



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 21, 2024

TIME: 7:38 AM

WSR 24-14-005

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 24-08-006 ; 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: Amending WAC 192-140-035 ("What happens if I do not respond to a request for information?")

Hearing location(s): Zoom

Date:

Time:

Location:

Comment:

Date:	Time:	Location:	Comment:
August 15, 2024	10:00 AM	Zoom: https://esd-wa-gov.zoom.us/j/89485884233?pwd=VIQ9rBuDpkiOfVgolNv6LmaDdrCnri.1 Meeting ID: 894 8588 4233 Passcode: 689782 One tap mobile +12532158782,,89485884233#,,,,*689782# US (Tacoma) +12532050468,,89485884233#,,,,*689782# US	

Date of intended adoption: August 16, 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: esdgpuirules@esd.wa.gov

Fax: 844-652-7096

Other

By (date) August 15, 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.gov

Other

By (date) August 8, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Currently, WAC 192-140-035 is internally inconsistent because it sets forth a presumption of disqualification if a claimant fails to respond to a request for information. The rule then speaks of denial of benefits under RCW 50.20.010. RCW 50.20.010 is not a disqualification statute; it is a statute that sets out a claimant's eligibility requirements for unemployment benefits. Eligibility for benefits under RCW 50.20.010 is a determination related to filing a weekly claim, while disqualification from receiving benefits is for a specific period of time.

Reasons supporting proposal: Currently, WAC 192-140-035 is internally inconsistent because it sets forth a presumption of disqualification if a claimant fails to respond to a request for information. The rule then states that if a claimant fails to

respond to a request for specific information, the Department will deny unemployment benefits under RCW 50.20.010. RCW 50.20.010 is not a disqualification statute; it is a statute that sets out a claimant's eligibility requirements for unemployment benefits. Eligibility for benefits under RCW 50.20.010 is a determination related to filing a weekly claim, while disqualification from receiving benefits is for a specific period of time. Therefore, this rulemaking is needed to make WAC 192-140-035 consistent.

Statutory authority for adoption: RCW 50.12.010, RCW 50.12.040, RCW 50.12.042, RCW 50.20.010, RCW 50.20.050, RCW 50.20.060, RCW 50.20.066, RCW 50.20.070, RCW 50.20.080, RCW 50.20.090, RCW 50.20.095.

Statute being implemented: RCW 50.20.010.

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

Type of proponent: Private. Public. Governmental.

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: Lawrence Larson
Address: P.O. Box 9046, Olympia, WA 98507-9046
Phone: 360-890-3460
Fax: 844-652-7096
TTY: Relay 771
Email: esdgpurules@esd.wa.gov
Other:

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:

- | | |
|---|--|
| <input 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: The rule addresses how the Department interacts with a claimant under certain situations. This rulemaking and WAC 192-140-035 do not place an obligation on businesses.

(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: June 21, 2024

Name: Joy Adams

Title: Employment Security Policy Director

Signature:

