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: February 12, 2020
TIME: 8:27 AM

WSR 20-05-037

Agency: Employment Security Department

☐ **Original Notice**

☒ **Supplemental Notice to WSR** 19-24-006

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR** 19-20-053 **; 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) WAC 192-04-180 and a new section – Decisions-Disposition other than by hearing on the merits-Petition for review; and Orders of default-Motion to vacate-Petition for review

Hearing location(s):

Date:	**Time:**	**Location:** (be specific)	**Comment:**
March 25, 2020	9:00 am	John L. O'Brien Building 504 15th Ave, Olympia, WA 98501	JLOB 102

Date of intended adoption: March 27, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Joshua Dye
Address: P.O. Box 9046, Olympia, WA 98507-9046
Email: rules@esd.wa.gov
Fax: 844-652-7096
Other:
By (date) March 24, 2020

Assistance for persons with disabilities:

Contact Teresa Eckstein
Phone: 360-507-9890
Fax: 360-586-4600
TTY: Relay 711
Email: teckstein@esd.wa.gov
Other:
By (date) March 17, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To permit appellants who have received an order of default to file a motion to vacate the order of default directly with the Office of Administrative Hearings.

Reasons supporting proposal: Giving appellants who received an order of default the option to file a motion to vacate the order of default directly with the Office of Administrative Hearings will allow for more timely review of orders of default, which, if the order of default is vacated, will also lead to more timely resolution of the merits of the underlying appeal.

Statutory authority for adoption: RCW 50.12.010 and RCW 50.12.040 provide general rulemaking authority to the Employment Security Department. RCW 50.32.060 provides authority for rulemaking for hearings and appeals. RCW 34.05.440 provides rulemaking authority for establishing time limits for filing motions to vacate default orders.

Statute being implemented: RCW 34.05.440; RCW 50.32.070; RCW 50.32.080

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: None.

Name of proponent: (person or organization) Employment Security Department; Office of Administrative Hearings

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Scott Michael	Olympia	360-890-3448
Implementation:	Brendon Tukey	Spokane Valley	509-742-5729
Enforcement:	Don Westfall	Lacey	360-507-9709

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No

If yes, insert statement here:

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: The proposed rules are “procedural rules” and not “significant legislative rules,” as those terms are defined in RCW 34.05.328(5).

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 _____.

Explanation of exemptions, if necessary:

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: February 12, 2020	**Signature:**
Name: Dan Zeitlin	
Title: Employment Security Policy Director