

WSR 22-01-006

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF AGRICULTURE

[Filed December 2, 2021, 6:44 a.m.]

Subject of Possible Rule Making: Chapter 16-610 WAC, Livestock identification. In response to a petition received from the Washington state department of agriculture's (WSDA) livestock identification advisory committee, WSDA is considering amending this rule to:

- Reduce the electronic cattle transaction reporting (ECTR) per head fee; and
- Allow veterinarians and field livestock inspectors certified by WSDA to conduct inspections at public livestock markets, certified feedlots, slaughter facilities, or special sales.

In response to recent transactions within the ECTR system, WSDA is considering adding an additional requirement of submitting original proof of ownership when selling branded animals through ECTR.

In addition, the department is considering modifying the language to improve clarity and readability, and updating the language to reflect current industry practices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.57.153, 16.57.350, 16.57.450, 16.58.030, and 16.65.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Due to concerns raised by the livestock industry regarding decreased WSDA staff availability to perform livestock inspections as a result of the COVID-19 pandemic and the vaccine mandate on state employees, the livestock identification advisory committee has submitted a petition for rule making to reduce the ECTR per head fee and to make permanent the current emergency rule that allows veterinarians and field livestock inspectors certified by WSDA to conduct inspections at public livestock markets, certified feedlots, slaughter facilities or special sales in accordance with criteria set forth in the rule. Reduction in the ECTR per head fee would incentivize more private sales of livestock to be conducted without the use of a livestock inspector and allowing certified veterinarians and field livestock inspectors to conduct inspections at licensed facilities would ensure that the livestock industry is able to continue functioning even when WSDA staff are unavailable to conduct the inspections themselves.

In response to recent transactions within the ECTR system, the need to put parameters around submitting original proof of ownership is important. When ECTR users sell branded cattle that have a brand that is not recorded to the seller, it is important that the seller send WSDA the original proof of ownership so that the seller cannot continue to use that original proof of ownership when selling cattle in the future and more importantly so that WSDA can issue a duplicate certificate to the seller showing the number of animals remaining in their possession from the original certificate. This practice is required when owners request a physical inspection of their branded cattle; therefore, the same practice should be required when producers use ECTR.

Process for Developing New Rule: WSDA staff will share any proposed amendments with affected stakeholders. 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 Jodi Jones, Operations Director, P.O. Box 42577, Olympia, WA 98504-2577, phone 360-902-1889, fax 360-902-2087, TTY 800-833-6388 or 711, email jjones@agr.wa.gov, website www.agr.wa.gov.

December 2, 2021
Derek I. Sandison
Director

WSR 22-01-018
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed December 3, 2021, 8:02 a.m.]

Subject of Possible Rule Making: Chapter 196-09 WAC, Board practices and procedures. New section regarding records indexes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.43.035, 42.56.070, and 34.05.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Public Records Act (RCW 42.56.070) requires state agencies to create, maintain, and make available to the public indexes of certain records and enact a rule describing the indexing system.

Process for Developing New Rule: Notice will be made to stakeholders and active licensees via the board's listserv; and will be posted on our website and distributed through the board and board staff. Interested parties may contact the individual listed below and the public may also participate by commenting after amendments 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 Shanan Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, phone 360-664-1570, TTY 711, email shanan.gillespie@brpels.wa.gov, website <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity>.

December 1, 2021
Ken Fuller
Director

WSR 22-01-024
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed December 3, 2021, 9:23 a.m.]

Subject of Possible Rule Making: WAC 388-101D-0070 Background checks—National fingerprint background checks, 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 planning to amend WAC 388-101D-0070 to align it with 28 C.F.R. § 20.33(d). During 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.

December 2, 2021
Katherine I. Vasquez
Rules Coordinator

WSR 22-01-070
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed December 9, 2021, 3:35 p.m.]

Subject of Possible Rule Making: Eligibility reviews for law enforcement officers' and firefighters' (LEOFF) plan 2 catastrophic disability benefit.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify the process for conducting periodic reviews to confirm continued eligibility for LEOFF plan 2 catastrophic disability benefits.

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 Jilene Siegel, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, website www.drs.wa.gov/rules/.

December 9, 2021
Jilene Siegel
Rules Coordinator

WSR 22-01-078

PREPROPOSAL STATEMENT OF INQUIRY

THE EVERGREEN STATE COLLEGE

[Filed December 10, 2021, 11:42 a.m.]

Subject of Possible Rule Making: Chapter 174-276 WAC, Access to public records and procedures for processing public records requests.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.40.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The college's rules regarding access to public records are outdated and should be updated to permit the implementation of process improvements.

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: Submit written comments by February 15, 2022.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kate MacKinnon, 2700 Evergreen Parkway N.W., Lib 3200, phone 360-867-6914, fax 360-867-6577, email mackinnk@evergreen.edu.

December 10, 2021

Daniel Ralph
Administrative Assistant
to the Vice President
for Finance and Operations

WSR 22-01-148

PREPROPOSAL STATEMENT OF INQUIRY

SECRETARY OF STATE

[Filed December 15, 2021, 11:23 a.m.]

Subject of Possible Rule Making: Public disclosure of information on ballot envelopes and forms used for curing missing or mismatched signatures on ballot declarations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29A.04.230, 29A.04.611, 29A.08.710, 42.56.420.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: It is necessary to update WAC to reflect recent legislative changes and to update and clarify procedures.

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 Fina Ormond, P.O. Box 40229, Olympia, WA 98504, phone 360-902-4146, fax 360-664-4619, email fina.ormond@sos.wa.gov, website sos.wa.gov/elections; or Lisa Tuerk, P.O. Box 40229, Olympia, WA 98504, phone 360-902-4167, fax 360-664-4619, email lisa.tuerk@sos.wa.gov, website sos.wa.gov/elections.

December 15, 2021

Randy Bolerjack

Deputy Secretary of State

WSR 22-01-170
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed December 17, 2021, 11:44 a.m.]

Subject of Possible Rule Making: WAC 246-480-010, 246-480-070, 246-480-080, and 246-480-990 within chapter 246-480 WAC, Drug take-back program. The department of health (department) is considering rule making to implement 2SHB 1161 (chapter 155, Laws of 2021). Rule making will consider aligning existing rules with 2SHB 1161 and adopting other amendments necessary to regulate the state drug take-back program, also known as the "safe medication return" program. Amendments may include clarifying how multiple program operators participate in the drug take-back program, setting fees, and other changes as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.48.180, 69.48.120, 69.48.050; 2SHB 1161 (chapter 155, Laws of 2021).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is considering amending WAC 246-480-010, 246-480-070, 246-480-080, and 246-480-990 to implement recent legislation. Rule making is necessary to align existing rule with statutory changes made by 2SHB 1161. The bill makes several amendments to the drug take-back program including: (1) Allowing multiple program operators, (2) allowing new potential operators to apply periodically, (3) requiring a proposal review fee for applications, (4) requiring coordination between approved program operators, (5) referencing the department's authority to adopt rule and set fees, and (6) other changes. The department will consider rule amendments to implement 2SHB 1161 and to support the consistent regulation and operation of the statewide drug take-back program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Drug Enforcement Administration (DEA) and the Food and Drug Administration regulate the drugs that are collected by safe medication return programs. The Washington state department of ecology regulates environmental public safety and hazardous waste disposal. These agencies may participate in the rule-making process at their discretion. Additionally, the pharmacy quality assurance commission (PQAC) regulates the practice of pharmacy and the dispensing of drugs and devices in Washington state. PQAC will be sent GovDelivery notices as the rule-making process moves forward.

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 Mary Kellington, P.O. Box 47852, Olympia, WA 98504, phone 360-236-2988, TTY 711, email mary.kellington@doh.wa.gov.

Additional comments: Rule-making notices will be delivered via GovDelivery. To receive notices, interested persons may sign up for any or all of the lists. Please go to <https://public.govdelivery.com/accounts/WADOH/subscriber/new>. After signing in, please click open the box labeled "Health Systems Quality Assurance." Next click open the box labeled "Health Professions." From there, you may check the box next to one or more of the professions listed. Notices regarding this rule making will be sent to the "Safe Medication Return" list.

December 16, 2021
Kristin Peterson, JD

Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

**WSR 22-01-173
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed December 17, 2021, 1:18 p.m.]

This memo serves as notice that the department of health (department) is withdrawing the Preproposal statement of inquiry, CR-101, for WAC 246-811-010, 246-811-030, 246-811-035, and 246-811-990 in chapter 246-811 WAC, Substance use disorder professionals and substance use disorder professionals trainees, which was filed July 20, 2021, and published as WSR 21-15-110.

The department is withdrawing this CR-101 because, through discussions internally and with interested parties, the department has determined that additional rules must be amended to fully implement EHB 1311 (chapter 165, Laws of 2021). For the sake of efficiency, the department is withdrawing WSR 21-15-110 and will complete all necessary rule making under a new and updated CR-101.

Individuals requiring information on this rule should contact Ashley Bell by email at ashley.bell@doh.wa.gov or by phone at 360-236-2961.

Tami M. Thompson
Regulatory Affairs Manager

WSR 22-01-174
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed December 17, 2021, 1:59 p.m.]

Subject of Possible Rule Making: WAC 246-811-010, 246-811-030, 246-811-035, 246-811-046, 246-811-270, 246-811-990, and creating new section(s) in chapter 246-811 WAC, Substance use disorder professionals and substance use disorder professionals trainees. The department of health (department) is considering updating these sections and possibly adopting new sections to implement EHB 1311, develop apprenticeship as a pathway to meeting educational requirements for substance use disorder professional (SUDP) certification, and update rule language as appropriate.

This rule making is a continuation of discussions with interested parties and rule-making work done under WSR 21-15-110 to implement EHB 1311. The department is filing a new CR-101 to open additional rules and ensure the requirements of EHB 1311 are properly incorporated into chapter 246-811 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: EHB 1311 (chapter 165, Laws of 2021); and RCW 18.205.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is considering amending WAC 246-811-010, 246-811-030, 246-811-035, 246-811-046, 246-811-270, 246-811-990, and creating new rule section(s) to implement recent legislation. EHB 1311 is intended to enable more people to become SUDPs by allowing creation of SUDP apprenticeships, a noncollege pathway to obtain an SUDP credential. Amending listed rules and possibly adopting new rule sections in chapter 246-811 WAC will align department rules with statutory changes. Rule making to create a framework and educational standards for SUDP apprenticeships will provide clarity for licensees, apprenticeship programs, and the public. Additionally, it will allow the department to consistently uphold standards that protect patient safety.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington state department of labor and industries (L&I) is responsible for registering and approving apprenticeship programs after they are approved by the secretary of health. The department is working with L&I to ensure that department rules complement L&I's existing rules and processes.

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 Ashley Bell, P.O. Box 47825, Olympia, WA 98504, phone 360-236-2961, TTY 711, email ashley.bell@doh.wa.gov; or Ted Dale, P.O. Box 47825, Olympia, WA 98504, phone 360-236-2991, TTY 711, email ted.dale@doh.wa.gov.

Additional comments: Rule-making notices will be delivered via GovDelivery. To receive notices, interested persons may sign up for any or all of the lists. Please go to <https://public.govdelivery.com/accounts/WADOH/subscriber/new>. After signing in, please click open the box labeled "Health Systems Quality Assurance." Next, click open the box labeled "Health Professions." From there, you may check the box next to one or more of the professions listed.

December 16, 2021
Kristin Peterson, JD

Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

WSR 22-01-196
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 21, 2021, 8:33 a.m.]

Subject of Possible Rule Making: Medical aid rules updates regarding rate setting for most professional health care services for injured workers. These updates may also impact rates for health care services provided to crime victims. WAC 296-20-135 Conversion factors, 296-23-220 Physical therapy rules, and 296-23-230 Occupational therapy rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rules describe elements used in the process of updating the maximum allowable payments for most professional health care services. These elements are set in rule in order to follow the established methodologies of the department of labor and industries (L&I) and maintain consistency with the health care authority (HCA) and medicaid purchasing administration. Specifically, any proposed rule changes will consider the following:

- WAC 296-20-135: Updating the conversion factors used by L&I for calculating reimbursement rates for most professional health care and anesthesia services. Updating the conversion factors to correspond to changes in the medical procedure codes, the relative value units, and anesthesia base units. These changes would enable L&I to continue a reimbursement methodology consistent with other state agencies. Cost-of-living adjustments may be incorporated into the changes in the conversion factors.
- WAC 296-23-220 and 296-23-230: Updating the maximum daily reimbursement level for physical and occupational therapy services so L&I may, if necessary, give cost-of-living adjustments to affected providers.

Process for Developing New Rule: L&I notifies external stakeholders through the GovDelivery system on updates to conversion factors and to the physical and occupational therapy maximum daily reimbursement level. L&I coordinates these updates with HCA, the medicaid purchasing administration and the Centers for Medicare and Medicaid Services to insure [ensure] consistent health care purchasing policies when possible. The proposed changes will be presented to the advisory groups, published via the GovDelivery system, and publicized in a letter to interested persons.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Megan Lemon, L&I, Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, phone 360-902-5161, fax 360-902-4249, email Megan.Lemon@lni.wa.gov, website <https://www.lni.wa.gov/rulemaking-activity>.

December 21, 2021
Joel Sacks
Director

WSR 22-01-197
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 21, 2021, 8:34 a.m.]

Subject of Possible Rule Making: Chapter 296-115 WAC, Safety requirements for charter boats.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 88.04.330.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The division of occupational safety and health (DOSH) is initiating this rule making to better align chapter 296-115 WAC, Safety requirements for charter boats, with chapter 88.04 RCW, the Charter Boat Safety Act; chapter 49.17 RCW, the Washington Industrial Safety and Health Act; and United States Coast Guard requirements under 46 C.F.R. In addition, this rule making will address items from an audit of the charter boat program.

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 formulation of these rules may contact the individual listed below. The public may also participate by commenting after amendments 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 Cathy Coates, Administrative Regulations Analyst, Labor and Industries, DOSH, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5432, fax 360-902-5619, email Cathy.Coates@Lni.wa.gov, website <https://www.lni.wa.gov/rulemaking-activity/>.

December 21, 2021
Joel Sacks
Director

WSR 22-01-210
PREPROPOSAL STATEMENT OF INQUIRY
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed December 21, 2021, 4:13 p.m.]

Subject of Possible Rule Making: Chapter 181-82A WAC, Teachers of the visually impaired.

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: These changes reflect input from the field regarding credentialing for teachers of the visually impaired in order to increase access to and ensure high standards for this role.

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 Sophia Keskey, 600 Washington Street S.E., Olympia, WA 98504, phone 360-890-5814, email Sophia.keskey@k12.wa.us, website www.pesb.wa.gov.

December 16, 2021
Sophia Keskey
Rules Coordinator

WSR 22-01-222

PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION

[Filed December 22, 2021, 10:45 a.m.]

Subject of Possible Rule Making: WAC 260-60-460 Cancellations of claims.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To adopt model rules and the Horse Racing Safety and Integrity Act language for when a claim may be canceled.

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 Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, phone 360-450-6462, fax 360-450-6461, TTY 360-450-6462, email doug.moore@whrc.state.wa.us, website www.whrc.wa.gov; Amanda Benton, 6326 Martin Way, Suite 209, Olympia, WA 98516, phone 360-450-6462, fax 360-450-6461, TTY 360-450-6462, email amanda.benton@whrc.state.wa.us, website www.whrc.wa.gov.

December 22, 2021
Douglas L. Moore
Executive Secretary