



# 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 16, 2022

TIME: 9:07 AM

WSR 22-05-094

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR 22-01-204

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

Preproposal Statement of Inquiry was filed as WSR 21-07-035 ; 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)

Petitions for judicial review—Service on agency (WAC 192-04-210);

How do I reopen my claim? (WAC 192-110-050);

Charging non-Washington combined-wage claims under RCW 50.29.021(2)(j) (WAC 192-320-072)-

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 24, 2022	9 am	Zoom Meeting ID: 871 6119 4144 Passcode: 299796 Call in: (253) 215-8782	Join Zoom Meeting: <a href="https://us02web.zoom.us/j/87161194144?pwd=bExzNkRndIRtWUJQZ1JiUWtFOU5wdz09">https://us02web.zoom.us/j/87161194144?pwd=bExzNkRndIRtWUJQZ1JiUWtFOU5wdz09</a>

Date of intended adoption: March 30, 2022 (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) March 24, 2022

### Assistance for persons with disabilities:

Contact Teresa Eckstein

Phone: 360-507-9890

Fax: 360-586-4600

TTY: Relay 711

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

Other:

By (date) March 17, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Employment Security Department is engaging in rulemaking regarding whether the emergency rules adopted during the COVID-19 response should be made permanent. The emergency rules cover judicial review petitions, reopening claims, and combined-wage claims.

**Reasons supporting proposal:** In February of 2020, Governor Inslee proclaimed a State of Emergency in Washington in response to COVID-19. The Department filed a series of emergency rules to support the state's emergency response. The Department is now seeking input from the public regarding which of those emergency rules should be made permanent to continue supporting Washington workers and businesses.

The supplemental filing provides a second public hearing to allow for additional comments from the public.

**Statutory authority for adoption:** RCW 50.12.010 and RCW 50.12.040 provide general rulemaking authority to the Employment Security Department. RCW 50.20.010, RCW 50.20.140, RCW 50.29.021(2)(j); RCW 34.05.220; RCW 34.05.542(4); RCW 50.32.090

**Statute being implemented:** RCW 50.20.010; RCW 50.20.140; RCW 50.29.021(2)(j); RCW 34.05.220; RCW 34.05.542; RCW 50.32.090

**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:	Julie Lord	Olympia, WA	360-902-9579
Enforcement:	Julie Lord	Olympia, WA	360-902-9579

**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: 844-652-7096  
TTY: Relay 711  
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)(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. The rules amended by the COVID 19 Emergency Rules – Phase 3 rulemaking do not create an additional tax burden on employers of any size. The rulemaking provides flexibility for both employers and employees.

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> February 16, 2022	<b>Signature:</b>  
<b>Name:</b> Dan Zeitlin	
<b>Title:</b> Employment System Policy Director	