



PROPOSED RULE MAKING

R-102 (June 2004)
implements RCW 34.05.320
Do NOT use for expedited rule making

Agency: Employment Security Department

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 09-08-067 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) WACs 192-270-005 and 192-270-035 relating to Training Benefits for individuals receiving unemployment insurance benefits. WACs 192-270-020, 192-270-025, and 192-270-030 are repealed as obsolete.

Hearing location(s): Employment Security Department
Maple Leaf Conference Room, 2nd Floor
212 Maple Park
Olympia, Washington

Submit written comments to:

Name: Pamela Ames
Address: P.O. Box 9046
Olympia, WA 98507-9046
e-mail pames@esd.wa.gov
fax (360)902-9799 by (date) September 21, 2009

Date: September 22, 2009 Time: 1:00 p.m.

Assistance for persons with disabilities: Contact

Jeannette Nelson by September 21, 2009

Date of intended adoption: 10-02-2009
(Note: This is NOT the effective date) *1st*

TTY (360) 902-9569 or (360) 902-9602

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Amendments are made to Chapter 192-270 WAC, Training Benefits. The amendments implement those sections of Chapter 3, Laws of 2009 (Engrossed Substitute House Bill 1906) that were effective on April 5, 2009. The rules define terms, modify timeframes for filing applications for training benefits, and require that training be for a high demand occupation.

Reasons supporting proposal: The rules implement changes to the Training Benefits statute adopted by the 2009 legislature, Chapter 3, Laws of 2009.

Statutory authority for adoption: RCW 50.12.010, RCW 50.12.040, and RCW 50.20.010.

Statute being implemented: Chapter 3, laws of 2009, sections 4 and 5

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION:

CODE REVISER USE ONLY

DATE 8-12-09

NAME (type or print) Paul Trause

SIGNATURE *Paul Trause*

TITLE Deputy Commissioner

SEARCHED _____

SERIALIZED _____

AUG 8

TIME 1:43

WSR 09-17-114

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Employment Security Department

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Juanita Myers	212 Maple Park, Olympia	(360) 902-9665
Implementation.... Juanita Myers	212 Maple Park, Olympia	(360) 902-9665
Enforcement..... Nan Thomas	212 Maple Park, Olympia	(360) 902-9303

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The rules are technical in nature and modify existing rules consistent with statutory changes adopted by the 2009 legislature. Benefits paid under the Training Benefits program are not charged to the individual's previous employer(s).

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: Any costs imposed by the changes to the Training Benefits program result from legislative changes rather than the proposed rules. It is anticipated that these changes will not cause the Training Benefits program to exceed the \$20 million annual appropriation by the legislature.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-005 Definitions. The definitions below apply to this chapter, ~~((and))~~ RCW 50.22.150, and chapter 3, laws of 2009, § 4:

(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))~~ For claims with an effective date prior to April 5, 2009, "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))~~ (3) "Skill set" means the work-related knowledge and abilities needed to produce a particular product or provide a particular service.

~~(6)~~ (4) "Training benefits" means the additional benefits paid under RCW 50.22.150 and chapter 3, laws of 2009, § 4 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.))~~ For purposes of chapter 3, laws of 2009, section 4, subsection (2)(b)(i) relating to low income workers, the term "total wages" means wages in employment covered under Title 50 RCW or comparable federal or state laws.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-035 Time frames. Information about training benefits will be included in the claimant information booklet mailed to you at the time you file your application for unemployment benefits (see WAC 192-120-010). For purposes of this section, the claimant information booklet is considered your notification of the eligibility requirements for the training benefits program.

(1) Submitting a training plan.

(a) For claims with an effective date prior to April 5, 2009, 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.

(b) For claims with an effective date on or after April 5, 2009, you have 90 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 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.

(2) Enrollment in training.

(a) For claims with an effective date prior to April 5, 2009, 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.

(b) For claims with an effective date on or after April 5, 2009, you must be enrolled in training with 120 calendar days, beginning on the date you are notified about the eligibility requirements for training benefits. For new claims, the deadline will be 125 calendar days from the date your application for benefits is filed, which represents 120 days plus five days for the booklet to reach you by mail.

(3) For claims with an effective date on or after April 5, 2009, these timeframes may be waived for good cause. For purposes of this section, "good cause" includes but is not limited to situations where:

(a) You were employer attached, including being on standby or partially unemployed, when you filed your claim for unemployment benefits but your attachment to your employer subsequently ended;

(b) You acted or failed to act on authoritative advice directly from department or partner staff upon which a reasonable person would normally rely;

(c) You were incapacitated due to illness or injury or other factors of similar gravity; or

(d) Other factors which would effectively prevent a reasonably prudent person, as defined in WAC 192-100-010, facing similar circumstances, from meeting the timelines established under this section.

(4) If you return to work, and subsequently become unemployed, the time frames described in subsections (1) and (2) begin with the date you file your additional claim for benefits.

REPEALERS

The following sections of the Washington Administrative Code are repealed:

WAC 192-270-020	Employment in the aerospace industry.
WAC 192-270-025	Employment in the forest products industry.
WAC 192-270-030	Employment in the fishing industry.