

**VERMONT DEPARTMENT OF LABOR**  
**PROPOSED CHANGES TO RULES OF THE EMPLOYMENT SECURITY BOARD**  
**RESPONSE TO LCAR PRE-MEETING COMMENTS**

Legislative Counsel for the Legislative Committee on Administrative Rulemaking provided comments to the Department of Labor prior to the scheduled 7/10/2025 LCAR meeting on proposed rule #25-P15. This memorandum serves as the Department's response to LCAR's pre-meeting comments. Each comment from LCAR is copied below with the Department's corresponding response:

1. *The formatting of the proposed changes to Rule 2 and Rule 32 are not consistent with the formatting of the rest of the Rules of the Vermont Employment Security Board with respect to indentation and spacing between paragraphs.*

The formatting error was resolved and the indentation and spacing is now consistent across the rule text.

2. *Rule 2(H): delete extra word. "Contrary to equity and good conscience" means ~~in~~ one of the following circumstances exist:"*

The extra word was deleted.

3. *Rule 2(H)(1): amend to improve clarity. Suggested revision: "The individual recipient of overpaid benefits can demonstrate that receipt of notice that benefits would be paid, or actual receipt of the incorrect payment, caused the recipient to detrimentally rely upon the benefits by relinquishing a valuable right or changing a position for the worse. For example, refusing other state benefits, incurring more expensive obligations (such as a new apartment lease), or obtaining a new loan that the individual will default on if they are required to repay the overpaid unemployment insurance benefits."*

The relevant rule text was amended as follows in response to this suggestion:

"The individual recipient of overpaid benefits can demonstrate that receipt of notice that benefits would be paid, or actual receipt of the incorrect payment, caused them to detrimentally rely upon the benefits by relinquishing a valuable right or changing positions for the worse. For example, refusing other state benefits as a result of their unemployment benefits; incurring more expensive obligations (such as a new apartment lease) in reliance of the unemployment benefits; or obtaining a new loan that the individual will default on if they are required to repay the overpaid unemployment benefits."

4. *Rule 2(L): circular phrasing that explains how the Board will interpret the term rather than defining the word “fault,” which has a common meaning. Suggested revision: delete the first sentence and move the rest of this paragraph to a new subsection of Rule 32 explaining how the Board will determine if an individual is without fault for purposes of determining whether to waive repayment of overpaid benefits.*

The Department did not amend the rule defining fault at this stage. The word “fault” was defined in the definitions section because the term “fault” in this context is not used in its common meaning. The Department elected this definitional structure in conformity with other states that have overpayment waiver rules, including Massachusetts.

5. *Rule 4(A)(3)(b): correct the reference to the definition of “full time” work in Rule 2, given the proposed renumbering.*

The internal reference was corrected to reflect renumbering.

6. *Rule 13(C)(1): correct the reference to the definition of “registration for work” in Rule 2, given the proposed renumbering.*

The internal reference was corrected to reflect renumbering.

7. *Rule 32(A)(2): amend to improve clarity. Suggested revision: “The notice shall include clear instructions for submitting an application to waive repayment and the statutory circumstances under which a waiver may be granted.”*

The proposed rule text was amended as suggested above.

8. *Rule 32(B)(2): amend the first sentence to improve clarity and consistency with statute. Suggested revision: “Individuals whose application is denied and whose appeal rights are exhausted may submit . . . .”*

The proposed rule text was amended as suggested above.

9. *Rule 32(C)(2): grammatical correction. “Each determination entered . . . shall includes the findings listed . . . .”*

The grammatical error was corrected.