



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: May 21, 2019

TIME: 9:11 AM

WSR 19-11-106

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-03-007 ; 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 192-520 Collective Bargaining Agreements

- WAC 192-520-010 Parties to collective bargaining agreements.

WAC 192-540 Employer responsibilities.

- WAC 192-540-040 How should employers report hours (~~worked~~) for each calendar quarter?

WAC 192-610 Initial application for benefits.

- WAC 192-610-065 Will the department provide guidance to an employee filing a claim for paid family and medical leave benefits?
- WAC 192-610-066 How will the department make employees aware of their rights and responsibilities?

WAC 192-640 Overpayment of Benefits

- WAC 192-640-005 Definitions.
- WAC 192-640-010 How are overpayments assessed on employees?
- WAC 192-640-015 When can the department waive an overpayment?
- WAC 192-640-020 How will equity and good conscience be applied in overpayment waiver decisions?
- WAC 192-640-025 What does the department consider "at fault" for an overpayment?
- WAC 192-640-030 Will the employee be notified of the right to appeal the overpayment?

WAC 192-650 Collections and Recovery of Overpayments

- WAC 192-650-005 How will the department collect overpayments owed by an employee?
- WAC 192-650-010 Can overpayments be offset against future benefit payments?
- WAC 192-650-015 Are negotiated settlements of overpayments permitted?
- WAC 192-650-020 How does an employee make a negotiated settlement offer to repay overpayments?
- WAC 192-650-025 How are payments and offsets applied when an employee has more than one overpayment?

WAC 192-700 Employment Restoration

- WAC 192-700-005 When is an employee entitled to employment restoration after leave ends?]
- WAC 192-700-010 Can an employer deny employment restoration?
- WAC 192-700-015 How is employer size determined for employment protection?

WAC 192-800 Practice and Procedure

- WAC 192-800-020 How will the department differentiate between employers?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 24, 2019	1:00pm	640 Woodland Square Loop SE, Lacey WA 98503	Meeting will be in the Park Place conference room
July 26, 2019	9:00am	322 N Spokane Falls Court, Spokane WA 99201	Double Tree Hilton Spokane City Center, conference room will be listed in the lobby of the hotel.

Date of intended adoption: July 27, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Christina Streuli

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

Email: Rules@esd.wa.gov

Fax:

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

By (date) July 26, 2019

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer

Phone: (360) 902-9354

Fax:

TTY: 711

Email: TEckstein@esd.wa.gov

Other:

By (date) July 19, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rules will further define Paid Family and Medical Leave requirements for collective bargaining agreements, benefit applications, overpayments, employment restoration, reporting requirements, and employer identification.

Reasons supporting proposal: The rules will assist in meeting the requirements to implement payment of benefits to eligible employees by January 1, 2020 as mandated by Title 50A RCW.

Statutory authority for adoption: RCW 50A.04.215

Statute being implemented: 50A.04.025, 50A.04.065, 50A.04.080, 50A.04.235.

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:

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

Private

Public

Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Christina Streuli	Lacey, WA	360-791-6710
Implementation:	Matt Buelow	Lacey, WA	360-742-7311
Enforcement:	Matt Buelow	Lacey, WA	360-742-7311

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: All proposed rules are exempt under RCW 34.05.328(5). After review of the proposed rules, the agency determined the rules do not impose more-than-minor costs on businesses. Rules proposed are either interpretive or procedural. Definitions provided in these proposed rules clarify verbiage for processes in overpayment assessment and collection. The definitions do not impact procedures. Additional rules related to overpayment assessment and collection, employment restoration, collective bargaining agreements, employer reporting, and employer identification detail processes and procedures and add clarity to previous rules. Because of the connection to previous rules, there are no additional costs to businesses. Additional proposed rules address processes and procedures and would not produce significant costs.

Please see Significance Analysis for more information.

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 checked="" 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 RCW 34.05.328(5)(c)(i) and 34.05.328(5)(c)(ii), and RCW 19.85.025(5).

Explanation of exemptions, if necessary: RCW 34.05.328(5)(c)(ii) creates an exemption for interpretive rules. This exemption applies to portions of the proposal. RCW 34.05.328(5)(c)(i) creates an exemption for procedural rules. This exemption applies to portions of the proposal.

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. _____

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: May 21, 2019

Name: April Amundson

Title: Policy and Rules Manager for Paid Family and Medical Leave

Signature:

