

**WSR 20-05-009**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed February 5, 2020, 2:28 p.m.]

Subject of Possible Rule Making: In 2006, the Washington utilities and transportation commission (commission) adopted chapter 480-107 WAC, which requires, in part, investor-owned electric utilities to solicit bids, rank project proposals, and identify any bidders that meet the minimum selection criteria. In 2016, the commission opened a new rule making in Docket U-161024 to consider rule changes to implement changes to the integrated resource plan (IRP) statute in chapter 19.280 RCW, and to clarify how recent advances in the energy industry should be treated in the IRP, to improve the IRP review process for more efficiency, and to make the resource acquisition rule in chapter 480-107 WAC more effective to reduce the frequency of utility waiver requests for this rule.

However, while the rule making was ongoing, the legislature enacted legislation in 2019, including the Clean Energy Transformation Act codified in chapter 19.405 RCW, that affected the acquisition rule as well as other rules under consideration in Docket UE-161024. Consequently, the commission has terminated the rule making in Docket UE-161024. The commission opens this new rule making in Docket UE-190837 to review rules in chapter 480-107 WAC to incorporate statutory changes made since 2006, to consider changes contemplated in the original 2016 rule making and additional requirements, policy improvements, and changes in the energy industry that may affect the rules on purchases of electricity, chapter 480-107 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 80.04.160, chapter 19.405 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission has not substantially revised its rules on purchases of electricity since 2006. The commission may need to modify its rules to account for forecasted regional resource adequacy deficiencies, the growth of new price competitive resources, a large rise in the number and sophistication of developers, and an increase in the diversity of the type of generation projects and contract structures available in the market. The enactment of new chapter 19.405 RCW also requires the commission to consider whether changes to the purchase of electricity rules are necessary or desirable. Changes to the rules may improve the acquisition processes, create more stable rates and appropriate levels of reliability by improving resource adequacy, increasing a utility's pursuit of additional resource opportunities not bid into its request for proposals, and providing greater clarity of the requirements of chapter 19.405 RCW.

Process for Developing New Rule: The commission uses a collaborative rule-making process that includes stakeholder workshops, formal comments, and draft rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Executive Director and Secretary, P.O. Box 47250, Olympia, WA 98504-7250, phone 360-664-1234, TTY 1-800-833-6384 or 711, email [records@utc.wa.gov](mailto:records@utc.wa.gov), website <https://www.utc.wa.gov/e-filing>.

Additional comments: When commenting, please refer to Docket UE-190837.

February 5, 2020  
 Mark L. Johnson  
 Executive Director  
 and Secretary

**WSR 20-05-014**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**BUILDING CODE COUNCIL**

[Filed February 6, 2020, 2:45 p.m.]

Subject of Possible Rule Making: (1) Chapter 51-50 WAC, amendment to the 2018 International Building Code and International Existing Building Code; (2) chapter 51-54A WAC, amendments to the 2018 International Fire Code and International Wildland-Urban Interface Code; (3) chapter 51-51 WAC, amendments to the 2018 International Residential Code.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.27.074.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The state building code council regularly reviews issues related to the Washington state building code, as outlined in chapter 51-04 WAC and RCW 19.27.074, to consider proposals for statewide code amendments.

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: Stakeholder and subject expert technical advisory group review.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Richard Brown, P.O. Box 41449, Olympia, WA 98504-1449, phone 360-407-9277, email [sbcc@des.wa.gov](mailto:sbcc@des.wa.gov), website [sbcc.wa.gov](http://sbcc.wa.gov).

February 5, 2020  
 Diane Glenn  
 Council Chair

**WSR 20-05-032**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF HEALTH**

[Filed February 11, 2020, 9:36 a.m.]

Subject of Possible Rule Making: Chapter 246-390 WAC, the state board of health (SBOH) is considering amendments to the drinking water laboratory certification and data reporting rules (lab rule) to align laboratory data reporting requirements with the anticipated changes to chapter 246-290 WAC, Group A public water supplies (Group A rule) as related to per- and polyfluoroalkyl substances (PFAS).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: SBOH is considering amendments to the Group A rule that may necessitate changes to the lab rule. SBOH is considering including a new PFAS template for the purposes of data reporting, adding a requirement for notification when PFAS sample results exceed a state action level, and adding state detection reporting limits for PFAS. The rule revision may also include technical and clarifying corrections as needed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington department of health (department) and SBOH will coordinate the rule making with the Washington department of ecology (ecology) in developing consistent regulations. The department and ecology jointly administer the state's cooperative laboratory certification program.

Process for Developing New Rule: The department and SBOH will use a collaborative rule-making approach.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jocelyn W. Jones, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3020, TTY 360-833-6388 or 711, email [jocelyn.jones@doh.wa.gov](mailto:jocelyn.jones@doh.wa.gov), website [www.doh.wa.gov](http://www.doh.wa.gov); or Stuart Glasoe, P.O. Box 47990, phone 360-236-4111, TTY 360-833-6388 or 711, email [stuart.glasoe@sboh.wa.gov](mailto:stuart.glasoe@sboh.wa.gov), website [www.sboh.wa.gov](http://www.sboh.wa.gov).

Additional comments: The department and SBOH will keep stakeholders and interested parties informed of the rule development through email, and posting information on the department's rule-making websites. Stakeholders and interested parties will have the opportunity to provide comments throughout the rule-making process, during the formal comment period, and at the public hearing. The department and SBOH may also hold workshops throughout the rule-making process to solicit feedback. Individuals may join the interested parties' notification list by going to [https://public.govdelivery.com/accounts/WADOH/subscriber/new?topic\\_id=WADOH\\_211](https://public.govdelivery.com/accounts/WADOH/subscriber/new?topic_id=WADOH_211).

February 7, 2020  
Michelle A. Davis  
Executive Director

#### WSR 20-05-054

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF TRANSPORTATION

[Filed February 14, 2020, 7:51 a.m.]

Subject of Possible Rule Making: Chapter 468-58 WAC, Limited access highways.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 47.52.027, 47.01.101.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The subject rule concerns the prohibition of highway access connections along on-ramps or off-ramps of fully controlled limited access highways. Flexibility is required specifically with respect to transit busses [buses]. In certain cases, allowing such highway access breaks for transit busses [buses] only results in better high-

way operational performance and safety. This revision is intended to create this flexibility while allowing adequate control over application.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal Highway Administration (FHWA). The Washington state department of transportation, as a matter of daily routine, coordinates application and development of policy with FHWA. Each step of the rule-making process with [will] be closely coordinated with FHWA.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ahmer Nizam, P.O. Box 47329, Olympia, WA 98504-7329, phone 360-870-2383, fax 360-704-6381, email [nizama@wsdot.wa.gov](mailto:nizama@wsdot.wa.gov); or LeRoy Patterson, P.O. Box 47329, Olympia, WA 98504-7329, phone 360-705-7266, email [patterl@wsdot.wa.gov](mailto:patterl@wsdot.wa.gov).

February 13, 2020  
Kara Larsen, Director  
Risk Management and  
Legal Services Division

#### WSR 20-05-055

##### PREPROPOSAL STATEMENT OF INQUIRY HEALTH CARE AUTHORITY

[Filed February 14, 2020, 10:21 a.m.]

Subject of Possible Rule Making: WAC 182-501-0200 Third-party resources; and other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160; 42 U.S.C. Sec. 1902 (a)(25)(E) of the Social Security Act and section 53102 (a)(1) of the Bipartisan Budget Act of 2018; 42 U.S.C. Sec. 1305 (7)(a) (Medicaid Services Investment and Accountability Act of 2019).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is amending this section to implement requirements in the Bipartisan Budget Act of 2018 which requires state medicaid agencies to use cost-avoidance on labor, delivery, and postpartum care claims. The Bipartisan Budget Act of 2018 also delayed the implementation of a provision in the Bipartisan Budget Act of 2013 that allowed payment up to ninety days for claims associated with medical support enforcement, rather than thirty days under the previous law. The agency is revising this section to implement this provision, now amended to one hundred days, rather than ninety, by the Medicaid Services Investment and Accountability Act of 2019. 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: Centers for Medicare and Medicaid Services, coordinated through the state plan amendment process.

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 Michael Williams (Rulemaking Process Questions), P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1346, fax 360-586-9727, telecommunication relay services (TRS) 711, email michael.williams@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Mark Benya (Program Policy Questions), P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1891, fax 360-586-9727, TRS 711, email mark.benya@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

February 14, 2020  
Wendy Barcus  
Rules Coordinator

**WSR 20-05-060**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed February 14, 2020, 11:15 a.m.]

Subject of Possible Rule Making: The community services division is planning to amend WAC 388-280-0010 What is the United States Repatriation Program?, 388-280-0020 How do I apply for repatriation assistance?, 388-280-0030 Do I have to repay the repatriation assistance?, 388-280-0040 Are there limits to my income and resources?, 388-280-0050 How long can I receive repatriation assistance?, 388-280-0060 What services are available to me under the repatriation program?, and other related rules as may be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules changes planned under this filing will clarify and update existing rule language, aligning with current federal policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department continues to align with United States Department of Health and Human Services and United States State Department policy in administering the United States Repatriation Program in Washington state.

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 Olga Walker, P.O. Box 45440, Olympia, WA 98504, phone 360-725-4641, fax 360-725-4904, email olga.walker@dshs.wa.gov.

February 14, 2020  
Katherine I. Vasquez  
Rules Coordinator

**WSR 20-05-061**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**ARTS COMMISSION**

[Filed February 14, 2020, 2:38 p.m.]

Subject of Possible Rule Making: Amendment to existing rule, WAC 30-02-010 Definitions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.46.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The grants program is adding a new definition for grant regions to make it clearer that there are recognized grant regions throughout the state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

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 Terry J. West, 711 Capitol Way South, Suite 600, Olympia, WA 98504, phone 360-586-5350, fax 360-586-5351, email terry.west@arts.wa.gov, website www.arts.wa.gov.

Additional comments: Public rules writing session to be held March 26, at 3:00 - 3:30 p.m., at 711 Capitol Way South, Suite 600, Olympia. Participants may attend in person, send in written comments to address above or attend by conference call. Conference call attendees must notify the agency the day before to allow time for conference call logistics.

February 18, 2020  
Karen Hanan  
Executive Director

**WSR 20-05-063**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF REVENUE**

[Filed February 14, 2020, 2:52 p.m.]

Subject of Possible Rule Making: Proposed revision of WAC 458-20-103 Time and place of sale. A copy of the proposed draft rule will be provided at the public meeting.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300, 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department of revenue

would like to revise WAC 458-20-103 because it is no longer consistent with statutory authority and has been made redundant or replaced by other rules. See RCW 82.32.730, 82.04.040, 82.04.067, 82.08.0531; WAC 458-20-108, 458-20-145, 458-20-211, 458-20-193, 458-20-221, 458-20-19401.

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 this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tim Danforth, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1538, fax 360-534-1606, TTY 800-833-6384, email TimD@dor.wa.gov.

Additional comments: Written comments may be submitted by mail or email and should be directed to Tim Danforth using one of the contact methods above. Written and oral comments will be accepted at the public meeting, on March 25, 2020, at 10:00 a.m.

Public Meeting Location: Conference Room, 6400 Linderson Way S.W., Tumwater, WA 98501.

February 14, 2020  
Atif Aziz  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 82-12-021, filed 5/25/82)

**WAC 458-20-103 ((Time and place of sale.)) Gift certificates—Sale deemed to occur and retail sales tax collected at time of redemption.** ((Under the Revenue Act of 1935, as amended, the word "sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration, and includes the sale or charge made for performing certain services.

For the purpose of determining tax liability of persons selling tangible personal property, a sale takes place in this state when the goods sold are delivered to the buyer in this state, irrespective of whether title to the goods passes to the buyer at a point within or without this state.

With respect to the charge made for performing services which constitute sales as defined in RCW 82.04.040 and 82.04.050, a sale takes place in this state when the services are performed herein. With respect to the charge made for renting or leasing tangible personal property, a sale takes place in this state when the property is used in this state by the lessee.

Where gift certificates are sold which will be redeemed in merchandise, or in services which are defined by the Revenue Act as retail sales, the sale is deemed to occur and the retail sales tax shall be collected at the time the certificate is actually redeemed for the merchandise or services. The measure of the tax is the total selling price of the merchandise or services at the time of the redemption, including the redemption value of the certificate, or any part thereof, which is applied toward the selling price. (See WAC 458-20-235 for

effect of rate changes on prior contracts and sales agreements. See also WAC 458-20-131 which deals with merchandising games, and which covers the situation where certificates or trade checks are issued which may be redeemed for services which are not retail sales, such as barber services, admissions, etc.)

~~Revised March 2, 1982.)~~ **(1) Tax timing.** A purchase of a product, as defined in RCW 82.32.023, or services made through the redemption of a gift certificate or gift card is deemed to occur for retail sales tax purposes at the time the certificate or card is actually redeemed for the product or services. Retail sales tax must be collected at the time of redemption.

**(2) Tax measure.** The measure of the tax is the total selling price of the product or services at the time of the redemption, including the redemption value of the certificate, or any part thereof, which is applied toward the selling price. See RCW 82.08.010 for the definition of selling price.

## WSR 20-05-073

### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF

#### LABOR AND INDUSTRIES

[Filed February 18, 2020, 11:35 a.m.]

Subject of Possible Rule Making: A new chapter will be created for rules that will comply with the provisions of chapter 49.80 RCW, High hazard facilities—Workforce.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.80.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is initiating rule making to implement the advanced safety training requirements under chapter 49.80 RCW, High hazard facilities—Workforce. Chapter 49.80 RCW, enacted in 2019, requires owners of petroleum refining or petrochemical manufacturing facilities use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair, or maintenance work. By January 1, 2022, all workers in the skilled and trained workforce must have completed within the past three calendar years at least twenty hours of approved advanced safety training for workers at high hazard facilities. This rule making will include requirements for advanced safety training certification for workers, curriculum for in-person classroom and laboratory instruction, and approval of training providers.

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after rules are proposed 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 Tari Enos, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5541, fax 360-902-5619,

email tari.enos@Lni.wa.gov, website www.lni.wa.gov/rule-making-activity/.

February 18, 2020  
Joel Sacks  
Director

**WSR 20-05-082**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**GAMBLING COMMISSION**

[Filed February 18, 2020, 2:48 p.m.]

**Subject of Possible Rule Making:** The gambling commission is considering placing definitions for "gross sales," "net gambling receipts," "net gambling income," and "cost" in other chapters where they are referenced in Title 230 WAC and amending "net gambling receipts" and "cost" to clarify sales tax.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 9.46.070.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The definitions referenced above should be placed in each chapter they are referenced to assist licensees. Amending the definitions for "net gambling receipts" and "cost" to clarify sales tax with [will] also assist licensees.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ashlie Laydon, P.O. Box 42400, Olympia, WA 98504-2400, phone 360-486-3473, fax 360-486-3632, TTY 360-486-3637, email rules.coordinator@wsgc.wa.gov, website www.wsgc.wa.gov.

February 14, 2020  
Ashlie Laydon  
Rules Coordinator

**WSR 20-05-090**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**HEALTH CARE AUTHORITY**

[Filed February 19, 2020, 9:12 a.m.]

**Subject of Possible Rule Making:** WAC 182-501-0165 Medical and dental coverage—Fee-for-service (FFS) prior authorization—Determination process for payment; other related rules as appropriate.

**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) is updating WAC 182-501-0165 to further implement full integration of behavioral health in HCA's medicaid program by removing the term "mental health" and replacing it

with the term "behavioral health." This change will ensure clarity that clients receiving behavioral health services under HCA's medicaid fee-for-service program receive appropriate notices and opportunities for hearings based on adverse benefit decisions resulting from prior authorization.

Many legislative changes have occurred this decade, including integrating substance use disorder services with delivery of mental health disorder treatments known as "behavioral health," the transition of behavioral health from the department of social and health services (DSHS) to HCA through 2ESHB 1388, chapter 201, Laws of 2018, then the full integration of physical and behavioral health purchasing and administration in E2SSB 5432, chapter 325, Laws of 2019.

**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:** 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 relay services (TRS) 711, email melinda.froud@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Josh Morse (Program Questions), P.O. Box 42712, Olympia, WA 98504-2712, phone 360-725-0839, fax 360-586-9727, TRS 711, email josh.morse@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

February 19, 2020  
Wendy Barcus  
Rules Coordinator

**WSR 20-05-091**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF COMMERCE**

[Filed February 19, 2020, 10:12 a.m.]

**Subject of Possible Rule Making:** Grievance requirements for long-term care ombudsman program.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 43.190 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Align the state rules with the federal C.F.R., to include an opportunity for reconsideration of any decision of the state long-term care ombudsman to grant, refuse, suspend, or remove the designation and certification of an individual long-term care ombudsman.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** United States Department of Health and Human Services.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Devin Proctor, P.O. Box 4252, Olympia, WA 98504, phone 360-725-2999, fax 360-586-8440, email [devin.proctor@commerce.wa.gov](mailto:devin.proctor@commerce.wa.gov), website [commerce.wa.gov](http://commerce.wa.gov).

February 19, 2020  
Sarah Coggins  
Rules Coordinator

### WSR 20-05-095

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 19, 2020, 11:51 a.m.]

Subject of Possible Rule Making: Chapter 16-302 WAC, General rules for seed certification. In response to a petition for rule making submitted by the Washington State Crop Improvement Association (WSCIA), the department is considering amending the seed certification rules by:

1. Modifying the inspection standards, inspection frequency, and treatment requirements for certified class chickpea fields related to ascochyta blight;
2. Standardizing how varieties containing the Clearfield trait and the AXigen trait are certified;
3. Removing the reference to the herbicide Imazamox in WAC 16-302-685; and
4. Reducing the tolerance of triticale to "none found."

In addition, the department is considering amending the hemp seed certification rules by:

1. More closely aligning with the Association of Official Seed Certifying Agencies (AOSCA) standards related to hemp definitions, isolation requirements, impurity standards, and seed standards;
2. Updating references to "industrial hemp" with "hemp" to align with Federal Seed Act (FSA).

Furthermore, the department is considering adding clarifying language to improve readability and understanding of the rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.49.005, [15.49].021, [15.49].310, [15.49].-370, 15.140.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 1. The department is considering modifying the inspection standards, inspection frequency, and treatment requirements for certified class chickpea fields related to ascochyta blight because chemistries, management tools and genetics available to mitigate ascochyta blight are more available now than in the past. This change will ensure that seed production can continue on the Palouse, while not significantly harming the quality of seed that is produced if ascochyta blight is found. The proposed rule amendment focuses on pod lesions in fields because this seed-borne disease requires pod infection for seed infection to occur, therefore, it is reasonable to allow fields to pass

inspection that have other signs of infection (leaves, stems) that would not affect the seed.

2. The department is considering standardizing how varieties containing the Clearfield trait and the AXigen trait are certified because Clearfield trait varieties already require bioassay of seed. It is proposed for CoAXium varieties to be handled in the same way that Clearfield varieties are by requiring bioassays to ensure that the certified lot is trait positive and representative of the variety. The proposed changes will reduce risk of nontrait lots being labeled as CoAXium varieties.

3. The department is proposing to replace the direct Clearfield/Imazamox reference with a broader reference to herbicide tolerance so that both Clearfield and CoAXium varieties are addressed for the seed standards. Having generalized verbiage and a standardized description for all varieties without trade names will ensure consistent application of the standards for all small grain seed certification.

4. The department is proposing to reduce the tolerance in wheat seed for triticale to "None Found" in all classes. This change would improve the quality of wheat seed available in the market.

5. In addition, the department is considering amending the hemp seed certification rules by more closely aligning with the AOSCA standards related to hemp definitions, isolation requirements, impurity standards, and seed standards to ensure consistency with other states. Currently the hemp seed certification rules are more stringent than AOSCA standards and by aligning with AOSCA, Washington certification standards will be consistent with certification standards in other states. Decreasing isolation distances as proposed will allow more land locations to be eligible to produce certified hemp seed while continuing to maintain a high standard of purity.

6. The department is proposing to update references to "industrial hemp" with "hemp" to align with Federal Seed Act (FSA).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will provide notice to AOSCA, WSCIA stakeholders, and direct program level stakeholders via email.

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholders, including the WSCIA, and individual seed companies that may be affected. 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 hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Paula Moore, 21 North 1st Avenue, Suite 203, Yakima, WA 98902, phone 509-249-6950, email [pmoore@agr.wa.gov](mailto:pmoore@agr.wa.gov), website [agr.wa.gov](http://agr.wa.gov).

February 19, 2020  
Jessica Allenton  
Assistant Director