



# PROPOSED RULE MAKING

**CR-102 (June 2024)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: June 21, 2024**

**TIME: 7:38 AM**

**WSR 24-14-005**

**Agency:** Employment Security Department

☒ **Original Notice**

☐ **Supplemental Notice to WSR**

☐ **Continuance of WSR**

☒ **Preproposal Statement of Inquiry was filed as WSR 24-08-006 ; 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:** Amending WAC 192-140-035 ("What happens if I do not respond to a request for information?")

**Hearing location(s):** Zoom

| Date:           | Time:    | Location:  | Comment: |
|-----------------|----------|--|----------|
| August 15, 2024 | 10:00 AM | Zoom:<br><a href="https://esd-wa.gov.zoom.us/j/89485884233?pwd=VIQ9rBuDpkiOfVgolNv6LmaDdrCnri.1">https://esd-wa.gov.zoom.us/j/89485884233?pwd=VIQ9rBuDpkiOfVgolNv6LmaDdrCnri.1</a><br><br>Meeting ID: 894 8588 4233<br>Passcode: 689782<br><br>One tap mobile<br>+12532158782,,89485884233#,,, *689782# US (Tacoma)<br>+12532050468,,89485884233#,,, *689782# US |          |

**Date of intended adoption:** August 16, 2024 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Lawrence Larson

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

Email: esdgpuirules@esd.wa.gov

Fax: 844-652-7096

Other

By (date) August 15, 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.gov

Other

By (date) August 8, 2024

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Currently, WAC 192-140-035 is internally inconsistent because it sets forth a presumption of disqualification if a claimant fails to respond to a request for information. The rule then speaks of denial of benefits under RCW 50.20.010. RCW 50.20.010 is not a disqualification statute; it is a statute that sets out a claimant's eligibility requirements for unemployment benefits. Eligibility for benefits under RCW 50.20.010 is a determination related to filing a weekly claim, while disqualification from receiving benefits is for a specific period of time.

**Reasons supporting proposal:** Currently, WAC 192-140-035 is internally inconsistent because it sets forth a presumption of disqualification if a claimant fails to respond to a request for information. The rule then states that if a claimant fails to

respond to a request for specific information, the Department will deny unemployment benefits under RCW 50.20.010. RCW 50.20.010 is not a disqualification statute; it is a statute that sets out a claimant's eligibility requirements for unemployment benefits. Eligibility for benefits under RCW 50.20.010 is a determination related to filing a weekly claim, while disqualification from receiving benefits is for a specific period of time. Therefore, this rulemaking is needed to make WAC 192-140-035 consistent.

**Statutory authority for adoption:** RCW 50.12.010, RCW 50.12.040, RCW 50.12.042, RCW 50.20.010, RCW 50.20.050, RCW 50.20.060, RCW 50.20.066, RCW 50.20.070, RCW 50.20.080, RCW 50.20.090, RCW 50.20.095.

**Statute being implemented:** RCW 50.20.010.

**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:** None.

**Name of proponent:** (person or organization) Employment Security Department

**Type of proponent:** ☐ Private. ☐ Public. ☒ Governmental.

**Name of agency personnel responsible for:**

|                | Name            | Office Location | Phone        |
|----------------|-----------------|-----------------|--------------|
| Drafting       | Lawrence Larson | Olympia, WA     | 360-890-3460 |
| 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: Lawrence Larson  
Address: P.O. Box 9046, Olympia, WA 98507-9046  
Phone: 360-890-3460  
Fax: 844-652-7096  
TTY: Relay 771  
Email: esdgpurules@esd.wa.gov  
Other:

☐ No: Please explain:

**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:

☐ [RCW 34.05.310](#) (4)(b)  
(Internal government operations)

☐ [RCW 34.05.310](#) (4)(c)  
(Incorporation by reference)

☐ [RCW 34.05.310](#) (4)(d)  
(Correct or clarify language)

☐ [RCW 34.05.310](#) (4)(e)  
(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(f)  
(Set or adjust fees)

☐ [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 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: The rule addresses how the Department interacts with a claimant under certain situations. This rulemaking and WAC 192-140-035 do not place an obligation on businesses.

**(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:** June 21, 2024

**Name:** Joy Adams

**Title:** Employment Security Policy Director

**Signature:**

