

WSR 21-16-016
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY

[Filed July 23, 2021, 10:01 a.m.]

Subject of Possible Rule Making: WAC 182-550-4100
 Payment method—New hospitals.

Statutes Authorizing the Agency to Adopt Rules on this
 Subject: RCW 41.05.021, 41.05.160.

Reasons Why Rules on this Subject may be Needed and
 What They Might Accomplish: The health care authority
 (HCA) plans to amend this section to include an exception to
 per diem rate calculations for psychiatric per diem rates. This
 aligns with the agency's state plan. During the course of this
 review, HCA may identify additional related changes that are
 required in order to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Sub-
 ject and the Process Coordinating the Rule with These Agen-
 cies: Centers for Medicare and Medicaid Services via state
 plan amendment, specifically 4.19-A, Part I.

Process for Developing New Rule: The agency wel-
 comes the public to take part in developing this rule. If inter-
 ested, contact the person identified below to receive an early
 rule draft to review. After the early review, the agency will
 send a notice of proposed rule making (CR-102) to everyone
 receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt
 the new rule and formulation of the proposed rule before pub-
 lication by contacting Michael Williams, Rulemaking Ques-
 tions, P.O. Box 42716, Olympia, WA 98504-2716, phone
 360-725-1346, fax 360-586-9727, telecommunication[s]
 relay service (TRS) 711, email michael.williams@hca.wa.
 gov, website www.hca.wa.gov/about-hca/rulemaking; or
 Sarah Cook, Program Questions, P.O. Box 42716, Olympia,
 WA 98504-2716, phone 360-725-1577, fax 360-586-9727,
 TRS 711, email sarah.cook@hca.wa.gov, website www.hca.
 wa.gov/about-hca/rulemaking.

July 23, 2021
 Wendy Barcus
 Rules Coordinator

WSR 21-16-026
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed July 26, 2021, 7:25 a.m.]

Subject of Possible Rule Making: New WAC 246-836A-
 990 Colon hydrotherapist—Fees and renewal cycle. The
 department of health (department) is considering establishing
 a new section of rule to implement SB 5124, which estab-
 lishes the colon hydrotherapist profession. The department is
 required to adopt rules to specify the fees, as well as to ensure
 clarity and consistency of fees that are standard across all
 professions.

Statutes Authorizing the Agency to Adopt Rules on this
 Subject: RCW 18.36A.060, 18.36A.140, 43.70.110, 43.70.-
 250, 43.70.280; and SB 5124 (chapter 179, Laws of 2021).

Reasons Why Rules on this Subject may be Needed and
 What They Might Accomplish: SB 5124 (chapter 179, Laws

of 2021) creates a new certified profession, colon hydrother-
 apist. RCW 43.70.250 requires that the costs of licensing
 each profession be fully borne by the members of that profes-
 sion. Rule making is needed to ensure the department is in
 line with RCW 43.70.250 and the fees set are sufficient to
 cover the costs of licensing the profession. The department
 may also consider rules to ensure clarity and consistency of
 fees that are standard across professions. The other aspects of
 the colon hydrotherapist rules will be established in a sepa-
 rate rule project under the board of naturopathy's authority.

Process for Developing New Rule: Collaborative rule
 making.

Interested parties can participate in the decision to adopt
 the new rule and formulation of the proposed rule before pub-
 lication by contacting Heather Cantrell, P.O. Box 47850,
 Olympia, WA 98540-7850, phone 360-236-4637, TTY 711,
 email HSQAfeerules@doh.wa.gov, website www.doh.wa.
 gov, [https://public.govdelivery.com/accounts/WADOH/
 subscriber/new](https://public.govdelivery.com/accounts/WADOH/subscriber/new).

Additional comments: The department will use the exist-
 ing GovDelivery list to inform stakeholders of opportunities
 to provide input on proposed rule language. Interested parties
 can join the GovDelivery list to get information on participat-
 ing in the process by subscribing at [https://public.gov
 delivery.com/accounts/WADOH/subscriber/new](https://public.govdelivery.com/accounts/WADOH/subscriber/new).

July 23, 2021
 Kristin Peterson, JD
 Deputy Secretary
 Policy and Planning
 for Umair A. Shah, MD, MPH
 Secretary

WSR 21-16-030
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

(Board of Naturopathy)

[Filed July 26, 2021, 9:40 a.m.]

Subject of Possible Rule Making: New chapter 246-
 836A WAC, Colon hydrotherapists; and chapter 246-836
 WAC (new sections), Naturopathic physicians. The board of
 naturopathy (board) is considering establishing a new chapter
 and section of rule to implement SB 5124 which establishes
 the colon hydrotherapist profession. The board is required to
 adopt rules to specify the education, training, affiliation rela-
 tionship, and certification requirements.

Statutes Authorizing the Agency to Adopt Rules on this
 Subject: RCW 18.36A.160; and SB 5124 (chapter 179, Laws
 of 2021).

Reasons Why Rules on this Subject may be Needed and
 What They Might Accomplish: SB 5124 (chapter 179, Laws
 of 2021) creates a new certified profession, colon hydrother-
 apist. The new law requires the board to create rules for the
 new profession, which are needed to establish minimum edu-
 cation, examination, affiliation relationship, and certification
 requirements. Existing rules may also be updated to support
 requirements for this new profession. The fees will be estab-

lished in a separate rule project under the secretary's authority.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4941, fax 360-236-2901, TTY 711, email susan.gragg@doh.wa.gov, website www.doh.wa.gov, <https://public.govdelivery.com/accounts/WADOH/subscriber/new>; and Davis Hylkema, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4366, fax 360-236-2901, email davis.hylkema@doh.wa.gov, website www.doh.wa.gov, <https://public.govdelivery.com/accounts/WADOH/subscriber/new>.

Additional comments: The board will use the existing GovDelivery list to inform stakeholders of opportunities to provide input on proposed rule language. Interested parties can join the GovDelivery list to get information on participating in the process by subscribing at <https://public.govdelivery.com/accounts/WADOH/subscriber/new>.

July 26, 2021
Renee Fullerton
Executive Director

WSR 21-16-046
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed July 28, 2021, 7:45 a.m.]

Subject of Possible Rule Making: WAC 388-823-0720 and other related rules as may be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030, 71A.12.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The developmental disabilities administration (DDA) is amending this rule to correct the name of a test referenced in WAC 388-823-0720. During the course of this review, the department may make additional changes that are necessary to improve clarity or update policy.

Process for Developing New Rule: The department of social and health services (DSHS) welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Chantelle Diaz, DDA, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email chantelle.diaz@dshs.wa.gov.

July 28, 2021

Katherine I. Vasquez
Rules Coordinator

WSR 21-16-061
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY

[Filed July 29, 2021, 1:01 p.m.]

Subject of Possible Rule Making: New chapter 182-115 WAC, Peer services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The authority intends to adopt rules to define the process of becoming a behavioral health certified peer counselor. During the course of this review, the authority may identify additional related changes that are required in order to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Centers for Medicare and Medicaid Services.

Process for Developing New Rule: The authority welcomes the public to take part in developing this rule. If interested, contact the person identified below to receive an early rule draft to review. After the early review, the authority will send a notice of proposed rule making (CR-102) to everyone receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Valerie Freudenstein, Rulemaking Questions, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1344, fax 360-586-9727, telecommunication[s] relay service (TRS) 711, email valerie.freudenstein@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Maureen Bailey, Program Questions, P.O. Box 55534, Olympia, WA 98504-5534, phone 360-725-9997, fax 360-586-9727, TRS 711, email maureen.bailey@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

July 29, 2021
Wendy Barcus
Rules Coordinator

WSR 21-16-088
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF
PILOTAGE COMMISSIONERS

[Filed August 3, 2021, 7:46 a.m.]

Subject of Possible Rule Making: WAC 363-116-078 Training program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 88.16 RCW, Pilotage Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board will be considering amendments and general maintenance to this rule in

anticipation of a new class of pilot trainees from the 2021 marine pilot exam.

Process for Developing New Rule: Discussions regarding proposed amendments to this rule will occur at regular session board meetings as well as trainee evaluation committee meetings. The board's assistant attorney general will review any proposed language. Stakeholder comments are welcome. Upon review and consideration of recommended revisions, a public hearing will be scheduled pursuant to formal notice requirements.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jaimie C. Bever, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, phone 206-515-3887, email BeverJ@wsdot.wa.gov, website www.pilotage.wa.gov.

August 3, 2021
Jaimie C. Bever
Executive Director

WSR 21-16-091

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 21-03—Filed August 3, 2021, 8:14 a.m.]

Subject of Possible Rule Making: Ecology is starting a rule making to amend chapter 173-180 WAC, Facility oil handling standards; and chapter 173-184 WAC, Vessel oil transfer advance notice and containment requirements. Chapter 173-180 WAC establishes oil spill prevention and oil transfer requirements for regulated oil handling facilities. Chapter 173-184 WAC establishes oil transfer requirements for vessels delivering oil in bulk on or over waters of the state.

This rule making will amend both chapters to implement updates to RCW 88.46.165. The rule making will also include necessary administrative updates, and will expand on existing requirements and establish new requirements as described below.

In chapters 173-180 and 173-184 WAC:

- Make changes to address inconsistent or unclear direction in the rule(s), and make any corrections needed.
- Evaluate and update codes and standards throughout the rule(s).
- Update and clarify enforcement provisions for expired plans, manuals, reports, and programs requiring reapproval for Class 1 and 2 facilities and delivering vessels.
- Update submittal requirements, recordkeeping requirements, and compliance schedules throughout the rule(s).
- For Rate A deliverers:
 - o Clarify safe and effective determination and Boom Reporting Form submission requirements for Rate A deliveries.
 - o Expand Safe and Effective Determination Report content requirements and align report and review requirements.
 - o Update and clarify pre-booming and safe and effective threshold determination requirements for light-

ering operations, and for short-term transfer location approval requests.

- Expand advance notice of oil transfer reporting requirements for Class 1, 2, and 3 facilities and delivering vessels.

In chapter 173-180 WAC:

- Clarify and expand plan content and drill requirements for Class 2 facility Oil Transfer Response Plans.
- For Class 1 facilities:
 - o Establish facility shut down, lay up, and decommission requirements.
 - o Establish seismic protection requirements for transfer pipelines and storage tanks.
 - o Clarify and expand plan preparation and plan content requirements for Prevention Plans, including secondary containment permeability and facility spill risk analysis criteria.
 - o Clarify training and certification requirements.

In chapter 173-184 WAC:

- Update advance notice reporting timeframe requirements for delivering vessels.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.46.160, 88.46.165; chapter 90.56 RCW; RCW 90.56.005, 90.56.050, 90.56.200, 90.56.220, and 90.56.230.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule amendments are needed to align both rules with statutory changes made in the 2019 legislative session. Through ESHB 1578, codified in RCW 88.46.165, the legislature expanded advance notice of oil transfer reporting requirements for Class 1, 2, and 3 facilities and for vessels delivering oil in bulk on or over waters of the state. Expanding advance notice reporting requirements allows ecology to better prepare for and respond to spills that may impact waters of the state.

Additionally, these chapters have not been updated since 2007. Administrative updates are needed to provide clear direction to the regulated community. Consistent standards provide ease of compliance with ecology's rules and ensure our rules are not overly burdensome. Updates are also needed to streamline process requirements with advances in technology.

Broader policy changes are also needed. As oil spill risk continues to change and new risks emerge, ecology's rules must adapt to address these risks and ensure we are requiring the necessary safeguards to prevent, prepare for, and respond to spills. Ecology has worked closely with the regulated community over the years to implement and enforce the requirements of these two rules. Rule amendments are essential to address gaps identified and provide stronger oil spill protection to the waters of the state.

Expanding requirements for Class 1 facilities is necessary to address gaps identified in oil spill prevention standards. Considering secondary containment permeability standards and facility spill risk analysis criteria provides additional direction for prevention plan requirements. Addressing requirements for seismic protection of storage tanks and

transfer pipelines will ensure safeguards are in place to help prevent spills during seismic events. Establishing decommissioning requirements provides oil spill prevention measures during the entirety of a facility's life cycle.

Expanding Oil Transfer Response Plan requirements for Class 2 facilities provides an additional layer of oil spill preparedness, as oil transfers for these facilities occur broadly throughout the state. Routine exercise of response equipment and notification procedures strengthens the state's readiness when a spill occurs.

Facilities and delivering vessels must ensure safeguards are maintained before and during oil transfer operations. Ecology's requirements take into consideration each aspect of the transfer, minimizing the risk and impact of a spill. This includes ensuring containment measures are in place, effective communication is being practiced, and recovery equipment is readily available in case of an incident. Rule updates are necessary for oil transfer operations to implement lessons learned through years of implementation and provide oil spill prevention improvements in areas where gaps have been identified.

Updating the advance notice reporting timeframe requirements for oil transfer information to ecology will allow inspectors time to prepare for and conduct oil transfer inspections. Oil transfer inspections provide enhanced protection to the waters of the state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal and state agencies that regulate oil handling facilities and vessels delivering bulk oil include: United States Coast Guard, Environmental Protection Agency, Washington state department of natural resources, Washington state department of fish and wildlife, Oregon department of environmental quality, California department of fish and wildlife office of spill prevention and response, and Alaska department of environmental conservation spill prevention and response. Ecology will notify and solicit input from these federal and state agencies, and other stakeholders throughout this rule-making process.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brittany Flittner, Department of Ecology, Spill Prevention, Preparedness, and Response Program, P.O. Box 47600, Olympia, WA 98504, phone 360-584-4490, for Washington relay service or TTY call 711 or 877-833-6341, email brittany.flittner@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-180-173-184>. For updates about this rule making, join our listserv SPILLS-PROGRAM@LISTSERV.ECOLOGY.WA.GOV.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

August 2, 2021
Dale Jensen

Spill Prevention, Preparedness
and Response Program Manager

WSR 21-16-093
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed August 3, 2021, 10:11 a.m.]

Subject of Possible Rule Making: Title 296 WAC, industrial insurance, independent medical examinations (IME) - appeals.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.020, 51.04.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESSB 6440, 2020 legislative session, limited the reasons IMEs could be used. One reason is to resolve an appeal, but there was no indication of when or under what circumstances such an IME would be appropriate. The changes affect employers who purchase workers' compensation coverage from the department (state fund) as well as self-insurers by limiting IMEs. Rule making allows the department of labor and industries to define criteria and/or determine limitations for these IMEs.

Process for Developing New Rule: Parties interested in these rules may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments and/or testimony during the public hearing and comment process. Public hearings will be held after the proposal is filed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Suzy Campbell, Legal Services, P.O. Box 44270, Olympia, WA 98504-4270, phone 360-902-5003, fax 360-902-5029, TTY 360-902-4252, email suzanne.campbell@Lni.wa.gov.

August 3, 2021
Joel Sacks
Director

WSR 21-16-097
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-20—Filed August 3, 2021,
12:41 p.m.]

Subject of Possible Rule Making: Out of state title records storage.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.29.190 (1)(a), 48.29.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current state law on out-of-state title records storage requirements mandates that title insurance companies and agents, who are conducting business of an escrow agent, must keep adequate records of all

transactions, and these records must be maintained in Washington, unless otherwise approved by the commissioner (RCW 48.29.190 (1)(a)).

Rule making is required to outline how to request approval under RCW 48.29.190 (1)(a) and detail requirements for title insurance companies and agents storing title records outside of Washington state.

Process for Developing New Rule: August 20, 2021.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tabba Alam, 302 Sid Snyder Avenue S.W., Olympia, WA 98504, phone 360-725-7170, fax 360-586-3109, TTY 360-586-0241, email rulescoordinator@oic.wa.gov, website www.insurance.wa.gov.

August 3, 2021
Mike Kreidler
Insurance Commissioner

WSR 21-16-099
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 3, 2021, 12:45 p.m.]

Subject of Possible Rule Making: Adding a new chapter to Title 296 WAC, Department of labor and industries (L&I), for small employer emergency grants.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 253, Laws of 2021.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In the 2021 legislative session, ESHB 1097 was passed and has been signed into law as chapter 253, Laws 2021. The bill provided for increased worker protections from hazards in the workplace. The bill also created a safety grant program for small employers during declared states of emergency. This law was motivated by recognition of the COVID-19 pandemic's impact on small businesses, especially those that had difficulty affording the cost of meeting required safety measures and providing personal protective equipment to workers. Those that were unable to meet emergency safety and health requirements had to close. L&I is directed to engage in rule making to establish the guidance for grants based on the type, scope, and time frame of a declared state of emergency, and criteria for how grants will be prioritized.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Parties interested in the development of these rules may contact the individual listed below. The public may participate through stakeholder meetings, commenting on proposed language, and by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tracy West, Agency Rules Coordinator, L&I, Government Affairs and Policy Division, P.O. Box

44001, Olympia, WA 98504-4001, phone 360-902-6954, fax 360-902-4202, email tracy.west@Lni.wa.gov, website <https://www.Lni.wa.gov/rulemaking-activity/>; or Celia Nightingale, phone 360-742-8438, fax 360-902-5420, email celia.nightingale@Lni.wa.gov.

August 3, 2021
Joel Sacks
Director

WSR 21-16-100
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed August 3, 2021, 1:28 p.m.]

Subject of Possible Rule Making: WAC 246-980-010, definitions for chapter 246-980 WAC, Home care aide rules. The department of health (DOH) is considering amending WAC 246-980-010 to redefine "date of hire" for home care aides and to implement ESHB 1120, passed in the 2021 legislative session.

Statutes Authorizing the Agency to Adopt Rules on this Subject: ESHB 1120 (chapter 203, Laws of 2021); and RCW 18.88B.021.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: DOH is considering amending WAC 246-980-010 to redefine "date of hire" for home care aides and to implement ESHB 1120, which was passed in the 2021 legislative session. ESHB 1120 amended RCW 18.88B.021 to remove statutory language on how to calculate date of hire and allow the department through rule making to define date of hire and the circumstances under which a long-term care worker may have more than one date of hire. Currently a home care aide is assigned a single date of hire, which remains unchanged even if a home care aide changes employer or temporarily leaves the profession. The definition of date of hire, combined with associated regulatory timeframes, may create barriers and discourage workers from reentering the profession. As there are too few home care aides to meet current demand for care, DOH is considering allowing more than one date of hire to facilitate workers successfully joining and returning to this profession.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department of social and health services (DSHS) shares regulatory authority over home care aides with DOH. DOH and DSHS are coordinating closely with each other and other interested parties to ensure proposed rules align, meet the needs of the profession, and protect clients and their families.

Process for Developing New Rule: Collaborative.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Stacey Saunders, P.O. Box 47850, Olympia, WA 98504, phone 360-236-2813, fax 360-236-2901, TTY 711, email stacey.saunders@doh.wa.gov, website www.doh.wa.gov.

Additional comments: All rule-making notices will be mailed via GovDelivery. To receive notices, interested per-

sons may sign up by going to <https://public.govdelivery.com/accounts/WADOH/subscriber/new>. After signing up, please click open the box labeled "Health Systems Quality Assurance." Next click open the box labeled "Health Professions," then check the box next to "Home Care Aides."

August 4, 2021
Wendy Barcus
Rules Coordinator

August 3, 2021
Kristin Peterson, JD
Deputy Secretary
for Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

WSR 21-16-106
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY

[Filed August 4, 2021, 8:11 a.m.]

Subject of Possible Rule Making: New rules to be added under Title 182 WAC; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160; E2SSB 5377, 67th legislature, regular session.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is developing rules to align with the requirements of E2SSB 5377. This bill provides that if a public option plan is not available in each county during plan year 2022 or later, hospitals licensed under chapter 70.41 RCW receiving payment from one of the agency's benefit programs or its medical assistance program must contract with at least one public option plan to provide in-network services to that plan's enrollees. The bill also provides that the agency may adopt rules including levying fines and taking other actions necessary to enforce compliance when a hospital must contract with a public option plan. During the course of this review, the agency may identify additional related changes that are required in order to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The health benefit exchange and the office of the insurance commissioner.

Process for Developing New Rule: The agency welcomes the public to take part in developing this rule. If interested, contact the person identified below to receive an early rule draft to review. After the early review, the agency will send a notice of proposed rule making (CR-102) to everyone receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Melinda Froud, Rulemaking Questions, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1408, fax 360-586-9727, telecommunication[s] relay service (TRS) 711, email melinda.froud@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Penny Adler, Program Questions, P.O. Box 45502, Olympia, WA 98504-5502, phone 360-725-0886, fax 360-586-9727, TRS 711, email penny.adler@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

WSR 21-16-110

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 21-05—Filed August 4, 2021, 9:44 a.m.]

Subject of Possible Rule Making: Ecology is beginning rule making to adopt a new rule, chapter 173-446A WAC, Criteria for emissions-intensive, trade-exposed industries, to implement portions of the Washington Climate Commitment Act (CCA) (E2SSB 5126).

In 2021, the legislature passed CCA, which establishes a cap and invest program to achieve Washington's goal of greenhouse gas limits by 2050. Ecology will undertake three separate rule makings to address the requirements in the law.

This rule making may:

- Establish criteria to identify emissions-intensive, trade-exposed (EITE) industries that will be eligible for no-cost allowances.
- Consider the locations of potential EITE industries in relation to overburdened communities while developing the criteria.
- Include requirements necessary to support the above items, the overall objectives of the statute or chapter, or the goals of the CCA.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Washington CCA (E2SSB 5126), chapter 316, Laws of 2021.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule making implements section 13 of the CCA, which specifies industries that are classified as EITE and allows additional businesses that can demonstrate that they meet the criteria to be established in this rule to be eligible for EITE classification. The CCA also directs ecology to consider the locations of potential EITE facilities in relation to overburdened communities while developing the objective criteria. Ecology must adopt the rule by July 1, 2022.

EITE industries emit a significant amount of greenhouse gases and operate in competitive markets.

The CCA identifies thirteen specific industries as EITE:

- Metals manufacturing;
- Paper manufacturing;
- Aerospace product and parts manufacturing;
- Wood products manufacturing;
- Nonmetallic minerals manufacturing;
- Chemical manufacturing;
- Computer and electronic product manufacturing;
- Food manufacturing;
- Cement manufacturing;
- Petroleum refining;
- Asphalt paving mixtures and block manufacturing from refined petroleum;

- Asphalt shingle and coating manufacturing from refined petroleum; and
- All other petroleum and coal products manufacturing from refined petroleum.

Facilities owned or operated by a business that meet the criteria as EITE may be eligible to receive an allocation of allowances for the covered emissions at those facilities at no cost. Ecology is responsible for providing criteria that accurately identifies and classifies new EITE businesses.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Katie Wolt, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6998, for Washington relay service or TTY call 711 or 877-833-6341, email katie.wolt@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-446A>. Sign up to receive email notices on this rule making <http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=CLIMATE-COMMITMENT-ACT-BULLETIN&A=1>.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

August 4, 2021

Kathy Taylor

Air Quality Program Manager

WSR 21-16-111

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 21-06—Filed August 4, 2021, 9:59 a.m.]

Subject of Possible Rule Making: Ecology is beginning rule making to add a new rule, chapter 173-446 WAC, Climate Commitment Act program, to implement parts of the Climate Commitment Act (CCA) (E2SSB 5126), chapter 316, Laws of 2021.

In 2021, the legislature passed CCA, which establishes a cap and invest program to help achieve Washington's greenhouse gas limits by 2050. Ecology will undertake three separate rule makings to address the requirements of the law. In addition to this rule making, separate rule makings will amend chapter 173-441 WAC, Reporting of greenhouse gas, and a second will create new chapter 173-446A WAC, Emission-intensive, trade-exposed.

This rule making will establish components of the cap and invest program that may include, but are not limited to:

- Program registration requirements.
- Methods and procedures for allocating allowances.
- Allowance budgets for the first compliance period (2023 - 2026).
- Auction registration requirements.

- Auction floor price.
- Emissions containment reserve.
- Procedures and protocols for offset projects.
- Enforcement provisions.
- Transfer and sale of allowances and recognition of compliance instruments.
- Other elements to support the operation and functioning of the cap and invest program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: CCA (E2SSB 5126), chapter 316, Laws of 2021; chapter 70A.15 RCW, Washington Clean Air Act; and chapter 70A.45 RCW, Limiting greenhouse gas emissions.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 2020, the legislature updated the state's greenhouse gas emissions limits that Washington must achieve by 2030, 2040, and 2050, based on current science and emissions trends, to support local and global efforts to avoid the most significant impacts from climate change. Meeting these limits will require coordinated, comprehensive, and multisectoral implementation of policies, programs, and laws such as this one, as other enacted policies are insufficient to meet the limits.

CCA establishes a new cap and invest program to help Washington achieve these limits. Ecology is responsible for implementing this program through rule making. The legislation directs ecology to start the program by January 1, 2023, and adopt annual allowance budgets for the first compliance period of the program by October 1, 2022.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: CCA directs ecology to adopt certain components of these rules in consultation with the utilities and transportation commission and the department of commerce, and broadly affects key sectors those agencies focus on. There is also overlap with the department of health in several areas. Ecology will consult with these agencies throughout the rule development process.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jason Alberich, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-764-6663, for Washington relay service or TTY call 711 or 877-833-6341, email jason.alberich@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-446>. Sign up to receive email notices on this rule making <http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=CLIMATE-COMMITMENT-ACT-BULLETIN&A=1>.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

August 4, 2021

Kathy Taylor

Air Quality Program Manager

petition for stay provisions for enforcement of governor's proclamations.

David Postman
Chair

WSR 21-16-112
PREPROPOSAL STATEMENT OF INQUIRY
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed August 4, 2021, 10:13 a.m.]

Subject of Possible Rule Making: Chapter 392-198 WAC, regarding training school employees concerning blood-borne pathogens.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.24.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The office of superintendent of public instruction (OSPI) is considering rule making to amend the rules concerning school employee training and education for blood-borne pathogens. RCW 70.24.290 was amended (HB [ESHB] 1551, 2020) and directs OSPI to adopt rules concerning educating and training school employees on the prevention, transmission, and treatment of blood-borne pathogens. Previously, the requirement was for education and training concerning HIV/AIDS but has been amended to include blood-borne pathogens.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: OSPI will consult with Washington state department of health's infectious disease division in developing these rules.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended, or repealed rules, and consideration of the comments and recommendations in the course of drafting rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Annie Hetzel, OSPI, P.O. Box 47200, Olympia, WA 98504, phone 360-725-6054, email healthservices@k12.wa.us, website k12.wa.us; or Camille Goldy, OSPI, P.O. Box 47200, Olympia, WA 98504, phone 360-725-6050, email Camille.Goldy@k12.wa.us, website k12.wa.us.

August 4, 2021
 Chris P. S. Reykdal
 State Superintendent
 of Public Instruction

WSR 21-16-127
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR AND CANNABIS
BOARD

[Filed August 4, 2021, 10:47 a.m.]

Consistent with RCW 34.05.335 and WAC 1-21-060, the liquor and cannabis board is withdrawing its Preproposal statement of inquiry (CR-101), filed on April 14, 2021, as WSR 21-09-041, regarding summary license suspension and

WSR 21-16-128
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR AND CANNABIS
BOARD

[Filed August 4, 2021, 10:47 a.m.]

Consistent with RCW 34.05.335 and WAC 1-21-060, the liquor and cannabis board is withdrawing its Preproposal statement of inquiry (CR-101), filed on November 13, 2019, as WSR 19-23-044, regarding alternating proprietorship requirements for distilleries and craft distilleries.

David Postman
Chair

WSR 21-16-129
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed August 4, 2021, 10:51 a.m.]

Subject of Possible Rule Making: Chapter 16-228 WAC, General pesticide rules, the department is considering modifying provisions of this chapter and/or adding sections of rule to this chapter to allow for third-party entities to administer pesticide licensing examinations and collect examination fees. This may include raising and restructuring examination fees. The department is also considering revising the language to increase clarity and readability and conform with current industry practices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.58.040, 15.58.240, 17.21.030, 17.21.134; and chapter 180, Laws of 2020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department oversees a licensing and recertification program for more than twenty-four thousand pesticide applicators, dealers, consultants, and structural pest inspectors. As part of the licensing process, the department administers licensing exams to ensure that individuals and businesses that apply, sell, or consult regarding pesticide products are sufficiently competent to do so in a safe and effective manner. Currently, exams are offered primarily in paper form at a few locations on limited dates and are required to be hand-graded with results distributed manually. Currently testers could wait up to ten days to find out the results of their test. The department is considering contracting with third-party vendors to administer computer-based and virtual-based testing where applicants can take exams at testing facilities throughout the state and receive immediate results of their scores. Offering computer and virtual-based exams at more facilities at more convenient times and providing immediate results will make completing the exam step in

the licensing process more efficient, convenient, and accessible for applicants. The department may need to revise current rule language to facilitate use of a third-party vendor, including but not limited to raising and restructuring exam fees and the collection of the fees. The department may also review other sections of language in this chapter to increase clarity and readability and ensure that it conforms with current industry practices.

During the 2020 legislative session, the Washington state legislature passed HB 2624 (chapter 180, Laws of 2020). This bill authorized the department to contract with third-party entities to administer examinations and collect examination fees.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Environmental Protection Agency (EPA). The department will inform the EPA of the proposed rule amendments.

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholder groups. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Christina Zimmerman, Program Manager, Licensing and Recertification Program, Washington State Department of Agriculture, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-2150, fax 360-902-2093, TTY 800-833-6388, email czimmerman@agr.wa.gov, website <https://agr.wa.gov/services/rulemaking/wac16-228-general-pesticide-rules-exam-fees-110718>.

August 4, 2021
Robin Schoen-Nessa
Assistant Director