



# PROPOSED RULE MAKING

## CR-102 (July 2022) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: October 18, 2022

TIME: 9:52 AM

WSR 22-21-119

Agency: Department of Labor & Industries

Original Notice

Supplemental Notice to WSR \_\_\_\_\_

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 22-13-149 ; 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) Verification for Presumptive Coverage of Frontline Workers and Health Care Workers. Chapter 296-14 WAC, Industrial Insurance.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 28, 2022	9:00am	<b>Joining electronically:</b> Join Zoom Meeting at <a href="https://lni-wa.gov.zoom.us/j/9361655337">https://lni-wa.gov.zoom.us/j/9361655337</a>  Meeting ID: 936 165 5337  <b>Join by phone:</b> +1 253-215-8782 US (Tacoma) Find your local number: <a href="https://lni-wa.gov.zoom.us/u/kdFrdfe0fg">https://lni-wa.gov.zoom.us/u/kdFrdfe0fg</a>	The virtual meeting starts at 9:00am and will continue until all oral comments are received.

Date of intended adoption: January 31, 2023 (Note: This is NOT the effective date)

Submit written comments to:

Name: Jordan Ely

Address: Department of Labor & Industries  
Insurance Services/Legal Services  
PO Box 44270  
Olympia WA 98504-4270

Email: Jordan.Ely@Lni.wa.gov

Fax: 360-902-5029

Other:

By (date) November 28, 2022 at 5:00pm

Assistance for persons with disabilities:

Contact Nathalie Penberthy

Phone: 360-902-4252

Fax: 360-902-6509

TTY: 360-902-4252

Email: Nathalie.Penberthy@Lni.wa.gov

Other:

By (date) November 21, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Based on the legislation passed in 2021 which included language that the department must create rules to explain the verification required by frontline and health care workers documenting the contraction of the infectious or contagious disease and quarantine criteria for health care workers, this rulemaking proposes to create these new sections of WAC:

WAC 296-14-340 **Frontline workers – Verification for contraction of an infectious or contagious disease that is the subject of a public health emergency -- RCW 51.32.181.**

This rule defines what is required to verify an infectious or contagious disease that is the subject of a public health emergency has been contracted.

**WAC 296-14-341 Health care workers – Verification for contraction or quarantine due to an infectious or contagious disease that is the subject of a public health emergency -- RCW 51.32.090.**

This rule defines what is required to verify contraction or quarantine due to an infectious or contagious disease that is the subject of a public health emergency.

**Reasons supporting proposal:** Legislation passed during the 2021 sessions (Chapter 251, Laws of 2021 Engrossed Substitute Senate Bill 5190 (ESSB 5190) and Chapter 252, Laws of 2021, Engrossed Substitute Senate Bill 5115 (ESSB 5115)) resulted in creation of RCW 51.32.181 and RCW 51.32.390. This rulemaking is necessary to implement these bills which establish presumptive coverage for frontline workers subject to a public health emergency. This rulemaking proposes to create rules to clarify what is and is not verification of contraction of an infectious or contagious disease for frontline workers that is the subject of a public health emergency. The rules also clarify what is and is not verification of contraction or quarantine of an infectious or contagious disease for health care workers that is the subject of a public health emergency.

**Statutory authority for adoption:** RCW 51.04.020, RCW 51.32.181, RCW 51.32.390

**Statute being implemented:** RCW 51.32.181, RCW 51.32.390

**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:** NA

**Type of proponent:**  Private  Public  Governmental

**Name of proponent:** (person or organization) Department of Labor & Industries

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Jordan Ely	Tumwater, Washington	360-902-4616
Implementation:	Debra Hatzialexiou	Tumwater, Washington	360-902-6695
Enforcement:	Mike Ratko	Tumwater, Washington	360-902-4997

**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: This rulemaking is exempt from preparing a cost-benefit analysis under RCW 34.05.328(5)(c)(ii) because the rulemaking is proposing to adopt language that does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers by establishing verification criteria.

**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: This rulemaking is exempt from preparing a cost-benefit analysis under RCW 34.05.328(5)(c)(ii) because the rulemaking is proposing to adopt language that does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers by establishing verification criteria that a worker must have to receive a presumption under RCW 51.32.181 and 51.32.390.

**(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:

<b>Date:</b> October 18, 2022
<b>Name:</b> Joel Sacks
<b>Title:</b> Director

<b>Signature:</b> 
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