



# 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: October 09, 2024

TIME: 1:54 PM

WSR 24-21-052

Agency: Employment Security Department

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 24-12-044; 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 192-04-100 Appeals-Petitions for hearing or petitions for review-Withdrawal and reinstatement of.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 3, 2024	9:00 AM	Zoom Meeting ID: 882 2057 4283 Passcode: 963967 Call in: +16469313860,,88220574283#,,, *963967# US	Join Zoom meeting: <a href="https://esd-wa.gov.zoom.us/j/88220574283?pwd=KvBrFunp2AatAk3FoPwUG9IPPFAbQ8.1">https://esd-wa.gov.zoom.us/j/88220574283?pwd=KvBrFunp2AatAk3FoPwUG9IPPFAbQ8.1</a>

Date of intended adoption: December 10, 2024 (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 December 3, 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 November 26, 2024

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Claimants and employers who have appealed a determination of the Department may request to withdraw their appeal before their hearing occurs. Sometimes a claimant or employer may change their mind for some reason, such as not understanding the impact of withdrawing their appeal, and they may request to rescind the withdrawal of their appeal so that they can have a hearing. Although parties are currently able to make these requests and the Office of Administrative Hearings adjudicates these requests, the Department's rules do not set out a process or a standard of review for evaluating these requests. The Department is updating WAC 192-04-100 to set out a process and a standard of review for parties wishing to request to reinstate their appeal or petition for hearing after withdrawing it.

**Reasons supporting proposal:** This rulemaking will clarify the process and standard of review for a claimant or employer who wishes to request to reinstate their appeal or petition for hearing after withdrawing it.

**Statutory authority for adoption:** RCW 50.12.010; RCW 50.12.040; RCW 50.12.042; RCW 50.32.060; RCW 34.05.220.

**Statute being implemented:** RCW 50.32.060

**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

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

**Name of agency personnel responsible for:**

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

No: Please explain: This rulemaking is clarifying an appeal procedure that is already in place and will not create any additional costs. This rulemaking concerns a procedure relating to agency hearings.

**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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>(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: This rulemaking clarifies an appeals process that already exists and does not impose any additional costs or requirements on small businesses or other parties.

**(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:** October 9, 2024

**Name:** Joy Adams

**Title:** Employment System Policy & Integrity Director

**Signature:**

