



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 31, 2020

TIME: 3:50 PM

WSR 20-08-120

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-03-069 ; 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)

Amending WAC 192-800-150 Can an employee designate a representative to act on their behalf?

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|-------------|-----------|--|---|
| May 6, 2020 | 9:00 a.m. | Conference call: (360) 407-3780 // PIN: 507997# | Hearing is being held remotely due to COVID-19. |

Date of intended adoption: On or after May 13, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: April Amundson

Address: Employment Security Department PO Box 9046 Olympia, WA 98507-9046

Email: rules@esd.wa.gov

Fax:

Other: Online portal: https://www.opentownhall.com/portals/289/forum_home?phase=open

By (date) May 6, 2020

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer

Phone: 360-480-5708

Fax:

TTY: 711

Email: TEckstein@esd.wa.gov

Other:

By (date) April 29, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The amended rule provides guidance regarding who may file an initial application and weekly claims on behalf of a deceased employee. The rule also clarifies that the application and/or claim filed by specified parties may be filed up to and including the week in which the employee died.

Reasons supporting proposal:
The amended rule will assist in clarifying the requirements to administer payment of benefits to eligible employees as mandated by Title 50A RCW.

Statutory authority for adoption:
RCW 50A.05.060

Statute being implemented: RCW 50A.05.010, 50A.15.020

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:

Name of proponent: (person or organization) Employment Security Department, Paid Family and Medical Leave Division

| |
|--|
| <input type="checkbox"/> Private |
| <input type="checkbox"/> Public |
| <input checked="" type="checkbox"/> Governmental |

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|----------------|-----------------|--------------|
| Drafting: | April Amundson | Lacey, WA | 360-485-2816 |
| Implementation: | April Amundson | Lacey, WA | 360-485-2816 |
| Enforcement: | April Amundson | Lacey, WA | 360-485-2816 |

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:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: While the Employment Security Department is required to follow rulemaking requirements outlined in RCW 34.05.328(5)(a)(i), this amended rule does not qualify as a significant legislative rule under RCW 34.05.328(5)(c)(iii). The rule is a procedural rule as defined in RCW 34.05.328(5)(c)(i) that adopts a policy pertaining to

the consistent internal operations of the agency. The rule is also an interpretive rule as defined in RCW 34.05.328(5)(c)(ii). The rule specifies how the agency will process claims for deceased applicants.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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 .

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated. The amended rule does not impose any additional requirements, reporting or otherwise, on businesses. The revisions are procedural and interpretive and allow specified parties to file applications and/or claims on behalf of a deceased employee.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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: March 31, 2020

Name: April Amundson

Title: Policy and Rules Manager

Signature:

