



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 15, 2019

TIME: 4:23 PM

WSR 19-21-095

Agency: Employment Security Department

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 19-17-093 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

192-500-080	Qualifying event. (Amendatory)
192-500-170	Self-employed. (Amendatory)
192-500-185	Waiting period. (New)
195-510-010	Election, withdrawal, and cancellation of coverage. (Amendatory)
192-510-020	Election of coverage for federally recognized tribes. (Amendatory)
192-510-025	What wages are reportable to the department for premium assessment purposes? (Amendatory)
192-510-040	How does an employer's size affect liability for premiums and eligibility for small business assistance grants? (Amendatory)
192-510-050	How will the department assess the size of new employer? (Amendatory)
192-510-060	When are employer premium payments due? (Amendatory)
192-510-065	When can an employer deduct premiums from employees? (Amendatory)
192-510-085	How will the department assess premiums when a conditional premium waiver expires? (Amendatory)
192-530-040	Voluntary plans-Notice requirements under RCW 50A.20.020(Amendatory)
192-550-010	What happens if an employer fails to submit required reports? (Amendatory)
192-550-020	What happens if an employer willfully fails to remit required payments? (Amendatory)
192-550-040	Can employer interest be waived? (Amendatory)
192-560-020	What is the application process for a small business assistance grant? (Amendatory)
192-570-020	Complaints regarding unlawful acts. (Amendatory)
192-630-010	What happens if an interested party does not respond to the department's request for information? (Amendatory)
192-640-005	Definitions. (Amendatory)
192-650-015	Are negotiated settlements of overpayments permitted? (Amendatory)
192-700-005	When is an employee entitled to employment restoration after leave ends? (Amendatory)
192-700-010	Can an employer deny employment restoration? (Amendatory)
192-700-020	When does an employer need to provide a continuation of benefits to an employee who is on paid family or medical leave?(New)
192-810-010	Definitions. (New)
192-810-020	Purpose. (New)

192-810-030	How do individuals and entities request records from the department? (New)		
192-810-040	Misuse or unauthorized disclosure. (New)		

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 26, 2019	9:00 a.m.	640 Woodland Square Loop SE, Lacey WA 98503	Meeting will be in Park Place conference room

Date of intended adoption: November 27, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:
 Name: Christina Streuli
 Address: Employment Security Department PO Box 9046 Olympia, WA 98507-9046
 Email: rules@esd.wa.gov
 Fax:
 Other: Online portal: https://www.opentownhall.com/portals/289/forum_home?phase=open
 By (date) November 26, 2019

Assistance for persons with disabilities:
 Contact Teresa Eckstein, State EO Officer
 Phone: 360-902-9345
 Fax:
 TTY: 711
 Email: TEckstein@esd.wa.gov
 Other:
 By (date) November 19, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: These rules will provide further definitions for waiting week, address continuation of benefits, and address the updated pointers that resulted from recodification.

Reasons supporting proposal:
 The rules will assist in meeting the requirements to implement payment of benefits to eligible employees by January 1, 2020 as mandated by Title 50A RCW. Additionally, the rules provide processes and definitions related to privacy as a result of the passage of SHB 1099.

Statutory authority for adoption:
 RCW 50A.04.215

Statute being implemented: RCW 50A.05.010, 50A.15.020, 50A.10.030, Chapter 50A.25 RCW.

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

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

Name of proponent: (person or organization) Employment Security Department, Paid Family and Medical Leave Division			☐ Private ☐ Public ☒ Governmental
Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Christina Streuli	Lacey, WA	360-791-6710
Implementation:	April Amundson	Lacey, WA	360-485-2816
Enforcement:	April Amundson	Lacey, WA	360-485-2816
Is a school district fiscal impact statement required under RCW 28A.305.135? If yes, insert statement here:			☐ Yes ☒ No
The public may obtain a copy of the school district fiscal impact statement by contacting: Name: Address: Phone: Fax: TTY: Email: Other:			
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: TTY: Email: Other: ☒ No: Please explain: All proposed rules are exempt under RCW 34.05.328(5). After review of the proposed rules, the agency determined the rules do not impose more-than-minor costs on businesses because the rules are not significant legislative rules. Rules proposed are either interpretive, or procedural. The proposed rules set forth the agency's interpretation of statutory provisions governing verbiage for processes, clarifying definitions, providing clarification and procedure for privacy provisions, and update certain statutory references to reflect recodification of statutes. Please see Significance Analysis for more information.			
Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement: This rule proposal, or portions of the proposal, may be exempt from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s): ☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted. Citation and description: ☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule. ☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.			

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☒ RCW 34.05.310 (4)(b)
(Internal government operations)

☒ RCW 34.05.310 (4)(c)
(Incorporation by reference)

☒ RCW 34.05.310 (4)(d)
(Correct or clarify language)

☐ RCW 34.05.310 (4)(e)
(Dictated by statute)

☐ RCW 34.05.310 (4)(f)
(Set or adjust fees)

☐ RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under RCW 34.05.328(5)(c)(i), 34.05.238 (5)(c)(ii), and RCW 19.85.025(5).

Explanation of exemptions, if necessary:

RCW 34.05.328(5)(c)(ii) creates an exemption for interpretive rules. This exemption applies to portions of the proposal. RCW 34.05.328(5)(c)(i) creates an exemption for procedural rules. This exemption applies to portions of the proposal.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: October 15, 2019

Name: April Amundson

Title: Policy and Rules Manager

Signature:

