

PROPOSED RULE MAKING



CR-102 (December 2017) (Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Board of Industrial Insurance Appeals

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR _____ ; 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) WAC 263-12 PRACTICE AND PROCEDURE (before the Board of Industrial Insurance Appeals)

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

Date:	Time:	Location:	Comment:
July 7, 2021)	9:30 a.m.	Virtual or telephonic hearing only. Please use your computer or mobile app to join on Zoom: https://zoom.us/j/93778043147 Or call in (audio only): (253) 215 8782 Meeting ID: 937 7804 3147	

Date of intended adoption: July 8, 2021 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: David Threedy

Address: P.O. Box 42401, Olympia, WA

Email: Dave.Threedy@biia.wa.gov

Fax: 855-586-5611

Other:

By (date) 5 p.m. on July 7, 2021

Assistance for persons with disabilities:

Contact Robert Krabill

Phone: 360-753-6823

Fax: 885-586-5611

TTY: 800-833-6388

Email:

Other: website: www.biia.wa.gov

By (date) June 28, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Housekeeping:
WAC 263-12-015, -01501, -020, -045, -118, -170, -195.
 The working job title of the Executive Secretary has been changed to Chief Legal Officer. These amendments will align our rules with this change.
WAC 263-12-020. The rule with regard to who may represent a party is updated to reflect that a corporate officer of an employer may represent the employer.
WAC 263-12-045. Amendment to the existing rule on appointing pro tem industrial appeal judges to reflect pro tem judges can be appointed to respond to increases in workloads in addition to the reasons already stated in the rule.
WAC 263-12-052. Change the name to Claim Resolution Settlement Agreements and relax the requirements to include certain statements in the agreement so long as the agreement otherwise reflects conformance with the various requirements of the statute. Address the disposition of active appeals by stay and dismissal upon the expiration of the revocation period unless other disposition of the appeal is specified by the agreement.
WAC 263-12-053. A new rule permitting amendments of agreements without the need to refile.
WAC 263-12-091. Amendments regarding filing of affidavits of prejudice in order to remove reference to RCW 4.12.050 concerning disqualification and to allow the filing of an affidavit of prejudice if an appeal is assigned to a new industrial appeals judge for the writing of the proposed decision and order.
WAC 263-12-097. Clarifies that the recent civil rule changes to use of team interpreters does not apply to proceedings at the Board.
WAC 263-12-117. Removes the requirement that a paper copy of the deposition transcript be filed in addition to the electronic copy.

Reasons supporting proposal:
WAC 263-12-015, -01501, -020, -045, -118, -170, -195. The working job title of the Executive Secretary has been changed to Chief Legal Officer. The changes are necessary to align various rule requirements with this change of job title.
WAC 263-12-020 Rule is updated to allow corporate officers to represent the corporate employer.
WAC 263-12-045 Allows appointment of pro tem judges if needed to address fluctuations in work load.
WAC 263-12-052 In response to recent legislation, changes the name to Claim Resolution Settlement Agreements. The amendments also relax the requirements to include certain statements in the agreement so long as the agreement otherwise reflects conformance with the various requirements of the statute. Address the disposition of active appeals by stay and dismissal upon the expiration of the revocation period unless other disposition of the appeal is specified by the agreement.
WAC 263-12-053 Allows parties to amend agreements quickly saving time and expense of having to refile.
WAC 263-12-091 Needed to update requirements of filing of affidavits of prejudice in order to remove reference to RCW 4.12.050 concerning disqualification and to allow the filing of an affidavit of prejudice if an appeal is assigned to a new industrial appeals judge for the writing of the proposed decision and order.
WAC 263-12-097 Clarifies that the recent civil rule changes regarding use of team interpreters does not apply to proceedings at the Board.
WAC 263-12-117 Removes the requirement that a paper copy of the deposition transcript be filed in addition to the electronic copy. Paper copies are no longer needed due to electronic appeal record.

Statutory authority for adoption: RCW 51.52.020

Statute being implemented:

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:

Name of proponent: (person or organization) Board of Industrial Insurance Appeals

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	David E. Threedy	Olympia	360-753-6823
Implementation:	David E. Threedy	Olympia	360-753-6823
Enforcement:	David E. Threedy	Olympia	360-753-6823

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: These are procedural rules relating to procedures, practices, or requirements relating to agency rules. There are no significant legislative rules proposed.

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 type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input 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 checked="" 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:

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: 4/27/21	Signature: 
Name: David E. Threedy	
Title: Executive Secretary	