



# RULE-MAKING ORDER

## CR-103 (June 2004) (Implements RCW 34.05.360)

**Agency:** Department of Labor and Industries

- Permanent Rule  
 Emergency Rule

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.  
 Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** The proposed rules will assist in the implementation of Chapter 72, Laws of 2007 (ESSB 5920) which increases benefits for eligible workers, provides an alternative to vocational services that a worker may accept, and includes accountability to reduce delays and improve vocational service outcomes. This rulemaking includes amendments of existing rules and new rules intended to implement these changes and assist in improving return to work outcomes for workers. The proposed rules will provide a consistent means for implementing the statutory change, thus reducing inconsistent interpretation and application of the law and potentially unnecessary litigation.

**Citation of existing rules affected by this order:**

Repealed: WAC 296-19A-480 and WAC 296-15-430  
 Amended: See Attachment 1  
 Suspended:

**Statutory authority for adoption:** RCW 51.04.020, 51.04.030, 51.32.095, 51.32.099 and 51.32.0991 (Chapter 72, Laws of 2007 ESSB 5920).

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 08-01-109 on December 18, 2007  
 Describe any changes other than editing from proposed to adopted version:  
 See Attachment 2

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:**

February 29, 2008

**NAME (TYPE OR PRINT)**

Judy Schurke

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

DATE: February 29, 2008  
 TIME: 4:16 PM

**WSR 08-06-058**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|   |     |       |         |       |          |       |
|---|-----|-------|---------|-------|----------|-------|
| <b>Federal statute:</b>                 | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Federal rules or standards:</b>      | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Recently enacted state statutes:</b> | New | _____ | Amended | _____ | Repealed | _____ |

**The number of sections adopted at the request of a nongovernmental entity:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted in the agency's own initiative:**

|     |    |         |    |          |   |
|-----|----|---------|----|----------|---|
| New | 14 | Amended | 10 | Repealed | 2 |
|-----|----|---------|----|----------|---|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted using:**

|                                       |     |           |         |           |          |          |
|---------------------------------------|-----|-----------|---------|-----------|----------|----------|
| <b>Negotiated rule making:</b>        | New | _____     | Amended | _____     | Repealed | _____    |
| <b>Pilot rule making:</b>             | New | _____     | Amended | _____     | Repealed | _____    |
| <b>Other alternative rule making:</b> | New | <u>14</u> | Amended | <u>10</u> | Repealed | <u>2</u> |

Attachment 1  
CR-103 Vocational Rehabilitation

AMENDED SECTIONS:

WAC 296-19A-030  
What are the responsibilities of the parties?

WAC 296-19A-040  
What vocational rehabilitation services require authorization?

WAC 296-19A-045  
Which rules under "vocational rehabilitation referrals" apply only to state fund claims?

WAC 296-19A-065  
What are assessment services?

WAC 296-19A-070  
What information must an assessment report include?

WAC 296-19A-080  
How often must written progress reports be submitted during assessment activities provided for state fund claims?

WAC 296-19A-090  
What are vocational rehabilitation plan development services?

WAC 296-19A-100  
What reports are required when vocational plan development services are completed?

WAC 296-19A-110  
What are vocational rehabilitation plan implementation and monitoring services?

WAC 296-19A-120  
What reports are required when vocational rehabilitation plan implementation and monitoring services are completed?

## Attachment 2

### CR-103 Vocational Rehabilitation

WAC 296-19A-030 What are the responsibilities of the parties?

(4): Amended wording to include worker cooperation.

(5) (f): Added wording to clarify employment security department determines high demand occupations.

(5) (g): Added wording to clarify this is the notification letter approving plan development services.

WAC 296-19A-065 What are assessment services?

(1): Amended language to clarify work restrictions should be documented.

WAC 296-19A-070 What information must an assessment report include?

(4) (a) (ii): Amended wording to clarify job analysis must be for the job or jobs for which the worker is able to work.

(4) (b) (ii) (C): Amended wording to clarify the analysis may include the labor market survey that was conducted

(4) (c) (iv) and (v): Subsection were combined to clarify the report must include labor market information and other information, as necessary.

WAC 296-19A-080 How often must written progress reports be submitted during assessment activities provided on state fund claims?

(1): Amended wording to clarify reports must be submitted every thirty days or upon request of the department.

WAC 296-19A-090 What are vocational plan development services?

(1) (a): Amended wording for consistency with other sections.

WAC 296-19A-096 How will the department determine whether there is good cause to grant an extension of time?

(2): Added grandchild as immediate family member.

(3): Added language to clarify this applies when the department has issued an order.

WAC 296-19A-098 How often must written progress reports be submitted when plan development services are provided for state fund claims?

(1): Amended wording to clarify reports must be submitted every thirty days or upon request of the department.

WAC 296-19A-110 What are vocational rehabilitation plan implementation and monitoring services?

(1): Amended wording to clarify the vocational provider contacts the trainer or appropriate representative of the training program or school every 14 days if necessary.

WAC 296-19A-118 How often must written progress reports be submitted when plan implementation and monitoring services are provided for state fund claims?

(1) Amended wording to clarify reports must be submitted every thirty days or upon request of the department.

WAC 296-15-4312 What must the self-insurer do when the vocational rehabilitation plan is successfully completed?

- (1) (a): Amended language for clarity.
- (2) (b): Amended language for clarity.
- (2) (c): Added language to include total time-loss days paid.

WAC 296-15-4314 What must the self-insurer do if the vocational rehabilitation plan is not successfully completed?

- (1) (b) (i) :Amended language for clarity.
- (1) (b) (ii): Amended language for clarity.
- (1) (b) (iii): Added language to include total time-loss days paid.
- (2) (b) (i): Amended language for clarity.
- (2) (b) (ii): Amended language for clarity.
- (2) (b) (iii): Added language to include total time-loss days paid.
- (3) (c) (i): Amended language for clarity.
- (3) (c) (ii): Amended language for clarity.
- (3) (c) (iii): Added language to include total time-loss days paid.

WAC 296-15-4318 What must the self-insurer do when the worker elects option 2 benefits and the claim is closed?

Amended to clarify employer will report quarterly for all workers on one report.