



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 10, 2024

TIME: 7:31 AM

WSR 24-09-025

Agency: Employment Security Department

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 23-23-076** ; 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: Cross-program payment allocation.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 25, 2024	9:00 am	Zoom Meeting ID: 865 5872 6717 Passcode: 319431 Call in: One tap mobile +12532158782,,86558726717#,, ,*319431# US (Tacoma) +12532050468,,86558726717#,, ,*319431# US	Join Zoom meeting: https://esd-wa.gov.zoom.us/j/86558726717?pwd=VG9EODFpbGhPTIRyVkiYclgrVmNtdz09

Date of intended adoption: June 26, 2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Lawrence Larson
Address: P.O. Box 9046, Olympia, WA 98507-9046
Email: rules@esd.wa.gov
Fax: 844-652-7096
Other:
By: June 25, 2024

Assistance for persons with disabilities:

Contact Teresa Eckstein
Phone: 360-507-9890
Fax: 360-586-4600
TTY: Relay 711
Email: Teresa.eckstein@esd.wa.ov
Other:
By June 15, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The Employment Security Department currently runs three programs: State Unemployment Insurance, WA Cares, and Paid Family and Medical Leave. As part of its duties, the Department receives payments from employers for each program. Occasionally, an employer sends a payment to the Department without indicating which program(s) the payment was intended for, and the Department is unable to make contact with the employer. There are currently no rules addressing how employer payments are allocated across these programs in these situations. Therefore, the Department is engaging in rulemaking to add rules that will address how payments will be allocated across these programs.

Reasons supporting proposal: The proposal is needed to clarify how Employment Security Department will allocate payments between programs when the Department receives a payment from an employer and the Department is unable to determine which program(s) the employer intended the payment for.

Statutory authority for adoption: RCW 50.12.010; RCW 50.12.040; RCW 50A.05.060; RCW 50B.04.020

Statute being implemented: RCW 50.24.010; RCW 50A.10.030; RCW 50B.04.080

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.

Type of proponent: Private Public Governmental
Name of proponent: Employment Security Department.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Lawrence Larson	Olympia, WA	360-890-3460
Implementation:	J.R. Richards	Olympia, WA	360-463-1079
Enforcement:	J.R. Richards	Olympia, WA	360-463-1079

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 rule only relates to internal Department operations that are not subject to violation by a non-government party.

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

- | | |
|--|--|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No The proposed rulemaking will not impose costs on small businesses as the rule relates to internal Department operations.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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:

Signature:



Date: April 10, 2024

Name: Joy Adams

Title: Employment System Policy Director