



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: July 05, 2023

TIME: 9:52 AM

WSR 23-14-118

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 23-05-104; 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: WAC 192-140-035 What happens if I do not respond to a request for information?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 10, 2023	9:00 AM PST	Zoom Meeting ID: 846 6400 6931 Passcode: 372773 One tap mobile +12532158782,,84664006931# US (Tacoma) +12532050468,,84664006931# US	Join Zoom meeting: https://esd-wa.gov.zoom.us/j/84664006931?pwd=U3NZcDhGTms1QXNVQVFXYXl3dXNYUT09

Date of intended adoption: August 11, 2023 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Stephanie Frazee
Address: P.O. Box 9046, Olympia, WA 98507-9046
Email: rules@esd.wa.gov
Fax: 844-652-7096
Other:
By (date) August 10, 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.ov
Other:
By (date) August 3, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Currently, WAC 192-140-035 states that if an unemployment insurance claimant does not respond to a request for information, they are denied benefits "indefinitely" until they respond to the Department's request for information. The Department's proposed rule would clarify the circumstances under which a claimant may requalify for benefits after previously being denied due to failing to respond to a request for information from the Department by creating two exceptions to the "indefinite period of time" timeframe provided in the current rule.

Reasons supporting proposal: The proposal is needed to clarify the circumstances in which a claimant may requalify for benefits after being denied benefits for failing to respond to a Department request for information.

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? 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) Employment Security Department

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting: Stephanie Frazee	Olympia, WA	425-465-0313
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: Stephanie Frazee

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

Phone: 425-465-0313

Fax: 844-652-7096

TTY: Relay 771

Email: rules@esd.wa.gov

Other: <https://esd.wa.gov/newsroom/rulemaking/failure-to-response>

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)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[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: July 3, 2023

Name: Joy Adams

Title: Director
Employment System Policy & Integrity Division

Signature:

