the department's shared work unit.

(b) If the names of individual employees participating in the plan change, you must notify the department's shared work unit in advance in writing.

(c) If the hours worked by an employee change from week to week, you are not required to submit the information to the department in writing if you have a signed authorization to modify the plan on file with the department.

(3) **What information am I responsible for providing to the department?** In addition to the plan modification information required under subsection (2), you are responsible for verifying the information contained on the shared work payments report provided by the department, and

reporting any discrepancies in writing to the job service center that is processing your employees' unemployment claims.

(4) How many times can I have a shared work plan approved? An approved plan may last for up to twelve months after its effective date. Upon expiration, you may submit a new plan to the department for approval. Effective January 1, 1997, a new plan will not be approved for your company if your employees have been participating in the shared work program for three consecutive twelve-month periods. You will not be eligible for a new plan until at least twelve consecutive months have elapsed since the expiration date of your most recent approved 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.]

WAC 192-36-025 Are corporate officers eligible for participation in the shared work program? Corporate officers who elect coverage under RCW 50.04.165 may participate in an approved shared work plan. However, as part of the request for plan approval, the corporation must submit to the department documents verifying that the corporate officers participating in the plan worked full-time for the corporation. Documentation may include federal or state tax records, corporate officer individual earnings records, or other acceptable evidence verifying the number of hours worked.

[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.]

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.
192-40-030	Local hearings—Obligation.
192-40-040	Review of local decisions.
192-40-050	Review of local decisions—Finality of assistant commissioner decision.
192-40-060	Review of decisions—Delegation of responsibility.
192-40-070	State level hearing request.
192-40-080	State level hearing procedure.
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.]

(2003 Ed.)

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.]

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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 subject 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

192-100-500	General definitions—Relating to wages.
192-100-510	Definitions relating to RCW 50.04.145 and 50.24.130.

WAC 192-100-500 General definitions—Relating to wages. 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 federal 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.

[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.).

(2003 Ed.)

(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 partially unemployed or standby workers—RCW 50.04.310, 50.20.010, and 50.20.130.
192-110-020	How will the department verify my identity?
192-110-050	How do I reopen my claim?

WAC 192-110-005 Applying for unemployment benefits—General. (1) **How do I apply for benefits?**

(a) File your application for benefits by placing a telephone call to the unemployment claims telecenter listed in your local telephone directory.

(b) In situations involving individuals with physical or sensory disabilities that make filing by telephone difficult, or in other unusual circumstances, the commissioner can authorize other methods for filing an application for benefits.

(2) **When can I apply?** You may apply 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. Your claim is effective on the Sunday of the week you file your claim.

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

- (a) Your legal name; and
- (b) Your 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.

(3) **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 any benefits for future weeks can be paid to you.

[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:

[Title 192 WAC—p. 39]

(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 file your application for benefits from any state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Canada.

(3) **How do I apply for benefits?** Place a telephone call to the unemployment claims telecenter in Washington. You will be asked whether you worked in any state other than Washington within the last two years. This will help decide which state will be paying your claim.

(a) If Washington will be paying your claim, your application for benefits will be taken over the telephone;

(b) If another state will be paying your claim, you will be told how to file your claim with that state.

(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 a new claim against another state can be established. 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, do so by filing 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 by telephone. The liable state will notify you of the date, time, and telephone number of the hearing.

[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 partially unemployed or standby workers—RCW 50.04.310, 50.20.010, and 50.20.130. (1) Definitions:

(a) "Employer" means any person or business for which you work in exchange for wages.

(b) "Partially unemployed" means that during a week:

(i) You worked for your regular employer less than full time because of lack of work; and

(ii) You earned less than one and one-third times your weekly benefit amount plus five dollars.

(c) "Standby" means you are temporarily unemployed due to lack of work but expect to return to work with your regular employer.

(2) Your rights when you are partially unemployed:

(a) You may file your application or claim for benefits as many as five weeks after your hours are reduced without it being considered late.

(b) You do not have to register for work, however, you must accept all hours offered by your regular employer.

(3) Your rights when you are on standby:

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

(b) You do not have to register for work.

(c) 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 respond, 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 responds that you are not on standby, you will be required to immediately register for work and to look for work.

(d) Your regular employer must request to extend your standby status for more than four weeks. This request is subject to approval by the department. We will consider the following before deciding whether to extend standby status 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.

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

(1) If we are able to verify your identity with these questions, your application for benefits will be filed.

(2) If we are not able to verify your identity through questioning, we will send you a verification request form:

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

(b) If the verification form is not completed and returned, or does not satisfy the department of your identity, your benefits will be denied.

[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? If you do not file a claim for one or more weeks, you must reopen your claim by placing a telephone call to the unemployment claims telecenter and asking to have your claim reopened.

Benefits will be denied for any week preceding the week in which you reopened your claim, unless you can show good cause for not reopening your claim earlier.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-110-050, filed 4/5/99, effective 5/6/99.]

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?

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;

(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.]

Chapter 192-130 WAC EMPLOYER NOTICES

WAC

192-130-050 Notice of filing of application—RCW 50.20.150.

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.]

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?

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 Sun-

day 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.]

Chapter 192-150 WAC**JOB SEPARATIONS****WAC**

192-150-050	Leaving work to accept bona fide job offer—RCW 50.20.050 (2)(a).
192-150-055	Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (2)(b).
192-150-060	Leaving work because of disability—Notice to employer—RCW 50.20.050 (2)(b).
192-150-065	What constitutes an employer-initiated mandatory transfer under RCW 50.20.050 (2)(c)?
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.

WAC 192-150-050 Leaving work to accept bona fide job offer—RCW 50.20.050 (2)(a).

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(1) 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.

[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 192-140-020 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 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (2)(b). (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 necessitated your leaving work; and

(c) You first exhausted all reasonable alternatives prior to leaving work, including asking that you 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) **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.

(3) **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.

[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 (2)(b). (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.

(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.

[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 192-150-065 What constitutes an employer-initiated mandatory transfer under RCW 50.20.050 (2)(c)? If your spouse's employer requires your spouse to relocate to another labor market area to retain a current job or to accept another job with that employer, the relocation will be considered an employer-initiated mandatory transfer. Examples of employer-initiated mandatory transfers include, but are not limited to:

(a) A plant closure where employees must move to another labor market area to continue employment with that employer;

(b) A change in job responsibilities, such as a promotion, with that same employer where the employer requires a move to another labor market area; or

(c) A restructuring of business operations by the employer requiring employees to move to another labor market area if they want to continue in their customary occupation.

[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.]

WAC 192-150-085 How to qualify after benefits have been denied. Benefits may be denied under RCW 50.20.050(1) 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:

(1) At least seven calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits;

(2) 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.

[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. RCW 50.20.050(4) 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 local employment center in ten different 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 50.20.010 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.]

Chapter 192-170 WAC AVAILABILITY FOR WORK

WAC

192-170-050 Suitable work factors—RCW 50.20.100 and 50.20.110.

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 RCW 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;

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- (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.]

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(3) and 50.20.240.

192-180-012 Requirements of individuals who leave work due to illness or disability.

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 Eligibility review interviews.

192-180-030 Penalties.

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 partially unemployed or on standby as defined by WAC 192-110-015, or participating in the shared work program under Title 50.60 RCW;

(b) A member of a full referral union;

(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 employment center. 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. 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(3) 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 a documented in-person job search activity at the local employment center.

(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 a week.

(c) This subsection does not apply if you are a member of a full referral union.

(4) **What is a "job search contact"?** Usually a job search contact is contact with an employer in person or by telephone. You may use other job search methods that are customary for your occupation and labor market area. 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 determines 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 local employment center that will assist you in your reemployment efforts. It includes, but is not limited to, resume development, job search workshops, training classes, and computer tutorials.

(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.

(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 seeking work (such as from resumes to in-person contacts);

(c) Expand the geographic area in which your job search is conducted; or

(d) Seek 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. 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 192-180-015 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 services you receive through the local employment center unless you are:

(a) A member of a full referral union; or

(b) 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; the type of work you applied for; and the results of your contact;

(b) For in-person job search activities at the local reemployment center, record the date contact was made; a description of the services you received or the activities in which you participated; and the results of your contact.

(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 all information required by this subsection is recorded.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year.

[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 eligibility 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 an eligibility review interview, your log will be verified on a random basis.

[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 Eligibility review interviews. (1) **What is an eligibility review interview (ERI)?** The ERI is an interview between you and a representative of the local employment center. Its purpose is to 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.

(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.

[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?** 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 eligibility 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).

[Statutory Authority: RCW 50.12.010 and 50.12.040. 99-13-002, § 192-180-030, filed 6/3/99, effective 7/4/99.]

Chapter 192-200 WAC SCHOOL OR TRAINING

WAC

192-200-020

Commissioner approval of training—RCW 50.20.043.

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. You will receive a decision, in writing, denying or approving your training application.

(2003 Ed.)

(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.

[Statutory Authority: RCW 50.20.010 and 50.12.040. 99-08-073, § 192-200-020, filed 4/5/99, effective 5/6/99.]

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).

WAC 192-210-005 Definitions—Educational employees. (1) **Contract.** An agreement that is binding on an

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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.150.220 (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. 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.]

Chapter 192-270 WAC TRAINING BENEFITS FOR DISLOCATED WORKERS

WAC

192-270-005

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192-270-015

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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 Timeframes. 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 timeframes 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;
- (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.

(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;

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(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

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(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

192-300-050	Predecessor-successor relationship defined.
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.
192-300-190	Owners of entities are not covered for unemployment insurance purposes.

WAC 192-300-050 Predecessor-successor relationship defined. This section applies only to those individuals

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and organizations that meet the definition of an employer contained in RCW 50.04.080.

(1) **Predecessor.** You are a "predecessor" if, during any calendar year, you transfer any of the following to another individual or organization:

(a) All, or a portion, of your operating assets as defined in subsection (3) below; or

(b) A separate unit or branch of your trade or business.

(2) **Successor.** You are a "successor" if, during any calendar year, you acquire substantially all of a predecessor employer's operating assets. You are a "partial successor" if, during any calendar year, you acquire:

(a) A portion of a predecessor employer's operating assets, or

(b) A separate unit or branch of a predecessor employer's trade or business.

(3) **Operating assets.** "Operating assets" include the properties you use in the normal course of business operations to generate your operating income. They may include properties that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, or goodwill. Employees are not operating assets.

(4) **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 (5) below.

(5) **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 interest, 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 either the predecessor, successor, or a combination of both.

[Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-068, § 192-300-050, filed 2/15/00, effective 3/17/00.]

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 (10) 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 has to make timely and accurate employer liability determinations and unemployment insurance payments. It is under RCW 50.04.165 and RCW 50.24.160 that we establish the election of coverage for unemployment insurance by employers where personal services are not considered employment:

(1) RCW 50.24.160 allows any business to file a request for election of unemployment insurance coverage for personal services 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) RCW 50.04.165 allows a corporate employer to elect to cover the personal services of its corporate officers for unemployment insurance coverage:

(a) a corporate employer must submit a written request for voluntary coverage signed by a person authorized to legally bind the corporation. The department must receive this request no later than thirty days prior to the end of the quarter in which the change is to begin;

(b) "corporate officer" is defined in RCW 23A.08.470;

(c) corporate officers appointed under RCW 23B.08-400, other than those covered by Chapter 50.44, are not considered services in employment unless the corporation elects coverage of all its corporate officers under RCW 50.04.165;

(d) all services of corporate officers are considered exempt until the effective date of approval of election of coverage by the department; and

(e) corporate officers are exempt under RCW 50.04.165 only if the employer has notified them in writing that they are ineligible for unemployment insurance benefits. The exemption becomes effective with the date of the written notice. The written notice must:

(i) have the name(s) of the officer(s) who is/are being exempted;

(ii) have the effective date of the exemption;

(iii) have a signature of the officer(s) acknowledging receipt of the request;

(iv) be kept on file by the corporation; and

(v) be available for review by any department official upon request.

(3) If an agricultural corporate employer voluntarily covers its officers, the wages or salaries paid for such services will be used to determine the employer liability of the agricultural employer. Wages or salaries paid for service of corporate officers exempt under RCW 50.04.165 will not be used to determine liability of agricultural employers.

(4) 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. A written request by the employer must be sent to the department by January 15th following the end of the last calendar year of desired coverage.

(5) The department reserves the right to disapprove an election for unemployment insurance coverage due to:

(a) the applicant being non-liable for federal unemployment taxes (FUTA); or

(b) the seasonal nature of the occupation or industry.

(6) The department reserves the right to cancel unemployment insurance coverage for a voluntary election employer because:

(a) of nonpayment of unemployment insurance taxes, and/or failure to file an unemployment insurance tax/wage report; or

(b) of misrepresentation of facts; or

(c) coverage is not used for involuntary unemployment as outlined in RCW 50.01.010.

[Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-064, § 192-300-170, filed 2/15/00, effective 3/17/00.]

WAC 192-300-180 Joint accounts. Relates to RCW 50.24.170.

(1) Any two or more employers may form joint accounts (consolidate) for the purposes of reporting and dealing with the unemployment insurance division of the department.

(2) Joint accounts must be acceptable to the department and cannot:

- (i) Impair any obligation by these employers to the unemployment insurance division;
- (ii) Interfere with the payment of benefits to workers;
- (iii) Result in any administrative inconvenience to the division; or
- (iv) 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 necessary under the Employment Security Act.

(4) Joint accounts may not be formed until the department has approved the plan of consolidation, in writing.

(5) A joint account should never be confused with a common paymaster. A common paymaster is an independent third party who contracts with, and represents, two or more employers; and who files a combined tax report for those employers. Common paymaster does not meet the department's definition of a joint account. We do not allow this type of reporting.

[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 192-300-190 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.]

Chapter 192-310 WAC
REPORTING OF WAGES AND TAXES DUE

WAC

192-310-010	Employer reports—RCW 50.12.070.
192-310-020	Tax payments by employers—RCW 50.24.010.
192-310-025	Application of payments.
192-310-030	Reports and tax payments subject to penalty.
192-310-035	Employer reports—Failure to report hours.
192-310-040	Employer reports—Further defining hours worked—RCW 50.12.070.
192-310-050	Employer records.
192-310-055	Employer records—Farm operator or farm labor contractor.
192-310-060	Tips as wages.
192-310-070	Value of meals, lodging and in-kind compensation.
192-310-100	Posting of notices by employers.

WAC 192-310-010 Employer reports—RCW 50.12.070. (1) **Master application.** Every person or entity which has one or more individuals performing services for it

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in the state of Washington must file with the department a master application in a format prescribed by the commissioner.

(2) Quarterly tax and wage reports:

(a) **Tax report.** Each employer must file a quarterly tax report with the commissioner listing the total wages paid to all individuals in its employ during that calendar quarter.

(b) **Report of employee's wages.** Each employer must file a quarterly report of employee's wages with the commissioner. This report must list each employee by name, social security number, hours worked, and wages paid during that calendar quarter.

(c) The quarterly tax and wage reports must be filed in a format prescribed by the commissioner. They 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. Therefore, reports are due by April 30, July 31, October 31, and January 31, respectively. Exceptions to the time and manner of filing the report must be approved in advance by the commissioner.

(d) **Termination of business.** Each employer who ceases 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 to the date such account is closed;

(ii) A report of employee's wages for the current calendar quarter which includes all wages paid to the date such account is closed.

(3) **Report form instructions.** All form preparation instructions issued by the employment security department have the same force and effect as if they had been incorporated into this regulation.

[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 are payable quarterly. Each quarterly payment must include the taxes due 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 such taxes have accrued. Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Sunday or a legal holiday, the tax payment must be received or postmarked on the next working day.

(2) Tax payments are due immediately when an employer ceases business or the account is closed by the department. Taxes not paid immediately are delinquent, but interest will not accrue until the first day of the second month following the end of the calendar quarter for which such taxes have accrued.

[Statutory Authority: RCW 50.12.010 and 50.12.040. 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) Lien fees
- (b) Warrant fees
- (c) Late tax report penalty
- (d) Late tax payment penalty
- (e) Interest charges
- (f) Tax payments.

[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 Reports and tax payments subject to penalty. (1) **Tax reports.** An employer who files a late or incomplete tax report as described in WAC 192-310-010 (2)(a) is subject to a penalty of ten dollars per violation, unless the penalty is waived by the department.

(2) **Report of employee's wages.** Any decision to assess a penalty for filing a late or incomplete report of employee's wages as described in WAC 192-310-010 (2)(b) will be made on an individual basis by the chief administrative officer of the tax branch as provided in RCW 50.12.220.

(3) **Delinquent tax payments.** For purposes of RCW 50.12.220, tax payments are delinquent as provided in WAC 192-310-020 and RCW 1.12.070.

(4) **Late penalty.** For tax payments due on wages paid, a minimum \$10.00 penalty will be assessed for late payments.

(5) **Penalty waivers.** The department may, for good cause, waive penalties in the following situations:

(a) The return was filed on time but inadvertently mailed to another agency;

(b) The delinquency was due to an action of an employee of the department, such as providing incorrect information to the employer when the source can be identified, or not furnishing proper forms to permit the filing of tax reports or the payment of taxes on time;

(c) 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;

(d) The delinquency was caused by the accidental destruction of the employer's place of business or business records; or

(e) The department finds the employer to be out of compliance during an employer-requested audit, but the department determines the employer made a good faith effort to comply with all applicable laws and rules.

(6) **Waiver requests.** A request for a waiver of penalties must be written, contain all pertinent facts, be accompanied by available proof, and be filed through a tax office. In all cases the burden of proving the facts is on the employer.

(7) **Extensions.** The department, for good cause, may extend the due date for filing a report. The employer must make a deposit with the department in an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit will be credited to the employer's account and applied to the employer's debt.

The amount of the deposit is subject to approval by the department.

[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 hours. (1) If an employer fails to report hours worked and a former employee files for benefits, the benefits will be based on the amount of hours calculated by using the state's minimum wage (RCW 49.46.020) in effect at the time.

(2) If the employer subsequently produces the actual hours worked, the employee's claim will be recalculated.

(3) In the event the claim is voided, or reduced, the original claim amount will not be considered as an overpayment against the claimant.

[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 should be included on the employer's quarterly tax and wage report.

(1) **Vacation pay.** The employer will report the number of hours an employee is on leave with pay. Cash payments made in place of vacation time will not be counted as hours worked.

(2) **Sick leave pay.** In accordance with RCW 50.04-330(1), any amount of payments made to the employee covered under a qualified plan regarding sickness or accident disability, insurance or annuities, medical or hospitalization expenses in connection with sickness or accident disability, death or retirement are not considered to be wages or compensation. Neither hours nor wages are reportable. Under a nonqualified plan, the wages and hours are reportable.

(3) **Overtime.** The employer will 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 employees.** An employer will report the actual number of hours worked by employees paid by commission. In the absence of reliable time keeping records, the employer will report a full-time commissioned employee for 40 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, the employer will report the actual number of hours that would have been for which they were compensated. Wages in lieu of notice compensates the employee upon termination of service for the amount of wages they would have earned during the specified period.

(6) **Employees on salary.** If a salaried employee works other than the regular 40-hour week, the employer will report the actual number of hours worked. In the absence of a reliable time keeping record, the employer will report a full-time salaried employee for 40 hours each week they worked.

(7) **Faculty employees.** Faculty members of community and technical colleges must teach at least 15 classroom or laboratory hours to be considered full-time. A teaching load of less than 15 hours of instruction is considered part-time.

(i) In the absence of reliable hourly information, an employer will report the hours of instruction as part-time using 35 hours as the base per week using the following computation. For example, an instructor teaches 12 hours per week. 12 hours divided by 15 hours equals 80%. 35 hours times 80% equals 28 hours. The employer will report the 28 hours to the department on the employer's quarterly tax and wage report.

(ii) Any part-time salaried instructor who does not establish a valid claim because of this formula, may provide the department with documentation of hours worked which exceeds the reported hours by the employer.

(8) **Severance pay.** Employers will not report additional hours worked for severance pay. Severance pay is reportable and taxable because it is based on past service and compensates the employee upon job separation.

(9) **Payment in kind.** The employer will report the actual hours worked for performing services, which are compensated only by payment in kind.

(10) **Bonuses, tips and other gratuities.** An employer will not report additional hours for bonuses, tips or other gratuities if they are received performing regular hours if bonuses, tips and gratuities are the only sources of their compensation.

(11) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, the total figure will be rounded to the next higher number.

[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. The commissioner requires every employer to keep true and accurate employment records under chapter 50.12 RCW.

(1) Farm operators, or farm labor contractors must comply with the rules set forth in WAC 192-310-050.

(2) Farm operators contracting with a crew leader or a farm labor contractor must make, keep, and preserve, original records containing the following information:

- (a) The inclusive 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 of the farm labor contractor's license as required under chapter 19.30 RCW.

[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. For the department to make timely and accurate employer liability determinations and unemployment insurance payments, tips as wages, are those tips that 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 are not considered wages for benefit calculation purposes when the value has not been reported to the employer.

[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. Relates to compensation paid for personal services including commissions and bonuses and the cash value of all remuneration paid in any form other than cash.

(1) The value of meals and/or lodging for the convenience of the employer (i.e. provided by the employer, on the employer's premises, or as a condition of employment) is not considered reportable compensation, unless it comprises twenty-five percent, or more, of the employee's total pay per pay period.

(2) Compensation for personal services paid in-kind, or in any medium other than cash will be given its current prevailing market value. This value will be considered as wages in computing taxes due under unemployment insurance laws. If any hiring contract fixes the value of such items, the value will be considered the actual value.

[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 192-310-100 Posting of notices by employers. (Relating to RCW 50.20.140). 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. These notices inform the individ-

ual that this employer is liable for taxes under the Employment Security Act.

(1) The notices provide information to individuals who may be unemployed about how to register for work, file claims for benefits, and rights to 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 notices to employers.

[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.]

Chapter 192-320 WAC

EXPERIENCE RATING AND BENEFIT CHARGING

WAC

192-320-050	Requirements of partial successors—Chapter 50.29 RCW.
192-320-055	Predecessor-successor transfers through intermediaries.
192-320-060	Delinquent predecessor taxes.
192-320-065	Relief of benefit charges.
192-320-070	Conditions for relief of benefit charges due to a voluntary quit.

WAC 192-320-050 Requirements of partial successors—Chapter 50.29 RCW. (1) If you are a partial successor, you must return the partial transfer of experience letter provided to you by the department within thirty days of the mailing date. Your response must indicate the percentage of operating assets transferred to you as the partial successor.

(2) If you do not return the letter within thirty days, you will keep the tax rate class that was assigned to the predecessor employer for the remainder of the rate year. However, in the following calendar year you will receive the average industry rate. You will keep this rate until you qualify for a different rate in your own right.

[Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-068, § 192-320-050, filed 2/15/00, effective 3/17/00.]

WAC 192-320-055 Predecessor-successor transfers through intermediaries. When operating assets are transferred from one employer to another by the use of an intermediary, whose function is to arrange, or facilitate, the transfer process (RCW 50.04.320 and 50.29.062) – the existence of a predecessor-successor relationship will be determined on a case-by-case basis by the department. 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:

a. Intent of the parties involved; and

b. Economic reality of the transactions, as opposed to the strict legal format of the multiple transfers.

[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.]

WAC 192-320-060 Delinquent predecessor taxes. RCW 50.29.062 provides that a successor employer, defined in WAC 192-300-050, will be assigned the tax rate of the predecessor employer. If the successor employer has been assigned the maximum tax rate due to late or nonpayment of

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taxes to the department by the predecessor employer; they may receive a lower rate upon completion of the following:

- a. Submit a written request to the department; and
- b. Payment of delinquent tax payments by the cut-off date of September 30th; or
- c. If the purchase was finalized after September 30th and all reports and any taxes due are submitted within thirty (30) days of escrow closure, or purchase of the business.

The successor employer will receive the tax rate of the predecessor employer as if the taxes had been paid timely. The successor will keep this rate until eligible under experience rating statutes for a different rate.

[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.]

WAC 192-320-065 Relief of benefit charges. For purposes of RCW 50.20.020(2) a contribution-paying non-local 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 re-determination.** The employer's request for relief of benefit charges must be received or postmarked within thirty (30) days of mailing the notification of re-determination (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 (30) 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 (30) 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 (30) 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. A contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.020(2) may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.020(3) and WAC 192-320-065.

(1) **Reasons for a voluntary quit not attributable to the employer may include, but are not limited to:**

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(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.

(2) 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. 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) Such other work-related factors as the commissioner may deem pertinent.

[Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-069, § 192-320-070, filed 2/15/00, effective 3/17/00.]

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.

WAC 192-330-100 Adjustments and refunds—Reduction of refund if wages reported in error—RCW 50.24.150. An employer may file a written request for refund of, or adjustment to, contributions, interest, or penalties within three years of the date they were paid. The commissioner may also make refunds or adjustments using his/her own initiative.

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 off-

set 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.

[Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-066, § 192-330-100, filed 2/15/00, effective 3/17/00.]

Chapter 192-340 WAC AUDITS AND TECHNICAL ASSISTANCE

WAC

192-340-010 Field audit expansion.

WAC 192-340-010 Field audit expansion. The department's audit expansion requirements are as follows:

(1) If underreported or overreported wages for employees originally reported and/or new workers are discovered in the audit year, the department may expand to subsequent year(s). Subsequent year(s) and/or quarter(s) means up to the most recently completed calendar quarters where the tax and wages are reported.

(2) When the department feels there are facts that indicate that the employer has made a conscious effort to avoid taxation, the audit period may be expanded within statutory limitations.

(3) In the post audit interview, it is the responsibility of the department to ensure that audit exceptions are discussed and future reporting requirements are understood by the entity being audited.

[Statutory Authority: RCW 50.12.010, 50.12.040. 00-05-065, § 192-340-010, filed 2/15/00, effective 3/17/00.]