



# 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: July 21, 2020

TIME: 12:49 PM

WSR 20-15-137

**Agency:** Employment Security Department

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 19-16-085 ; 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) Data Privacy

The rulemaking is adding WAC 192-15-500 Purpose; WAC 192-15-510 Access to records or information by government agencies; WAC 192-15-520 Response to subpoenas; WAC 192-15-530 Access to records—Operation and management; WAC 192-15-540 Consent to release of records or information; and WAC 192-15-550 Disclosure related to employment security programs.

The rulemaking is repealing WAC 192-15-010 Purpose; WAC 192-15-020 Definitions; WAC 192-15-030 Description of central and field organization of employment security department; WAC 192-15-040 Procedures for obtaining public records—Designation of departmental employees responsible for public records; WAC 192-15-050 Commissioner's review of denials of public records requests; WAC 192-15-060 Access to individual or employing unit records or information by government agencies—RCW 50.13.060; WAC 192-15-070 Response to subpoenas—RCW 50.13.070; WAC 192-15-080 Access to public records for operation and management purposes—RCW 50.13.080; WAC 192-15-090 Consent to release of records or information—RCW 50.13.100; WAC 192-15-100 Disclosure related to employment security programs; WAC 192-15-110 Public records available; WAC 192-15-120 Office hours; WAC 192-15-130 Copying; WAC 192-15-140 Protection of public records; WAC 192-15-150 Records index—Available material; WAC 192-15-160 Responsible addressee; WAC 192-15-170 Forms.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
August 27, 2020	10:00am	Telephone conference, Call (360) 407-3790 When prompted for the Conference ID number, press 51750 and then the # key	Hearing is being held remotely due to the COVID-19 pandemic

**Date of intended adoption:** August 28, 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](mailto:rules@esd.wa.gov)  
Fax: 844-652-7096  
Other:  
By (date) August 27, 2020

**Assistance for persons with disabilities:**

Contact Teresa Eckstein  
Phone: 360-507-9890  
Fax: 360-586-4600  
TTY: Relay 711  
Email: [teckstein@es.wa.gov](mailto:teckstein@es.wa.gov)

Other:

By (date) August 20, 2020

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Employment Security Department is seeking to implement public disclosure and privacy rules in accordance with requirements determined by Engrossed Senate Bill 5439 (Laws of 2019, c. 81). The rulemaking repeals WAC 192-15-101, -020, -030, -040, -050, -060, -070, -080, -090, -100, -110, -120, -130, -140, -150, -160, and -170 regarding public disclosure and privacy of information. Public record disclosure is the subject of a separate rulemaking, as filed in WSR 19-18-010.

**Reasons supporting proposal:** Engrossed Senate Bill 5439 (Laws of 2019, c. 81) directed the Department to update data privacy rules.

**Statutory authority for adoption:** RCW 50.12.010 and 50.12.040 provide general rulemaking authority to the Employment Security Department. RCW 50.13.030 provides the department with specific rulemaking authority regarding the privacy of the Department's records.

**Statute being implemented:** RCW 50.13.030, RCW 50.13.040, RCW 50.13.060, RCW 50.13.070, RCW 50.13.100, RCW 50.13.110, and RCW 50.13.120

**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  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Scott Michael	Olympia, WA	360-890-3448
Implementation:	Robert Page	Olympia, WA	360-890-3504
Enforcement:	Rebekah O'Hara	Olympia, WA	360-890-3755

**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: Joshua Dye  
Address: P.O. Box 9046, Olympia, WA 98507-9046

Phone: 360-890-3472

Fax:

TTY:

Email: Rules@esd.wa.gov

Other: <https://esd.wa.gov/newsroom/ui-rule-making/>

No: Please explain:

**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.

The rule imposes no costs on employers. Instead, the rules provide clarity surrounding data privacy standards as directed by the Legislature (Laws of 2019, c. 81).

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:

<b>Date:</b> July 21, 2020
<b>Name:</b> Dan Zeitlin
<b>Title:</b> Employment Security Policy Director

**Signature:**

