



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Employment Security Department

Preproposal Statement of Inquiry was filed as WSR 09-17-093 ; or
 Expedited Rule Making--Proposed notice was filed as WSR _____ ; or
 Proposal is exempt under RCW 34.05.310(4).

Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) WACs 192-270-010 and WAC 192-270-015 are revised to update statutory references. WAC 192-270-050, criteria for approving training plans, is amended for consistency with 2009 legislative changes. New sections are adopted in Chapter 192-270, Training Benefits for Dislocated Workers, to implement 2009 statutory changes.

RECEIVED

MAR 31 2010

EMPLOYMENT SECURITY DEPARTMENT
COMMISSIONER'S OFFICE

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) May 11, 2010

Date: May 12, 2010 Time: 1:30 p.m.

Assistance for persons with disabilities: Contact

Tammy Crawford by May 11, 2010
 TTY (360) 902-9569 or (360) 902-9577

Date of intended adoption: May 14, 2010
 (Note: This is NOT the effective date)

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 September 6, 2009. The rules define terms, specify the treatment of incomplete applications, and update the criteria for approval of training plans.

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? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes No
 If yes, CITATION: _____

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
 STATE OF WASHINGTON

7 2010
 TIME 10:47 AM
 WSR 10-08-111 PM

DATE 4/11/10

NAME (type or print) Paul Trause

SIGNATURE Paul Trause

TITLE Deputy Commissioner

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 define terms 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 192-270-010 Employment separations for dislocated workers—RCW 50.22.155. To be eligible for training benefits as a dislocated worker, 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 or RCW 50.20.066, and have not requalified for benefits.

When (~~(determining)~~) deciding 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.

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

192-270-015 Dislocated Workers -- Unlikely to return to employment—RCW 50.22.155(2)(a) and RCW 50.04.075. Except as provided in (~~(RCW 50.22.150(3))~~) RCW 50.22.155(6), 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.

NEW SECTION

WAC 192-270-017 Military veterans—RCW 50.22.155(2)(b)(ii).

(1) The term "during the twelve-month period" means the individual served in the United States military or Washington National Guard at any point during the twelve-month period prior to application date.

(2) The term "application date" means the date on which the individual filed an initial application for unemployment benefits.

NEW SECTION

WAC 192-270-018 Members of the Washington National Guard—RCW 50.22.155(2)(b)(iii). The term "currently serving" does not include reserve members of the Washington National Guard.

NEW SECTION

WAC 192-270-019 Disabled individuals—RCW 50.22.155(2)(b)(iv). (1) For purposes of this section:

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

(b) "Illness" means a condition marked by an obvious deviation from the normal healthy state, characterized by sickness, disease, or other disorder. Alcohol abuse, drug abuse, antisocial behavior, or criminal history alone; or your commitment to a treatment facility, is insufficient by itself to show "illness" within the meaning of this section.

(2) Verification of your injury or illness may, at the department's discretion, require verification from a physician.

NEW SECTION

WAC 192-270-047 Incomplete applications. An application that is incomplete will be returned to you for completion. The filing of an incomplete application does not extend the timeframes under WAC 192-270-035 for filing a completed application for training benefits.

AMENDATORY SECTION (Amending WSR 01-11-085, 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);~~

~~((e))~~ Your plan for completion of the training including, but not limited to, ~~((what))~~ the financial resources you intend to use to ~~((fund the))~~ complete your training ~~((plan))~~ when training benefits run out;

~~((d))~~ (c) Whether you have the qualifications and aptitudes to successfully complete the training;

~~((e))~~ (d) For each of the following categories of workers:

(i) Dislocated workers under RCW 50.22.155(2)(a): Whether suitable employment is available in the labor market in which you currently reside and whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your earning power would be if training were

not provided. 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.

(ii) Low income workers under RCW 50.22.155(2)(b)(i):

Whether vocational training is likely to enhance your earning potential. This consists of training for a career in a demand occupation that will help you obtain and maintain stable, quality employment.

(iii) For military veterans, current members of the Washington National Guard, and disabled individuals under RCW 50.22.155(2)(b)(ii), (iii) and (iv): Whether training is needed to assist you in finding suitable work in your labor market.

(e) Whether the training relates to a high demand occupation(~~(-meaning)~~).

(i) For claims with an effective date prior to April 5, 2009, "high demand" means that the number of job openings in the labor market for the occupation or with that skill set exceeds the supply of qualified workers.

(ii) For claims with an effective date on or after April 5, 2009, "high demand" means an occupation with a substantial number of current or projected employment opportunities;

(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 and training program meet(~~(s)~~) 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.))~~