



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: December 12, 2019

TIME: 11:09 AM

WSR 20-01-087

**Agency:** Employment Security Department

**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)

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

- Yes  No If Yes, explain:

**Purpose:** The Employment Security Department (ESD) is responsible for implementing the Paid Family and Medical Leave Program in accordance with Title 50A RCW. Rulemaking is being done on an ongoing basis. In this rulemaking, ESD includes rules regarding clarification of definitions, assessing and collecting premiums, voluntary plans, penalties and audits, small business assistance, dispute resolution, claim determinations, overpayment of benefits, collections and recovery of overpayments, employment restoration, and public disclosure and privacy for Paid Family and Medical Leave.

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

New: 192-500-185, 192-700-020, 192-810-010, 192-810-020, 192-810-030, 192-810-040

Repealed:

Amended: 192-500-080, 192-500-170, 192-510-010, 192-510-020, 192-510-025, 192-510-040, 192-510-050, 192-510-060, 192-510-065, 192-510-085, 192-530-040, 192-550-010, 192-550-020, 192-550-040, 192-560-020, 192-570-020, 192-630-010, 192-640-005, 192-650-015, 192-700-005, 192-700-010,

Suspended:

**Statutory authority for adoption:** RCWs 50A.05.60 and 50A.25.030

**Other authority:**

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

Adopted under notice filed as WSR 19-21-095 on October 15, 2019 (date).

Describe any changes other than editing from proposed to adopted version:

WAC 192-500-185 *Waiting period.*

The proposed rule and the final rule differ only in (6) of this rule. The final rule makes it clear that a waiting period does not apply for leave taken for bonding after a child's birth or placement. The proposed rule could have led to the conclusion that having a child would qualify as family leave instead of correctly being medical leave where a waiting week is required. This change provides that clarification that a waiting period is not required only for leave for bonding after the birth or placement of a child.

WAC 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?*

This proposed rule has been removed from this rulemaking based on stakeholder feedback. PFML will be giving this regulation further consideration before promulgating the concept.

WAC 192-810-030 *How do individuals and entities request records from the department*

The proposed rule and the final rule differ in two ways. First, the final rule requires public disclosure requests to be sent to the public records officer whereas the draft rule used permissive language indicating that public disclosure requests "may" be sent to the public records officer. Second, the final rule lists the contact information for the public records officer. This information was not present in the draft rule.

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

Name: Christina Streuli

Address: Employment Security Department PO Box 9046, Olympia, WA 98507-9046

Phone: 360-791-6710

Fax:

TTY: WA Relay: 711 (contact Teresa Eckstein at 360-507-9890 for accommodations)

Email: [cstreuli@esd.wa.gov](mailto:cstreuli@esd.wa.gov)

Web site: [https://www.peakdemocracy.com/portals/289/forum\\_home?phase=open](https://www.peakdemocracy.com/portals/289/forum_home?phase=open)

Other:

**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:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>5</u>	Amended	<u>21</u>	Repealed	___

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

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

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

New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

**Date Adopted:** 12-12-19

**Name:** April Amundson

**Title:** Policy and Rules Manager

**Signature:**

