



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: March 24, 2020

TIME: 9:40 AM

WSR 20-08-035

Agency: Employment Security Department

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR 20-05-037

- 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. The public hearing is being rescheduled as a remote hearing due to COVID-19 concerns.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 7, 2020	10:00 am	Telephone conference, Call (360) 407-3790	When prompted for the Conference ID number, press 51750 and then the # key

Date of intended adoption: May 9, 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) May 6, 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) April 30, 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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> 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)(e)
(Dictated by statute)

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

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

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

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: March 24, 2020

Name: Dan Zeitlin

Title: Employment Security Policy Director

Signature: