



PROPOSED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: April 19, 2023

TIME: 11:27 AM

WSR 23-09-077

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 23-04-105; 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) Public Health Emergencies

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|--------------|-------------|--|---|
| May 24, 2023 | 9:00 am PST | Zoom Meeting ID: 868 1437 0696 Passcode: 956326 Call in: One tap mobile +12532050468,,86814370696# US +12532158782,,86814370696# US (Tacoma) Dial by your location +1 253 205 0468 US +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston) +1 305 224 1968 US | Join Zoom meeting: https://esd-wa-gov.zoom.us/j/86814370696?pwd=Y3RaNFhRL2ZYRjFQWGVFVkpqYW5Hdz09 |

Date of intended adoption: May 25, 2023 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Josh Dye
Address: P.O. Box 9046, Olympia, WA 98507-9046
Email: rules@esd.wa.gov
Fax: 844-652-7096
Other:
By (date) May 24, 2023

Assistance for persons with disabilities:

Contact: Teresa Eckstein
Phone: 360-507-9890
Fax: 360-507-9890
TTY: Relay 711
Email: Teresa.eckstein@esd.wa.gov
Other:
By (date) May 17, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposal clarifies whether a claim for unemployment benefits is covered by a public health emergency declaration when the public health emergency is enacted or lifted during a particular week.

Reasons supporting proposal: Currently, multiple factors for determining a claimant's eligibility for unemployment benefits are impacted by a declaration of a public health emergency. On February 10, 2023, President Biden announced that federal Proclamation 9994, which declared the COVID-19 national public health emergency, would expire on May 11, 2023. On March 29, 2023, the US Senate passed House Joint Resolution 7 to end the COVID-19 national public health emergency. The national public health emergency will end when President Biden signs the resolution. Benefit weeks run from Sunday to Saturday. The public health emergency may end in the middle of a benefit week, depending on with the resolution is signed.

This rulemaking will clarify how a declaration of a public health emergency that begins or ends during the middle of a benefit week impacts a claimant's eligibility for benefits and an employer's ability to get relief of benefit charges in certain situations.

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 defines benefit eligibility conditions for unemployment benefits.

Statute being implemented: RCW 50.20.010

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: N/A

Type of proponent: Private Public Governmental

Name of proponent: (person or organization)

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|-------------|-----------------|--------------|
| Drafting: | Josh Dye | Olympia, WA | 360-890-3472 |
| Implementation: | JR Richards | Olympia, WA | 360-463-1079 |
| Enforcement: | JR 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: Josh Dye

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

Phone: 360-890-3472

Fax: 844-652-7096

TTY: Relay 771

Email: rules@esd.wa.gov

Other: <https://esd.wa.gov/newsroom/rulemaking/leave-of-absence>

No: Please explain:

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:
 - [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 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 Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.
- 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:

Date: April 19, 2023

Name: Dan Zeitlin

Title: Employment System Policy Director

Signature:

