



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: September 11, 2019

TIME: 7:45 AM

WSR 19-19-031

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-06-088 ; 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 192-110-015, which addresses applications by standby workers, to permit claimants to backdate applications for standby.

Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

October 24, 2019

8am –
9am:

Employment Security
Department, 212 Maple Park
Ave, Olympia, WA 98501

Commissioner's Conference Room

Date of intended adoption: January 10, 2020 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Joshua Dye

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

Email: rules@esd.wa.gov

Fax: 844-652-7096

Other:

By (date) September 23, 2019

Assistance for persons with disabilities:

Contact Teresa Eckstein

Phone: 360-507-9890

Fax: 360-586-4600

TTY: Relay 711

Email: teckstein@esd.wa.gov

Other:

By (date) September 16, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Standby, as defined in WAC 192-110-115, means a claimant is temporarily unemployed because of a lack of work but expects to return to work with their regular employer within four weeks; expects to begin full-time work with a new employer within two weeks; or is temporarily unemployed due to natural disaster.

The amendments to the standby rule are being adopted to address circumstances when claimants should be allowed to backdate applications for standby after employers confirm an expected return-to-work date. As currently written, the rule does not allow for standby claims to be backdated.

Reasons supporting proposal: Standby status allows both employers and employees to manage temporary layoffs with an expected return-to-work date. Under the proposed rules, claimants are eligible for unemployment benefits without the need to search for other employment. Employers are relieved of the need to recruit and train new employees because claimants are available to return to work. This allows both the claimant and the employer to avoid negative long-term effects from a short-term layoff. Allowing claimants to backdate standby also alleviates burdens on the claimant that may arise from a number of reasons, including misunderstanding the terms of the temporary layoff or receiving incorrect information regarding the filings required to receive unemployment benefits.

The ability to backdate for the convenience of the Department ensures that claimants are not held liable due to circumstances within the Department that are beyond the control of the claimant.

Statutory authority for adoption: RCW 50.12.010 and RCW 50.12.040 provide general rulemaking authority to the Employment Security Department. RCW 50.12.042 provides specific rulemaking authority regarding the requirement that unemployment claimants be able to work, available for work, and actively seek work. RCW 50.20.010 provides rulemaking authority regarding benefit eligibility conditions.

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: None

Name of proponent: (person or organization) Employment Security Department Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Scott Michael	Olympia, WA	360-890-3448
Implementation:	Julie Lord	Olympia, WA	360-902-9579
Enforcement:	Julie Lord	Olympia, WA	360-902-9579

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: Joshua Dye

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

Phone: 360-890-3472

Fax: 844-652-7096

TTY: Relay 711

Email: rules@esd.wa.gov

Other: <https://esd.wa.gov/newsroom/ui-rule-making/>

No: Please explain:

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:

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 _____.

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.

Allowing employees to backdate standby does not expand benefits for claimants. There is no projected increase in costs to employers or claimants.

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:

Signature:

Date: September 11, 2019

Name: Dan Zeitlin

Title: Employment System Policy Director

