



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: June 02, 2021

TIME: 9:47 AM

WSR 21-12-104

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-21-072 ; 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)

Long-Term Services and Supports

Adding Chapter 192-900 WAC Definitions.

Adding sections:

WAC 192-900-005 Aggrieved party.

WAC 192-900-010 Calendar quarter.

WAC 192-900-015 Employer.

WAC 192-900-020 Employer agent.

WAC 192-900-025 Interested parties.

WAC 192-900-030 Self-employed.

WAC 192-900-035 Terms meaning deliver.

Adding Chapter 192-910 WAC Assessing and Collecting Premiums.

Adding sections:

WAC 192-910-005 Employer reporting requirements.

WAC 192-910-010 When are employer premium payments due?

WAC 192-910-015 What are the employer's responsibilities for premium deductions?

WAC 192-910-020 How are payments applied to long-term services and supports premiums?

Adding Chapter 192-915 WAC Self-Employed Persons.

Adding sections:

WAC 192-915-005 Election of coverage for self-employed persons.

WAC 192-915-010 What are reportable wages for self-employed persons electing coverage?

WAC 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?

Adding Chapter 192-920 WAC Collective Bargaining Agreements.

Adding sections:

WAC 192-920-005 Parties to collective bargaining agreements.

Adding Chapter 192-925 WAC Appeals and Procedure

Adding sections:

WAC 192-925-005 Adoption of model rules.

WAC 192-925-010 Who can appeal or submit a petition for review?

WAC 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 8, 2021	9:00 AM	Call-in number: (360) 407-3780 Pin: 930377#	Hearing will be held by conference call due to COVID-19

Date of intended adoption: On or after July 15, 2021 (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:

By (date) July 8, 2021

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) July 1, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules are the second of three phases of rules to implement portions of the Long-Term Services and Supports Trust Program (Title 50B RCW) under the Employment Security Department's authority. The proposed rules address definitions, assessing and collecting premiums, self-employed elective coverage, collective bargaining agreements, and appeals.

Reasons supporting proposal: The proposed rules are necessary to implement portions of the Long-Term Services and Supports Trust Program and provide guidance to employees, employers, and self-employed individuals regarding program operations.

Statutory authority for adoption: RCW 50B.04.020, RCW 50B.04.080, RCW 50B.04.090, RCW 50B.04.120

Statute being implemented: RCW 50B.04.080, RCW 50B.04.090, RCW 50B.04.120

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, Leave and Care Division

Private

Public

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: rules@esd.wa.gov

Other:

No: Please explain:

The following rules are exempt under RCW 34.05.328 (5)(b)(v), (5)(c)(i)(A), and (5)(c)(i)(C) because the rules are dictated by statute (RCW 50B.04.120) and are procedural rules related to internal operations of the department and agency hearings:

WAC 192-900-005 Aggrieved party.

WAC 192-900-025 Interested parties.

WAC 192-925-005 Adoption of model rules

WAC 192-925-010 Who can appeal or submit a petition for review?

WAC 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply.

RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for Paid Family and Medical Leave (PFML) under Title 50A RCW. These rules ensure standards and procedures for the Long-Term Services and Supports Trust Program (LTSS) are consistent with rules adopted for PFML under Title 50A RCW. The rules are also procedural rules that adopt policies related to internal operations of the department and define requirements related to agency hearings. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

The following rules are exempt under RCW 34.05.328 (5)(b)(v) and (5)(c)(i)(C) because the rules are dictated by statute (RCW 50B.04.080) and are procedural rules related to internal operations of the department:

WAC 192-900-010 Calendar quarter.

WAC 192-900-015 Employer.

WAC 192-900-020 Employer agent.

WAC 192-900-035 Terms meaning deliver.

WAC 192-910-005 Employer reporting requirements.

WAC 192-910-010 When are employer premium payments due?

WAC 192-910-015 What are the employer's responsibilities for premium deductions?

WAC 192-910-020 How are payments applied to long-term services and supports premiums?

WAC 192-920-005 Parties to collective bargaining agreements.

RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment, collection, and reporting procedures required for PFML under Title 50A RCW. These rules ensure standards and procedures for assessing and collecting premiums for LTSS are consistent with rules adopted for PFML under Title 50A RCW. The rules are also procedural rules that adopt policies related to internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

The following rules are exempt under RCW 34.05.328 (5)(b)(v) and (5)(c)(i)(C) because the rules are dictated by statute (RCW 50B.04.090) and are procedural rules related to internal operations of the department:

WAC 192-900-030 Self-employed.

WAC 192-915-005 Election of coverage for self-employed persons.

WAC 192-915-010 What are reportable wages for self-employed persons electing coverage?

WAC 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?

RCW 50B.04.090 outlines requirements for self-employed individuals electing coverage under Title 50B.04 RCW and requires the department to adopt rules for determining the hours worked and the wages of individuals electing coverage.

The rules are also procedural rules that adopt policies related to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

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 checked="" 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 checked="" 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:

The following rules are exempt under RCW 34.05.310 (4)(b), (4)(e), and (4)(g) because the rules are dictated by statute (RCW 50B.04.120), relate to internal operations of the department, and relate to agency hearings:

WAC 192-900-005 Aggrieved party.

WAC 192-900-025 Interested parties.

WAC 192-925-005 Adoption of model rules

WAC 192-925-010 Who can appeal or submit a petition for review?

WAC 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply.

RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for Paid Family and Medical Leave (PFML) under Title 50A RCW.

The following rules are exempt under RCW 34.05.310 (4)(e) because the rules are dictated by statute (RCW 50B.04.080):

WAC 192-900-010 Calendar quarter.

WAC 192-900-015 Employer.

WAC 192-900-020 Employer agent.

WAC 192-900-035 Terms meaning deliver.

WAC 192-910-005 Employer reporting requirements.

WAC 192-910-010 When are employer premium payments due?

WAC 192-910-015 What are the employer's responsibilities for premium deductions?

WAC 192-910-020 How are payments applied to long-term services and supports premiums?

WAC 192-920-005 Parties to collective bargaining agreements.

RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

The following rules are exempt under RCW 34.05.310 (4)(e) because the rules are dictated by statute (RCW 50B.04.090):

WAC 192-900-030 Self-employed.

WAC 192-915-005 Election of coverage for self-employed persons.

WAC 192-915-010 What are reportable wages for self-employed persons electing coverage?

WAC 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?

RCW 50B.04.090 outlines requirements for self-employed individuals electing coverage under Title 50B.04 RCW and requires the department to adopt rules for determining the hours worked and the wages of individuals electing coverage.

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: June 2, 2021	Signature: 
Name: April Amundson	
Title: Policy and Rules Manager, Leave and Care Division	