



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 24, 2022

TIME: 11:53 AM

WSR 22-17-170

Agency: Department of Enterprise Services

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 22-10-063 ; 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) chapter 200-220 WAC Use of the Public Areas of the Capitol Buildings and Grounds

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 27, 2022	2 to 4 PM	Virtual public hearing via Zoom	<p>To attend the hearing:</p> <ul style="list-style-type: none"> Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join. https://des-wa.zoom.us/j/92108193714?pwd=aGNpMIhtRzhqWDIrbmhqVnF5S0FYZz09 Passcode: 189959 Or One tap mobile: 8778535247,,92108193714#,,,,*189959# US Toll-free 8887880099,,92108193714#,,,,*189959# US Toll-free Or join by phone: Dial(for higher quality, dial a number based on your current location): US: 877 853 5247 (Toll Free) or 888 788 0099 (Toll Free) Webinar ID: 921 0819 3714 Passcode: 189959 International numbers available: https://des-wa.zoom.us/j/92108193714

Date of intended adoption: October 6, 2022 (Note: This is NOT the effective date)

Submit written comments to:

Name: Jack Zeigler

Address:

Email:

Fax:

Other: Online at <https://des.wa.gov/about/policies-laws-rules/rulemaking> Use of the Public Areas of the Capitol Buildings and Grounds

By (date) 5 PM September 30, 2022

Assistance for persons with disabilities:

Contact Jack Zeigler

Phone:

Fax:

TTY:

Email: jack.zeigler@des.wa.gov

Other:

By (date) September 1, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this update of the rules is to:

- Align the rules with current RCWs for clarification and clean-up purposes,
- Make technical edits for clarification and clean up purposes. This includes clarifying that Washington State Patrol (WSP) does have delegated authority from DES for enforcement on the campus and that the extra step of a DES complaint is not a prerequisite, and
- Establish a process for appealing campus exclusion in the enforcement section.

Reasons supporting proposal: The Campus use rules are designed to balance the conduct of government business, public access and expression of free speech, public and employee safety and welfare, the stewardship of the capitol buildings and grounds, and civic education. The Capitol Campus is a traditional public forum for free speech. Protecting the right to assemble and exercise free speech is a top priority for the Department of Enterprise Services and the Washington State Patrol. However, it is important to understand that free speech laws do not extend to protecting unlawful conduct.

Exclusion is an administrative process that can be used instead of citing someone for criminal trespass, which is a misdemeanor. Right now, we don't have the option to use this civil process due to the gap in the rules. DES and WSP use overall public safety as a guide in seeking compliance with rules and laws. Our general approach is to use the lowest level enforcement action, starting with seeking voluntary compliance, whenever possible.

When enforcement is needed, proper tools are important: There has been a change in tenor and tone of activities on the campus over the past several years, with a steady degradation of the expectation of civil and safe behavior. When groups motivated by conflict come to the campus, tactical challenges and response needs increase, and risk to campus visitors and those working on the campus intensifies..

Statutory authority for adoption: RCW 43.19.125 and RCW 46.08.150

Statute being implemented: RCW 43.19.125 and RCW 46.08.150

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) Department of Enterprise Services Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Matt Jones	1500 Jefferson, Olympia, WA	360-407-8153
Implementation:	David Rooth	1500 Jefferson, Olympia, WA	360-407-8153

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: A cost-benefit analysis is not required under RCW 34.05.328. The department of enterprise services (DES) is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, DES does not voluntarily make section 201 applicable to this rule adoption nor to date, has the joint administrative rules review committee made section 201 applicable to this rule adoption.

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 checked="" type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" 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 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: August 24, 2022	Signature: 
Name: Jack Zeigler	
Title: Rules and Policy Manager	