



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: August 23, 2022
TIME: 8:53 AM

WSR 22-17-122

Agency: Office of Financial Management (OFM)

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 357-01-1745 Fully vaccinated.

WAC 357-04-125 Must an employee provide proof of being fully vaccinated as a condition of employment?

WAC 357-16-197 Must an eligible candidate provide proof of being fully vaccinated?

WAC 357-19-413 What are the requirements for a nonpermanent employee to be fully vaccinated or an eligible candidate to provide proof of being fully vaccinated?

WAC 357-46-165 When may an employer separate an employee in accordance with WAC 357-46-160?

WAC 357-46-195 May an employer separate an employee for nondisciplinary reasons?

WAC 357-58-190 What must be addressed in agency's WMS recruitment and selection policy and/or procedure?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 27, 2022	8:30 a.m.	Zoom Meeting (with call in option) ID: 868 5754 9869 Call in: (253) 215-8782 Passcode: 862380	Zoom link: https://ofm-wa.gov.zoom.us/j/86857549869?pwd=eXA4ZzZMc0k5KzZGb01HWWhiNlpKUT09 Passcode if needed: 862380

Date of intended adoption: October 4, 2022 (Note: This is NOT the effective date)

Submit written comments to:

Name: Brandy Chinn

Address: Office of Financial Management, Raad Building

128 10th Ave SW

PO Box 47500, Olympia, WA 98504

Email: brandy.chinn@ofm.wa.gov

Fax:

Other:

By (date) 11:59 p.m. September 20, 2022

Assistance for persons with disabilities:

Contact Office of Financial Management

Phone:

Fax:

TTY: 7-1-1 or 1-800-833-6384

Email:

Other:

By (date) 11:59 p.m. September 20, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To place new provisions in Title 357 WAC for non-represented state employees who are employed by general government executive and small cabinet agencies, or an eligible candidate for such a position, to continue the requirement to be fully vaccinated; or be granted an exemption and approved for an accommodation due to a disability and/or medical condition or sincerely held religious belief that prevents them from receiving the COVID-19 vaccine; and requiring employers to separate an employee for failure to comply with the COVID-19 vaccination requirements. These requirements are optional for higher education employers, independent agencies, boards, councils, commissions and separately elected officials.

Reasons supporting proposal: On August 5, 2022, Governor Inslee issued a revised [Directive, # 22-13.1](#), COVID Vaccination Standards for State Employees, which directs a permanent COVID-19 vaccination condition of employment requirement for state executive and small cabinet agencies. The worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and Washington State significantly impacts the life and health of all Washingtonians, as well as the economy of Washington State, and is a public disaster that affects life,

health, property, or the public peace. COVID-19 vaccines are effective in reducing infection and serious disease, and widespread vaccination is the primary means we have as a state to protect the health and safety of our workforce. As an employer there is an obligation to maintain a safe and healthy work environment for all state employees. The vaccination requirements set forth in these proposed rules will help establish and maintain a healthy and safe work environment to protect the welfare of all state employees.

Statutory authority for adoption: RCW 41.06.133 and RCW 41.06.150

Statute being implemented: RCW 41.06.133 and RCW 41.06.150

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:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Office of Financial Management

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Brandy Chinn	128 10 th Ave SW, Olympia, WA 98501	360-878-2901
Implementation:	Brandy Chinn	128 10 th Ave SW, Olympia, WA 98501	360-878-2901
Enforcement:	Brandy Chinn	128 10 th Ave SW, Olympia, WA 98501	360-878-2901

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: Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328(5)(b)(ii) for exemption.

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)(e)
(Dictated by statute)

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

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

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

[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:

(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: August 23, 2022

Name: Roselyn Marcus

Title: Assistant Director of Legal and Legislative Affairs
Office of Financial Management

Signature:

