

**WSR 23-21-009**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**MILITARY DEPARTMENT**  
(Emergency Management Division)  
[Filed October 5, 2023, 2:19 p.m.]

Subject of Possible Rule Making: Modernization of the 911 system in chapters 118-66, 118-67, and 118-68 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 38.52.520.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: HB [SHB] 1703 from the 2022 legislative session amended several statutes that impact the statewide 911 emergency communications system. These RCW were updated to align with the modernization of the 911 system and current technologies/operations, and to remove outdated language regarding 911. The agency is considering rule making that would amend chapters 118-66, 118-67, and 118-68 WAC for the purpose of making those chapters consistent with new provisions in HB [SHB] 1703.

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: WAC revisions have been drafted by a subcommittee of representatives from 911; now seeking solicitation of feedback and recommendations concerning these rule updates.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Adam Wasserman, 20 Aviation Drive, Camp Murray, WA 98430, phone 253-512-7468, email adam.wasserman@mil.wa.gov.

September 14, 2023  
Adam Wasserman  
Washington State 911 Coordinator

## WSR 23-21-010

## PREPROPOSAL STATEMENT OF INQUIRY

## DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed October 5, 2023, 2:40 p.m.]

Subject of Possible Rule Making: Dialysate and dialysis device manufacturers and wholesalers in home dialysis programs. The pharmacy quality assurance commission (commission) is considering amending WAC 246-945-090, 246-945-091, 246-945-092, and 246-945-093 and creating new sections in chapter 246-945 WAC to include manufacturers and distributors of dialysate and dialysis devices in home dialysis program rules under the commission's jurisdiction. The amendments under consideration are in response to statutory changes made by SHB 1675 (chapter 23, Laws of 2022).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.64.257, 69.41.032, and 18.64.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission is considering amending WAC 246-945-090, 246-945-091, 246-945-092, and 246-945-093 and creating new sections in chapter 246-945 WAC to align with statutory changes made by SHB 1675 (chapter 23, Laws of 2022). The amendments the commission is considering would increase patient access to dialysis devices and legend drugs used in home dialysis by allowing manufacturers and wholesalers to dispense lawfully prescribed dialysis devices and legend drugs for home dialysis directly to the patient, reducing intermediary storage facility use.

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 Joshua Munroe, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-502-5058, fax 360-236-2901, TTY 711, email <https://fortress.wa.gov/doh/policyreview>, website [www.doh.wa.gov](http://www.doh.wa.gov).

Additional comments: All rule-making notices will be distributed via GovDelivery. To receive notices, interested persons 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 "Pharmacy Quality Assurance Commission."

October 5, 2023

Kenneth Kenyon, PharmD, BCPS, Chair  
Pharmacy Quality Assurance Commission

## WSR 23-21-011

## PREPROPOSAL STATEMENT OF INQUIRY

## DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed October 5, 2023, 2:44 p.m.]

Subject of Possible Rule Making: Classifying wildlife capture drugs as approved legend drugs for the department of fish and wildlife (WDFW). The pharmacy quality assurance commission (commission) is considering amending WAC 246-945-507 to add certain intramammary antibiotic formulations to the list of approved legend drugs in response to a petition from a veterinarian at WDFW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.64.005, 69.41.075.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission received a petition on April 25, 2023, from a veterinarian from WDFW to add four antibiotics as WDFW-approved legend drugs in WAC 246-945-507. The request followed a federal regulatory framework decision by the United States Food and Drug Administration (FDA) that took effect on June 11, 2023. On May 4, 2023, the commission voted to approve the request and consider rule making. WDFW uses post-capture drugs containing four antibiotics: Cephapirin benzathine, penicillin G procaine, ceftiofur hydrochloride, or hetacillin potassium.

Adding post-capture antibiotics to the list of approved legend drugs in WAC 246-945-507 would allow authorized WDFW personnel to acquire necessary antibiotic formulations without each authorized person needing to obtain a prescription. Wildlife capture may introduce pathogens at puncture sites and any delays to the acquisition and administration of post-capture antibiotics increase the risk of infection, morbidity, and mortality.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Center for Veterinary Medicine (CVM), a branch of the FDA, issues guidance for the industry of veterinary sciences. In Guidance for Industry (GFI) #263, the FDA recommends that drug sponsors, persons or entities responsible for the marketing of a new drug, change the approved conditions of use marketing status for intramammary antibiotics from over-the-counter to that of a prescription medication. As part of a five-year plan issued by the FDA in 2018, the procurement of intramammary drugs would be enforced in accordance with GFI #263 beginning June 11, 2023. The FDA regulates and enforces the rule.

WDFW regulates environmental policies and environmental impacts of rules. WDFW would be able to provide insight about the impact of GFI #263 on the use of wildlife post-capture drugs. The commission will communicate with WDFW about the regulatory process, invite members of the agency to public meetings, and seek feedback as needed.

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 Joshua Munroe, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-502-5058, fax 360-236-2901, TTY 711, email PharmacyRules@doh.wa.gov.

Additional comments: Rule development takes place in open public meetings prior to a formal rule proposal and comment period. All rule-making notices are sent via GovDelivery. To receive notices, interested persons 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 boxes next to either "Pharmacy Commission Meeting and Agenda" and/or "Pharmacy Commission Newsletter."

October 5, 2023  
Kenneth Kenyon, PharmD, BCPS, Chair  
Pharmacy Quality Assurance Commission

**WSR 23-21-034**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Long-Term Support Administration)  
[Filed October 6, 2023, 12:45 p.m.]

Subject of Possible Rule Making: The department of social and health services (DSHS) is considering adding new sections and repealing and amending existing sections in chapter 388-76 WAC, Adult family home minimum licensing requirements, chapter 388-78A WAC, Assisted living facility licensing rules, chapter 388-97 WAC, Nursing homes, and chapter 388-107 WAC, Licensing requirements for enhanced services facilities, including WAC 388-76-10160, 388-76-10161, 388-76-10163, 388-76-101631, 388-76-101632, 388-76-10164, 388-76-10165, 388-76-10166, 388-76-10170, 388-76-10174, 388-76-10175, 388-76-10176, 388-76-10180, 388-76-10181, 388-78A-2461, 388-78A-2462, 388-78A-2464, 388-78A-24641, 388-78A-24642, 388-78A-2465, 388-78A-2466, 388-78A-2467, 388-78A-2468, 388-78A-24681, 388-78A-2469, 388-78A-2470, 388-78A-24701, 388-78A-2471, 388-97-1790, 388-97-1800, 388-97-1820, 388-107-1205, 388-107-1210, 388-107-1215, 388-107-1220, 388-107-1230, 388-107-1240, 388-107-1250, 388-107-1252, 388-107-1260, 388-107-1270, 388-107-1280, 388-107-1290, 388-107-1300, 388-107-1310, and other related rules as may be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.20.090, 43.20A.075, 70.128.040, 74.39A.505, and 74.42.620.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose for the change is to consolidate the rules related to background checks, negative actions, and character, competence, and suitability (CC&S) determinations between home and community services, residential care services, and developmental disabilities administration (DDA). The consolidated chapter will provide clarity and understanding for the public and contracted entities, reduce the amount of WAC language, and help preserve the health and safety of our clients.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The aging and long-term support administration and DDA will collaborate and coordinate with the DSHS background check central unit to consolidate and coordinate rules related to background checks, negative actions, and CC&S determination reviews under chapters 388-06, 388-71, 388-76, 388-78A, 388-97, 388-101D, 388-107, and 388-825 WAC, and other chapters as may be necessary.

Process for Developing New Rule: 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 Debra Hoeman, P.O. Box 45600, Olympia, WA 98504, phone 360-725-3210, email [debra.hoeman@dshs.wa.gov](mailto:debra.hoeman@dshs.wa.gov).

October 6, 2023  
Katherine I. Vasquez  
Rules Coordinator

**WSR 23-21-039**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed October 9, 2023, 1:16 p.m.]

Subject of Possible Rule Making: Chapter 181-78A WAC, School counselor approval and review structure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28A.410 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Addressing the barriers for the approval of school counselor preparation programs and aligning the review terminology.

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: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Nguyen, 600 Washington Street S.E., Olympia, WA 98504, phone 360-489-4471, email rulespesb@k12.wa.us, website [www.pesb.wa.gov](http://www.pesb.wa.gov).

October 4, 2023  
Michael Nguyen  
Rules Coordinator

**WSR 23-21-040**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed October 9, 2023, 1:16 p.m.]

Subject of Possible Rule Making: Chapter 181-82A WAC, adding new specialty endorsement to the state system.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28A.410 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Adding adapted professional educator specialty endorsement to the state system.

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: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Nguyen, 600 Washington Street S.E., Olympia, WA 98504, phone 360-489-4471, email rulespesb@k12.wa.us, website [www.pesb.wa.gov](http://www.pesb.wa.gov).

October 4, 2023  
Michael Nguyen  
Rules Coordinator

**WSR 23-21-043**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
(Board of Boiler Rules)  
[Filed October 10, 2023, 9:27 a.m.]

Subject of Possible Rule Making: The board of boiler rules (board); WAC 296-104-020 Administration—What are the filing requirements for boilers and unfired pressure vessels before their installation/reinstallation?, 296-104-102 Inspections—What are the standards for in-service inspection?, 296-104-200 Construction—What are the standards for new construction?, 296-104-255 Installation—What are the required clearances for boilers?, 296-104-260 Installation—What are the required clearances for unfired pressure vessels?, and 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.79 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board and department of labor and industries (L&I) are considering amendments to the boiler rules for updates, clarification, and other changes. The changes affect safety codes, installer and clearance requirements, and fees under chapter 296-104 WAC, Board of boiler rules—Substantive. The board reviews the rules on a regular basis to ensure the rules are consistent with national boiler and unfired pressure vessel safety standards and industry practice.

The rule amendments under consideration include:

- Increasing fees by the fiscal growth factor to support operating expenses;
- Making installers responsible for correcting deficiencies found on initial inspection and paying subsequent inspection fees;
- Updates for consistency with safety codes from the current editions of the National Board Inspection Code and American Society of Mechanical Engineers. This includes:
  - o Removing an outdated reference for relief devices; and
  - o Adding new standards for over pressure protection and pressure relief devices.
- Making amendments to the clearance requirements for installations of boilers and pressure vessels.

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

Process for Developing New Rule: The board reviews and approves all rule amendments. Interested parties can participate in the adoption process for the new rules and formulation of the proposed rules before publication by contacting the individual listed below. The public can also participate, after amendments are proposed, by providing written comments and/or testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Meagan Edwards, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-522-0125, fax 360-902-6134, email Meagan.Edwards@Lni.wa.gov, website <https://lni.wa.gov/licensing-permits/boilers/laws-rules>.



October 10, 2023  
Tim Barker, Chair  
Board of Boiler Rules

**WSR 23-21-046**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed October 10, 2023, 11:12 a.m.]

Subject of Possible Rule Making: The purpose of this rule making is to consider possible revisions to chapters 480-100 and 480-107 WAC and WAC 480-90-238; and potential new rules under RCW 80.28.380 given investor-owned utilities' (IOUs) obligations under the Climate Commitment Act (CCA), codified as chapter 70A.65 RCW. This rule making is being initiated in the context of a pending workshop docket, Docket U-230161, at the utilities and transportation commission (commission).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 80.04.160, and 19.405.100. RCW 19.405.100(9) provides that the commission may revise rules implementing the Clean Energy Transformation Act (CETA), codified at chapter 19.405 RCW, "as needed to carry out the intent and purposes of this chapter."

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission seeks to consider whether it should revise chapters 480-100 and 480-107 WAC and WAC 480-90-238, and adopt potential new rules given the recent inclusion of IOUs under CCA.

In 2019, the legislature enacted CETA, which requires IOUs to eliminate coal-fired electricity by 2025, to achieve carbon-neutrality by 2030, and to be carbon-free by 2045. CETA requires the commission to review Clean Energy Implementation Plans (CEIPs) filed by IOUs, and it provides the commission with broad rule-making authority.

More recently, in 2021, the legislature passed CCA to reduce greenhouse gas (GHG) emissions from a variety of covered entities. Also referred to as "cap and invest," the law establishes a declining cap on GHG emissions from covered entities and is intended to reduce state emissions by 95 percent by 2050. IOUs subject to CETA are provided "no cost" allowances to mitigate the cost impacts of CCA on electricity customers. RCW 70A.65.120(1). The department of ecology (department) must allocate no cost allowances to IOUs consistent with a forecast approved by the commission, reflecting each IOU's supply and demand, as well as the cost burden resulting from inclusion of IOUs under CCA. RCW 70A.65.120(2).

In this rule making, the commission seeks to consider whether chapter 480-100 WAC should be revised given the need for supply and demand forecasts to be submitted to the department for allocation of no cost allowances. The commission specifically intends to consider potential revisions to WAC 480-100-620, 480-100-640, and 480-100-650, which set forth the requirements for integrated resource plans (IRPs), CEIPs, and subsequent reporting and compliance.

The commission will also consider other revisions or potential new sections for chapter 480-100 WAC, addressing the use of revenues collected from an IOU through the consignment and auction of no cost allowances for the benefit of ratepayers.

The commission additionally intends to consider changes to WAC 480-90-238, the gas IRP rules, given the impacts of CCA on forecasts for allowances. Additionally, the commission seeks to consider changes to chapter 480-107 WAC given how CCA, impacts to forecasts, and no cost allowances may impact the purchase of resources and resource planning for electric utilities. Finally, the commission seeks to explore creating rules under RCW 80.28.380 given how obligations under CCA may impact and interact with gas companies' conservation targets.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department is the primary rule-making agency for purposes of implementing CCA. Pursuant to WSR 22-20-056, the department adopted rules implementing the cap and invest program in chapter 173-446 WAC. The commission intends to consult with the department in this rule-making proceeding and to limit the scope of this rule making to matters that are properly within the commission's jurisdiction, such as the commission's approval of IOU's forecasts and the use of funds from auctions for rate-payers.

The department of commerce is also charged with implementing CETA as it applies to consumer-owned utilities. However, CCA contains separate statutory provisions for consumer- and investor-owned utilities. The commission intends to consult with the department of commerce, but the commission does not anticipate that this rule making will have any significant implications for consumer-owned utilities.

Process for Developing New Rule: The commission will ask for initial written comments on the CR-101 by December 15, 2023, will seek additional written comments, and will conduct at least one stakeholder workshop.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Hunter, Acting Executive Director and Secretary, P.O. Box 47250, Olympia, WA 98504-7250, phone 360-664-1160, fax 360-664-1150, TTY 800-833-6283 or 711, email records@utc.wa.gov, website www.utc.wa.gov/200536.

October 10, 2023

Kathy Hunter

Acting Executive Director and Secretary

**WSR 23-21-052**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed October 10, 2023, 4:54 p.m.]

Subject of Possible Rule Making: Contractor registration rules; WAC 296-200A-015 What terms do I need to know to understand this chapter?, 296-200A-030 How much are the surety bond or savings account amounts?, 296-200A-080 How is a suit filed against a contractor?, 296-200A-400 What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.040, 18.27.100, 18.27.110, 18.27.114 or 18.27.200?, and 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration?

Statutes Authorizing the Agency to Adopt Rules on this Subject: 2SHB 1534, chapter 213, Laws of 2023, and chapter 18.27 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule making considers amendments to the contractor registration rules. The amendments affect the definitions, penalty and bond amounts, and fees for general and specialty contractors. The amendments are necessary due to the passage of legislation and to support operating expenses for the contractor registration program (program).

2023's 2SHB 1534 (chapter 213, Laws of 2023) helps to strengthen protections for consumers in the construction industry. Provisions of the bill increase fines, penalties, and bond amounts for contractors. These provisions take effect July 1, 2024.

2019's SB 5795 (chapter 155, Laws of 2019) increases bond requirements for contractors. The law gives the department of labor and industries (L&I) the authority to require up to three times the normal bond amount if there has been one judgment against a contractor involving a residential single-family dwelling. The law took effect July 28, 2019.

The rule amendments under consideration include:

- Increasing fees by the fiscal growth factor.
- Making amendments for consistency with the statutory amendments under 2SHB 1534. This includes:
  - o Defining the meaning of "due diligence" related to a successor of an entity verifying the entity is in good standing related to unsatisfied final judgment against it for work performed under chapter 18.27 RCW or owes money to L&I for assessed penalties or fees as a result of a final judgment.
  - o Increasing surety bond amounts for general and specialty contractors.
  - o Increasing the monetary penalty amounts for infractions by contractors.
- Making amendments to contractor bond requirements for final judgments for consistency with the statutory amendments under SB 5795.
- Making amendments for updates and clarification. This includes:
  - o Clarifying the existing filing fee for suits against a contractor.
  - o Clarifying the requirements for collection of penalties from a contractor and payments of restitution.

This rule making also considers increasing fees by the fiscal growth factor, including updates and clarification amendments. The fees affected include the issuance, renewal, reregistration, and reinstatement of registration certificates, and other services for contractor registration. The current fee levels are not adequate to cover current program expenses. A fee increase will ensure the program's revenues match expenditures.

Process for Developing New Rule: Interested parties can participate in the decision to adopt the new rules and formulation of the proposed rules before publication by contacting the individual listed below. The public can also participate after amendments are proposed by providing written comments and/or testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Alicia Curry, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-6134, email [Alicia.Curry@Lni.wa.gov](mailto:Alicia.Curry@Lni.wa.gov), website <https://www.lni.wa.gov/rulemaking-activity/>.

October 10, 2023  
Joel Sacks  
Director

**WSR 23-21-058**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed October 11, 2023, 4:49 p.m.]

Subject of Possible Rule Making: Labor standards for quotas at warehouse distribution centers. New chapter under Title 296 WAC, Department of labor and industries (L&I).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.84.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 2023's 2SHB 1762, codified under chapter 49.84 RCW, addresses protections for employees at warehouse distribution centers who are subject to quotas. Chapter 49.84 RCW includes the following requirements:

- Provide written notices to employees of quotas they are subject to.
- Provide employees their personal work speed data and work speed data for similar employees at the same location when requested.
- Ensure time considered in the quota includes:
  - o Time for rest breaks and reasonable time to travel to designated locations for rest breaks;
  - o Reasonable travel time to on-site designated meal break locations; and
  - o Time to perform any activity required by the employer in order to do the work subject to any quota.
- Prohibits adverse actions against an employee for failure to meet a quota in violation of the requirements.
- Prohibits adverse action against an employee for exercising their rights under chapter 49.84 RCW, including requesting information on quotas and making a complaint related to alleged quota violations. There is a rebuttal presumption that adverse action taken within 90 days of an employee complaint that the adverse action was retaliatory.

Chapter 49.84 RCW also provides for L&I enforcement of the above requirements.

L&I's fraud prevention and labor standards (FPLS) division must adopt rules under WAC to implement and enforce the requirements related to warehouse workers' quotas under chapter 49.84 RCW.

Other requirements related to warehouse workers' quotas under chapter 49.84 RCW are enforced by division of occupational safety and health and those requirements are being adopted under a separate rule making, but the rule-making efforts will be jointly coordinated.

Chapter 49.84 RCW becomes effective July 1, 2024.

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 the rules are proposed by providing written comments or giving oral testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bridget Osborne, Administrative Regulations Analyst, L&I, FPLS, P.O. Box 44510, Olympia, WA 98504-4510, phone 360-902-5552, email [warehouse.rules@lni.wa.gov](mailto:warehouse.rules@lni.wa.gov), website <https://www.lni.wa.gov/rulemaking-activity/>.

October 11, 2023

Joel Sacks

Director

**WSR 23-21-059**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed October 11, 2023, 4:51 p.m.]

Subject of Possible Rule Making: Safety standards for quotas at warehouse distribution centers. New chapter under Title 296 WAC, Department of labor and industries (L&I), and chapter 296-360 WAC, Discrimination, pursuant to RCW 49.17.160.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.84.060, 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 2023's 2SHB 1762, codified under chapter 49.84 RCW, addresses protections for employees at warehouse distribution centers who are subject to quotas. In part, chapter 49.84 RCW includes requirements enforced under the Washington Industrial Safety and Health Act, chapter 49.17 RCW. These include the following requirements:

- Ensure time considered in the quota includes:
  - Time to use the bathroom, including reasonable travel time;
  - Time to take any actions necessary for the employee to exercise the employee's right to a safe and healthful workplace including, but not limited to, time to access tools or safety equipment necessary to perform the employee's duties; and
  - Time to perform any activity related to safety and health required by the employer for the employee to do the work subject to any quota.
- Ensure a quota does not expose an employee to safety and health hazard.
- Prohibits adverse action against an employee for failure to meet a quota that violates the safety and health requirements above.
- Prohibits adverse action against an employee for making a complaint related to a quota violating the safety and health requirements. There is a rebuttal presumption that adverse action taken within 90 days of an employee complaint is retaliatory.

L&I's division of occupational safety and health (DOSH) must adopt rules under WAC to implement and enforce the requirements related to warehouse workers quotas under chapter 49.84 RCW.

Other requirements related to warehouse workers quotas under chapter 49.84 RCW are enforced by the fraud prevention and labor standards (FPLS) division and those requirements are being adopted under a separate rule making; the rule-making efforts will be jointly coordinated.

Chapter 49.84 RCW becomes effective July 1, 2024.

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

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 the rules are proposed by providing written comments or giving oral testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carmyn Shute, Administrative Regulations Analyst, L&I, DOSH, P.O. Box 44620, Olympia, WA 98504-04620, phone 360-870-4525, fax



360-902-5619, email [warehouserules@lni.wa.gov](mailto:warehouserules@lni.wa.gov), website <https://www.lni.wa.gov/rulemaking-activity/>.

October 11, 2023  
Joel Sacks  
Director

**WSR 23-21-070**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

[Filed October 13, 2023, 7:59 a.m.]

Subject of Possible Rule Making: Dental hygiene health equity continuing education (CE) requirements. The department of health (department) is considering creating a new rule in chapter 246-815 WAC, Dental hygiene health equity training requirements. The department is considering adopting the health equity CE model rules, WAC 246-12-800 through 246-12-830, to comply with RCW 43.70.613. The department will also consider whether additional CE hours and course topics should be included.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.29.130; and ESSB 5229 (chapter 276, Laws of 2021) codified as RCW 43.70.613.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: By January 1, 2024, RCW 43.70.613(1) requires the rule-making authority for each health profession credentialed under RCW 18.130.040 with a CE requirement to adopt rules requiring completion of health equity CE training at least once every four years.

RCW 43.70.613 (3) (b) also directed the department to create model rules establishing minimum standards for health equity CE programs. The department adopted health equity CE model rules on November 23, 2022, under WSR 22-23-167 establishing minimum standards. Any rules developed by the department for a specific health profession must meet or exceed the minimum standards found in WAC 246-12-800 through 246-12-830.

The goal of health equity CE training is to ensure that health care professionals complete health equity training and that the content of the health equity trainings include instruction on skills to address structural factors, such as bias, racism, and poverty, which manifest as health inequities. The objective of requiring health equity training is to enable health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity.

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 Bruce Bronoske, Jr., P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4843, fax 360-236-2901, TTY 711, email [bruce.bronoske@doh.wa.gov](mailto:bruce.bronoske@doh.wa.gov), website [www.doh.wa.gov](http://www.doh.wa.gov).

Additional comments: Interested parties can participate in the drafting of the proposed rules. The department will be conducting rules workshops with interested parties and subject matter experts. The department will use existing GovDelivery lists and other known contact information to inform interested parties of opportunities to provide input on proposed rule language. To find out more information about our rule making, visit [www.doh.wa.gov](http://www.doh.wa.gov). To subscribe to GovDelivery, please visit [www.doh.wa.gov](http://www.doh.wa.gov), and select the "Subscribe" button at the bottom of the page. After signing in, please click open the box labeled "Health Systems Quality Assurance." Next, click open the box labeled "Health Professions" and then click on "Dental Hygiene." You

may also check the box next to one or more of the other professions listed to receive information related to that specific profession.

October 13, 2023  
Kristin Peterson, JD  
Chief of Policy  
for Umair A. Shah, MD, MPH  
Secretary

**WSR 23-21-072  
WITHDRAWAL OF  
PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF ECOLOGY**

[Filed October 13, 2023, 9:38 a.m.]

The department of ecology is withdrawing the CR-101 rule announcement notice filed on September 14, 2022, as WSR 22-19-037.

For more information, please contact Megan Hillyard at Megan.Hillyard@ecy.wa.gov.

Katrina Lassiter, Manager  
Hazardous Waste and Toxics Reduction Program

**WSR 23-21-079**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF AGRICULTURE**  
[Filed October 16, 2023, 8:03 a.m.]

Subject of Possible Rule Making: Chapter 16-228 WAC, General pesticide rules. The department of agriculture (department) is considering updates to multiple sections of this chapter to comply with the 2017 federal certified pesticide applicator rule update and subsequent Washington state certification plan approved by the United States Environmental Protection Agency (EPA) in December 2022.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.58.040, 17.21.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 2017, to help ensure the safe and responsible use of restricted use pesticides, the EPA published updates to 40 C.F.R. 171, Certification of Pesticide Applicators Rule, also known as the Certification and Training (C&T) Rule. Prior to 2017, EPA had not updated federal requirements since the initial publication of the C&T rule in 1974. The C&T rule requires state lead authorities, like the Washington state department of agriculture, to maintain state certification plans on the certification of pesticide applicators. State plans must, at a minimum, establish the same criteria as the federal updated C&T rules in 40 C.F.R. 171.

Chapter 17.21 RCW was updated during the 2023 legislative session in SB 5330 (chapter 186, Laws of 2023) to comply with this federal law.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will discuss proposed rule amendments with EPA.

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](mailto:czimmerman@agr.wa.gov), website <https://agr.wa.gov/services/rulemaking>.

October 16, 2023  
R. Schoen-Nessa  
Assistant Director

**WSR 23-21-087**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed October 17, 2023, 11:28 a.m.]

Subject of Possible Rule Making: The department of fish and wildlife (WDFW) is considering changes to rules for recreational clam, mussel, and oyster harvest seasons.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.04.012, 77.04.055, 77.12.047, and 77.60.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WDFW must annually amend recreational clam, mussel, and oyster season rules on some public tidelands in response to shellfish population changes, shifts in recreational effort, conservation issues, and negotiations with treaty tribes and other state agencies. Such amendments are designed to perpetuate shellfish resources while maximizing recreational harvest opportunity for the public.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington department of health (DOH). WDFW works closely with DOH to monitor and close beaches, if necessary, to recreational clam, mussel, and oyster harvest if there is a risk to public health.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email Title6@dfw.wa.gov; or Camille Speck, Intertidal Bivalve Manager, 375 Hudson Street, Port Townsend, WA 98368, phone 360-302-3030 ext. 313, fax 360-302-3030, email Camille.speck@dfw.wa.gov.

October 17, 2023  
Scott Bird  
Rules Coordinator

**WSR 23-21-090**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF AGRICULTURE**  
[Filed October 17, 2023, 3:27 p.m.]

Subject of Possible Rule Making: Chapter 16-303 WAC, Seed assessment, fees for seed services and seed certification. In response to a petition for rule making submitted by the Washington State Crop Improvement Association (WSCIA), the department is considering amending WAC 16-303-340 by increasing fees to align with the current cost of providing certification services, adding quinoa as a crop that is certified under this section, and otherwise aligning it with the department's seed certification rules and fees.

The department may also consider revising the language to increase clarity and readability and to conform with current industry practices and needs.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department designated WSCIA as the director's duly authorized agent for the purpose of certifying seed of buckwheat, chickpeas, field peas, lentils, millet, soybeans, small grain, and sorghum in WAC 16-302-010. WSCIA funds the cost for certifying these seed crops through the collection of fees in WAC 16-303-340. Overhead costs for providing these services have risen dramatically over the last several years; however, the fees in this section have not been revised since 2012. After a thorough budget review, the WSCIA board of directors have determined that they cannot continue to provide certifying services at the current fee rate and must revise the fees in this section to more accurately recover the cost for these services.

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

Process for Developing New Rule: Affected stakeholders will be notified of proposed amendments. 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 Elisha Chambers, Division Rules Coordinator, 1111 Washington Street S.E., Olympia, WA 98504, phone 360-974-9769, fax 360-902-2085, TTY 800-833-6388, email [elisha.chambers@agr.wa.gov](mailto:elisha.chambers@agr.wa.gov), website <https://agr.wa.gov/LawsRules/Rulemaking>; or Paula Moore, Seed Program Manager, 21 North 1st Avenue, Suite 203, Yakima, WA 98902, phone 509-314-1032, fax 509-454-4395, TTY 800-833-6388, email [pmoore@agr.wa.gov](mailto:pmoore@agr.wa.gov), website <https://agr.wa.gov/services/inspections-and-investigations/inspections/seed/contacts>.

October 17, 2023  
Jessica Allenton  
Assistant Director

WSR 23-21-092

PREPROPOSAL STATEMENT OF INQUIRY  
BUILDING CODE COUNCIL

[Filed October 17, 2023, 4:42 p.m.]

Subject of Possible Rule Making: Chapter 51-04 WAC, amendments to the council policies and procedures.

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: Changes to the council policies and procedures intended to streamline the code adoption cycle and clarify the council policies and procedures.

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: Agency study and stakeholder's recommendations.

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

October 18, 2023  
Tony Doan  
Chair



**WSR 23-21-109**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed October 18, 2023, 11:45 a.m.]

Subject of Possible Rule Making: Public safety employees' retirement system disability benefits.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050 and 41.37.230.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Implementing chapter 22, Laws of 2022 Public safety employees' retirement system—Line of duty disability benefit.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bianca Stoner, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, phone 360-664-7291, TTY 711, email [drs.rules@drs.wa.gov](mailto:drs.rules@drs.wa.gov), website [www.drs.wa.gov/rules](http://www.drs.wa.gov/rules).

October 18, 2023  
Bianca Stoner  
Rules Coordinator