



## Employment Security Department Semi-Annual Rulemaking Agenda (July 2019 - January 2020)

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WSR 19-16-072

The Employment Security Department (ESD) prepares a semi-annual rulemaking agenda in January and July each year to inform the public of expected upcoming rule changes. Pursuant to RCW 34.05.314, the agenda is published in the Washington State Register.

ESD encourages the public to be involved in the rulemaking processes by attending public hearings and submitting comments on rules. To stay informed of our progress and be notified of any changes, please sign up for email notifications: <https://public.govdelivery.com/accounts/WAESD/subscriber/new>. Additional rulemaking information is available on the agency website at <https://esd.wa.gov/newsroom/rulemaking>.

Subject Matter or Division	WAC Chapter or Sections	Purpose and scope of rulemaking	Pre-Proposal Notice Filings (CR101)	Proposed Rule and Public Hearing Filings (CR102 or CR105 expedited)	Permanent Rule Filing (CR103)
Unemployment Insurance Benefits	WAC 192-140-090	Modifying requirements for claimant directives to participate in reemployment services	Filed November 13, 2018, in WSR 18-23-028	January 23, 2019	Went into effect July 22, 2019
Unemployment Insurance Benefits	WAC Chapter 192-170	Establishing limited circumstances for when individuals can claim unemployment benefits while in another country	Filed March 14, 2019, in 19-07-041	Expected September 2019	Expected December 2019 – January 2020
Unemployment Insurance Benefits	WAC 192-110-015	Permitting individuals to backdate requests for standby	Filed March 6, 2019, in WSR 19-06-088	Expected September 2019	Expected December 2019
Unemployment Insurance Benefits	To be determined	Modifying unemployment eligibility requirements for individuals caring for children and vulnerable adults	Filed May 20, 2019, in WSR 19-11-095	Expected December 2019	Expected March 2020
Unemployment Insurance Benefits	WAC 192-170-010, 192-180-005, 192-180-010	Modifying unemployment insurance benefit eligibility requirements for electrical apprentices	Filed June 21, 2019, in WSR 19-14-016	Expected December 2019	Expected July 2020

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Unemployment Insurance Benefits	WAC 192-190-020, 192-190-025	Clarifying that any pension payments that an unemployment claimant receives should be deducted from the claimant's weekly benefit amount and not deducted from the claimant's maximum benefits payable.	Filed July 24, 2019	Expected August 2019	Expected October 2019
Unemployment Insurance Benefits	To be determined	Modifying Employment Security Department public disclosure and privacy rules	Expected July 2019	Expected December 2019	Expected February 2020
Unemployment Insurance Benefits	WAC 192-310-040	Clarifying the exempt status of paid time off for reasons related to domestic violence, sexual assault or stalking, and when faced with the closure of a workplace, school, or place of care by a public official for health reasons.	To be determined	To be determined	To be determined
Unemployment Insurance Benefits	WAC 192-200-005	Updating the definition of benefit week for students to match references to benefit week in other WACs.	To be determined	To be determined	To be determined
Unemployment Insurance Benefits	WAC 192-170-080	Updating the status of "leave of absence" in relation to unemployment insurance benefit qualifications.	To be determined	To be determined	To be determined
Paid Family and Medical Leave	WAC 192-500-110, 192-500-120, 192-500-130, 192-500-140, 192-500-150, 192-500-160, 192-500-170	Adding definitions to terminology regularly found in rules to clarify aspects of PFML benefits.	Filed October, 2018	Filed March, 2019	Filed June, 2019

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Paid Family and Medical Leave	WAC 192-510-025	Adding rules to clarify what wages are reportable to the department for premium assessment	Filed October, 2018	Filed March, 2019	Filed June, 2019
Paid Family and Medical Leave	WAC 192-610-070, 192-610-075, 192-610-080, 192-610-085	Adding rules to clarify what can occur with a PFML claim such as canceling a claim and reopening a claim.	Filed October, 2018	Filed March, 2019	Filed June, 2019
Paid Family and Medical Leave	WAC 192-620-005, 192-620-010, 192-620-020, 192-620-025	Adding rules to clarify the required elements of a weekly claim for benefits and conditional payment of benefits.	Filed October, 2018	Filed March, 2019	Filed June, 2019
Paid Family and Medical Leave	WAC 192-800-005, 192-800-010, 192-800-015	Adding rules to clarify how the department will determine fraud for the PFML program, how fraud will impact claims, and updating occurrences of fraud if a fraud decision is appealed and overturned	Filed October, 2018	Filed March, 2019	Filed June, 2019
Paid Family and Medical Leave	WAC 192-630-005, 192-630-010, 192-630-015	Adding rules for determinations on claims to clarify if the department questions an employee's qualifications for a claim, when interested parties do not respond to a request for information, and how the department will issue determinations.	Filed October, 2018	Filed March, 2019	Filed June, 2019

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Paid Family and Medical Leave	WAC 192-520-010	Amended rule about collective bargaining agreements to clarify when CBA parties are subject to the laws and rules of PFML and may elect to participate even though the CBA has not yet expired.	Filed January 2019	Filed May, 2019	Expected to file July 31, 2019
Paid Family and Medical Leave	WAC 192-540-040	Amended rule to clarify how and what type of hours employers should report for employees each calendar quarter.	Filed January, 2019	Filed May, 2019	Expected to file July 31, 2019
Paid Family and Medical Leave	WAC 192-640-005, 192-640-010, 192-640-015, 192-640-020, 192-640-025, 192-640-030	Adding rules to clarify aspects of PFML benefit overpayments and how they will be assessed, waivers of overpayment, when an employee is at fault, and that the overpayment can be appealed.	Filed January, 2019	Filed May, 2019	Expected to file July 31, 2019
Paid Family and Medical Leave	WAC 192-650-005, 192-650-010, 192-650-015, 192-650-020, 192-650-025	Adding rules to clarify how the department will collect and recover PFML benefit overpayments.	Filed January, 2019	Filed May, 2019	Expected to file July 31, 2019
Paid Family and Medical Leave	WAC 192-700-005, 192-700-010, 192-700-015	Adding rules to clarify when an employee is entitled to job restoration after PFML leave ends, when an employer can deny restoration, and how employer size is determined for employment protection.	Filed January, 2019	Filed May, 2019	Expected to file July 31, 2019

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Paid Family and Medical Leave	WAC 192-800-020	Adding a rule about how the department will differentiate between employers by unified business identifier and what will happen if an employer acted in a way to avoid paying PFML premiums.	Filed January, 2019	Filed May, 2019	Expected to file July 31, 2019
Paid Family and Medical Leave	WAC 192-610-065, 192-610-066	Adding rules to clarify that the department will provide guidance to employees interested in applying for PFML benefits and how.	Filed January, 2019	Filed May, 2019	Expected to file July 31, 2019
Paid Family and Medical Leave	WAC 192-500-035, 192-500-040	Amending definitions to terminology regularly found in rules to clarify aspects of PFML benefits.	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-500-180, 192-500-190	Adding definitions to terminology regularly found in rules to clarify aspects of PFML benefits.	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-510-030, 192-510-080	Amending aspects of premium collection and reporting including how self-employed persons electing coverage should report wages for PFML, and eligibility for conditional waivers	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-510-031	Adding a rule to clarify what are the reportable wages for self-employed persons electing coverage	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019

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Paid Family and Medical Leave	WAC 192-530-030, 192-530-050, 192-530-060	Amending rules about voluntary plans to clarify that employers with approved voluntary plans can waive eligibility requirements to make an employee eligible for the voluntary plan, how to avoid duplication of benefits for an individual that may be covered by multiple plans and when an approved voluntary plan can end.	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-530-090	Adding a new rule to clarify when an employer with an approved voluntary plan can deduct from benefits received by that plan	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-560-010	Amending a rule to clarify that an employer is not eligible for small business assistance grants if the employer has delinquent reports or premium payments	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-570-010	Amending a rule to clarify when employers are eligible for conference and conciliation	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-600-030	Adding a rule to clarify that an employer can waive the employee's notice requirements to the employer when applying for PFML benefits	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019

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Paid Family and Medical Leave	WAC 192-610-050	Amending a rule to clarify how typical work week hours are determined and how the department will determine typical work week hours for an individual who claims, and the qualifying period includes quarter four of 2018, which is not reportable for PFML	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-610-051, 192-610-052	Adding rules to clarify how the department will calculate the weekly benefit and how the department will obtain wages and hours that have not yet been reported by an employer	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-620-026, 192-620-030, 192-620-035, 192-620-040, 192-620-045, 192-620-046,	Adding rules to clarify how the department will pay weekly benefits, what will be deducted from weekly benefits and how, and that decisions that deduct from weekly benefits is appealable	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave	WAC 192-800-025, 192-800-030, 192-800-035, 192-800-040, 192-800-045, 192-800-050, 192-800-055, 192-800-060, 192-800-065, 192-800-070, 192-800-075, 192-800-080, 192-800-085, 192-800-090, 192-800-095, WAC, 192-800-100, 192-800-105	Adding many rules for to clarify in how appeals and petition for reviews processes will work for PFML	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019

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Paid Family and Medical Leave	WAC 192-800-110, 192-800-115, 192-800-120, 192-800-125	Adding many rules for to clarify in how appeals and petition for reviews processes will work for PFML	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paid Family and Medical Leave and Unemployment Insurance	WAC 192-02-010, 192-02-020, 192-02-030, 192-02-040, 192-02-050, 192-02-060, 192-02-070, 192-02-080, 192-02-090, 192-02-100, 192-02-110, 192-02-120, 192-02-130, 192-02-140, 192-810-010, 192-810-020, 192-810-030, 192-810-040, 192-15-010, 192-15-020, 192-15-030, 192-15-050, 192-15-070, 192-15-110, 192-15-120, 192-15-130, 192-15-140, 192-15-150, 192-15-160, 192-15-170	Modifying Employment Security Department public disclosure and privacy rules specifically about the process of a public records request and how it applies to both UI and PFML, PFML specific privacy rules and repealing other rules.	Filed June, 2019	Expected to file August, 2019	Expected to file November, 2019
Paif Family and Medical Leave	To be determined	Rules will need to be written or amended due to 2019 legislative changes dependent upon the timing of the recodification of Title 50A RCW as well as to include topics such as damages (RCW 50A.04.100)	To be determined	To be determined	To be determined

ESD is responsible for initiating rulemaking to implement new state laws, meet federal requirements, and to meet unforeseen circumstances. Because of this variability, this agenda is prepared for information purposes only and any dates noted herein are planning estimates that are subject to change. Additional rulemaking can occur in addition to what is listed on the agenda.



This agenda does not constitute a rule or rulemaking action. Any errors or omissions in this agenda do not affect the actual rules or rulemaking notices filed with the Office of the Code Reviser and published in the Washington State Register.

The rulemaking process can appear complex. ESD has outlined the process on its website to help constituents understand and become involved: <https://www.esd.wa.gov/newsroom/rulemaking-process>. If you have additional questions, please contact the Agency Rules Coordinator, Christina Streuli, at 360-791-6710, or email at [rules@esd.wa.gov](mailto:rules@esd.wa.gov).