



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: August 19, 2022

TIME: 4:54 PM

WSR 22-17-110

Agency: Employment Security Department

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

- Preproposal Statement of Inquiry was filed as WSR 21-11-031 ; 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)
 WAC 192-310-030 What are the report and tax payment penalties and charges? (RCW 50.12.220.)
 WAC 192-310-010 What reports are required from an employer?
 WAC 192-310-050 What records must every employer keep? (RCW 50.12.070.)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 29, 2022	9:00 am	Zoom Meeting ID: 865 1049 4742 Passcode: 285303 Call in: (253) 215-8782	Join Zoom meeting: https://esd-wa.gov.zoom.us/j/86510494742?pwd=NUN0a0F2cWg5Q0U1cFlwTWRib1Vjdz09

Date of intended adoption: September 30, 2022 (Note: This is **NOT** the effective date)

<p>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) <u>September 29, 2022</u></p>	<p>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) <u>September 22, 2022</u></p>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules:
 In 2020, the Legislature enacted Substitute House Bill 2308, which requires employers to include the Standard Occupational Classification (SOC) code or job title of each worker in their quarterly tax reports to the Employment Security Department. The Employment Security Department is seeking to adopt rules that implement the requirement for employers to report SOC codes or job titles for workers when reporting.

Reasons supporting proposal: RCW 50.12.070(2)(a) requires employers to include the SOC code or job title of each worker in their quarterly tax reports to the Employment Security Department. RCW 50.12.220(2)(c) requires an employer to pay an incomplete report penalty if the employer knowingly fails to report the standard occupational classification or job title of each worker. This rulemaking provides clarity for employers on these new reporting requirements.

Statutory authority for adoption: RCW 50.12.010 and 50.12.040 provide general rulemaking authority to the Employment Security Department. RCW 50.12.070 requires employers to include the SOC code or job title of each worker in their quarterly tax reports to the Employment Security Department. RCW 50.12.220 requires an employer to pay an incomplete report penalty if the employer knowingly fails to report the standard occupational classification or job title of each worker.

Statute being implemented: RCW 50.12.070; and RCW 50.12.220.

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:

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	360-890-3472
Implementation:	JR Richards	Olympia	360-463-1079
Enforcement:	JR Richards	Olympia	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:

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:

(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.

The Department anticipate a minimal amount of money charged to employers from penalties related to employers submitting incomplete forms if they do not include job titles for their employees. The Department currently assesses approximately \$57,300.00 in incomplete report penalties annually. Not all the penalties are collected as almost 40% of penalized employers request waivers. The Department estimates approximately 50% of waiver requests are approved, which works out to approximately 20% of total cash receipts collected or \$11,460.

Additionally, no penalties will be charged for failing to provide SOC code or job titles while the Department does not offer employers the ability to provide job titles in their quarterly reports.

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: August 19, 2022

Name: Dan Zeitlin

Title: Employment Security Policy Director

Signature:

