

WSR 10-18-001
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed August 18, 2010, 1:59 p.m.]

Subject of Possible Rule Making: Commercial and recreational fishing in Puget Sound.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.04.020 and 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is considering the creation of one or more marine protected areas (MPA) in Puget Sound. A MPA is a legally defined area where recreational and commercial fishing is restricted or prohibited. Creation of a network of MPAs is a major component of the department's Puget Sound rockfish conservation plan. The goals of the new MPAs are to conserve fish resources, promote biodiversity, and provide increased underwater viewing opportunities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The National Marine Fisheries Service (NMFS) has listed three rockfish species as "endangered" under the federal Endangered Species Act (ESA). State and federal agencies are now developing conservation plans to recover these species. As stated above, the Washington department of fish and wildlife (WDFW) is creating a network of MPAs as a major component of the department's Puget Sound rockfish conservation plan. WDFW will work with NMFS in developing the MPAs and rockfish conservation plan.

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 Lori Preuss, WDFW Enforcement, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail Lori.Preuss@dfw.wa.gov. Contact by October 15, 2010. Expected proposal filing date is October 20, 2010.

August 18, 2010
 Lori Preuss
 Rules Coordinator

WSR 10-18-006
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
EARLY LEARNING

[Filed August 18, 2010, 4:08 p.m.]

Subject of Possible Rule Making: Chapter 170-295 WAC, Minimum requirements for child care centers; other related chapters and sections of Title 170 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.215 RCW, and RCW 43.215.060, 43.215.070 (2)(c), 43.215.200, 43.215.255, and 43.43.832 (6).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department of early learning (DEL) plans to review the entire child care center

licensing WAC chapter and make appropriate changes consistent with current law, child care research, department practice and with other DEL rules. The last major revision of child care center licensing requirements was in 2003 by the department of social and health services, prior to the establishment of DEL in 2006 as the state agency responsible for child care licensing. DEL's review of chapter 170-295 WAC is part of a comprehensive update of the various child care and early learning program rules that were transferred to DEL in 2006.

The department plans to file more than one proposed rule (CR-102 notice) under RCW 34.05.320 to revise this chapter. The first proposal will amend WAC 170-295-3030 regarding exclusion of children and staff members of a center who are ill. Other proposed rules will follow. The department may revise other rules in Title 170 WAC for consistency with changes to chapter 170-295 WAC. DEL may also move certain requirements from chapter 170-295 WAC to a new WAC chapter containing requirements that would apply to more than one category of child care or early learning facilities or programs regulated by DEL (see the CR-101 notice filed as WSR 09-01-185).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: As appropriate, DEL will coordinate development of these rules with state department of health and department of social and health services, and with the Children's Bureau in the United States Department of Health and Human Services.

Process for Developing New Rule: DEL welcomes public input on the current child care center rules and suggestions for possible changes. In-depth review of the current rules is expected to begin in 2011. At a later date, DEL will announce a process and timetable for stakeholder participation and input, including how draft materials will be made available for public review. When formal proposals are filed, DEL will hold public hearings and offer several ways for the public to submit written comments on those proposals.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. You may join an e-mail or postal mail list to receive notices, draft materials and other information about this rule by contacting DEL by e-mail Rules@del.wa.gov, postal mail DEL Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970, fax (360) 725-4939, phone Andy Fernando, rules coordinator, at (360) 725-4397.

August 18, 2010
 Andy Fernando
 Rules Coordinator

WSR 10-18-007
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 10-14—Filed August 19, 2010, 8:37 a.m.]

Subject of Possible Rule Making: This rule making would amend chapter 173-98 WAC to address:

- Incorporating provisions in the 2010 clean water state revolving fund federal appropriation (e.g. green project reserves and forgivable principal).
- Reviewing the allocation of funds between project categories (e.g., facility, activity, planning/design, and green project reserves).
- Maintaining consistency between the state revolving fund (SRF) and centennial grant programs.
- Incorporating provisions of recent Washington state legislation (e.g., greenhouse gas emissions)
- Setting a minimum score on applications in order to receive funding.
- Reviewing list of eligible and ineligible projects to be consistent with Environmental Protection Agency (EPA) guidance and to define list of low impact development techniques.
- Discussing whether to revise state environmental review process (SERP) requirements to include all projects that disturb soil, and awarding projects that have completed SERP prior to applying for funding.
- Revisiting definitions of industrial and commercial wastewater.
- Reassessing the deadlines for signing agreements, commencing work, and completing projects in order to speed up the process to expend funds.
- Cleaning up miscellaneous housekeeping items (e.g., clarifying definition of "primary domestic wastewater").

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.50A RCW, RCW 90.48.035, 43.21.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The SRF program is funded in part through a grant from the EPA through the Clean Water Act. It is necessary to comply with revisions to the federal Clean Water Act law in order to receive the EPA funding. If we do not conduct the proposed rule making we may run the risk of losing federal Clean Water Act funding.

The SRF program is managed along with the centennial grant program using a single application form and a combined application process. It is important to maintain consistency between the SRF and centennial program because of the combined funding process.

The 2010 clean water state revolving fund federal appropriation created a new set aside for green project reserves that is not accounted for in the current SRF rule funding categories.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The rule-making process will be coordinated with EPA as the federal agency administering the Clean Water Act funding. Also, we intend to coordinate the rule-making process with other state (e.g. department of commerce) and federal (e.g. USDA-rural development) agencies that we partner with on funding wastewater treatment projects and provide technical assistance to local governments.

Process for Developing New Rule: We intend to involve stakeholders in the rule-making process by using the water quality program's financial advisory council, existing water quality program clients, stakeholder groups for the SRF and

other water quality financial assistance programs, and by holding public meetings and hearings for interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joseph Coppo, Ecology, P.O. Box 47600, Olympia, WA 98504, (360) 407-6510, (360) 407-7151, joseph.coppo@ecy.wa.gov, or Jeff Nejedly, Ecology, P.O. Box 47600, Olympia, WA 98504, (360) 407-6566, (360) 407-7151, jeff.nejedly@ecy.wa.gov; web site <http://www.ecy.wa.gov/programs/wq/funding/funding.html>.

August 17, 2010
Kelly Susewind
Program Manager

WSR 10-18-033

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed August 25, 2010, 9:55 a.m.]

Subject of Possible Rule Making: WAC 458-20-179 Public utility tax, 458-20-17901 Public utility tax—Energy conservation and cogeneration deductions, and 458-20-180 Motor transportation, urban transportation.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 82.16 RCW imposes a public utility tax on the act or privilege of engaging in certain public service and transportation businesses within this state. These rules provide information about this tax, including who is liable for the tax and available exemptions and deductions. The department is considering amendments that:

- Incorporate SSB 6614 (chapter 295, Laws of 2010) into Rule 179,
- Incorporate relevant deduction information from Rule 17901 into Rule 179 and repeal Rule 17901,
- Remove Rule 179 examples on log hauling that were previously incorporated into Rule 13501 Timber harvest operations,
- Move deduction information specific to motor carriers from Rule 179 to Rule 180,
- Generally update and reorganize information in Rules 179 and 180.

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 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. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of possible rule changes is available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/>

agenda.aspx. Written comments on and/or requests for copies of the rule may be directed to Gayle Carlson, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, e-mail GayleC@dor.wa.gov, phone (360) 570-6126.

Public meeting location: Capital Plaza Building, 4th Floor Large L&P Conference Room, 1025 Union Avenue S.E., Olympia, WA, on October 5, 2010, at 10:00 a.m.

Assistance for persons with disabilities: Contact Martha Thomas no later than ten days before the meeting date, TTY 1-800-451-7985 or (360) 725-7497.

August 25, 2010
Alan R. Lynn
Rules Coordinator

WSR 10-18-037

PREPROPOSAL STATEMENT OF INQUIRY OLYMPIC COLLEGE

[Filed August 25, 2010, 2:23 p.m.]

Subject of Possible Rule Making: First amendment activities policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28B50 [28B.50] RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This new policy updates and clarifies activities that are acceptable on Olympic College campuses which are protected under the first amendment of the United States constitution.

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

Process for Developing New Rule: Review by president's cabinet and the board of trustees.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Thomas Oliver, Olympic College, rules coordinator, (360) 475-7502 or tolover@olympic.edu, to provide comments on this rule.

August 25, 2010
Thomas Oliver
Rules Coordinator

WSR 10-18-042

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed August 25, 2010, 4:46 p.m.]

Subject of Possible Rule Making: All licensed gambling premises.

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: We are reviewing the requirement which requires a current version of gambling rules to be maintained on a licensed premises.

Process for Developing New Rule: Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625.

[Meetings on] October 14 or 15, 2010, at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000; and on November 18 or 19, 2010, at the Lacey Community Center, 6729 Pacific Avenue S.E., Lacey, WA 98503, (360) 491-0857.

August 25, 2010
Susan Arland
Rules Coordinator

WSR 10-18-044

PREPROPOSAL STATEMENT OF INQUIRY FOREST PRACTICES BOARD

[Filed August 26, 2010, 9:03 a.m.]

Subject of Possible Rule Making: The forest practices board is considering rule making to amend portions of Title 222 WAC pertaining to watershed analysis reviews.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The forest practices board is considering whether rules concerning the use and review of approved watershed analysis should be revised to increase confidence that they are protective enough to warrant an exemption from Class IV-special (see WAC 222-16-050 (1)(d)) or remain in effect.

Process for Developing New Rule: The board will receive input from interested stakeholders to develop rule language. Also, the board will seek agreement from the department of ecology, and solicit input from counties, the Washington department of fish and wildlife, and tribes pursuant to RCW 76.09.040(2).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by mailing, faxing, or e-mailing comments to Patricia Anderson, Forest Practices Board Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, fax (360) 902-1428, e-mail forest.practicesboard@dnr.wa.gov.

August 23, 2010
Peter Goldmark
Chair

WSR 10-18-045
PREPROPOSAL STATEMENT OF INQUIRY
FOREST PRACTICES BOARD

[Filed August 26, 2010, 9:05 a.m.]

Subject of Possible Rule Making: The forest practices board is considering rule making to amend portions of Title 222 WAC pertaining to the completion date required for forest landowners to complete road improvement activities according to road maintenance and abandonment plans (RMAPs).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Due to the state and federal economic downturn and the decline in timber prices accompanied by low harvest rates, the board is considering extending the deadline for forest landowners to complete road improvement work. The deadline currently specified in WAC 222-24-050 and 222-24-051 is July 1, 2016.

Process for Developing New Rule: The board will request input from interested stakeholders to develop rule language. Also, the board will seek agreement from the department of ecology, and solicit input from counties, the Washington department of fish and wildlife, and tribes pursuant to RCW 76.09.040(2).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by mailing, faxing, or e-mailing comments to Patricia Anderson, Forest Practices Board Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, fax (360) 902-1428, e-mail forest.practicesboard@dnr.wa.gov.

August 23, 2010
 Peter Goldmark
 Chair

WSR 10-18-046
PREPROPOSAL STATEMENT OF INQUIRY
FOREST PRACTICES BOARD

[Filed August 26, 2010, 9:06 a.m.]

Subject of Possible Rule Making: The forest practices board is considering rule making to amend WAC 222-16-010 to include forest biomass removal in the "forest practice" definition.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: There is an emerging industry in Washington state to convert biomass to energy and energy products. Forest residue is an important source of biomass feedstock for this industry and is being removed from forest lands and transported for that purpose. The board is considering adding forest biomass removal to the definition of "forest practice" to ensure the public's understanding that this activity is a forest practice and subject to the resource protection measures required in Title 222 WAC and chapter 76.09 RCW.

Process for Developing New Rule: The board will request input from interested stakeholders to develop rule language. Also, the board will seek agreement from the department of ecology, and solicit input from counties, the Washington department of fish and wildlife, and tribes pursuant to RCW 76.09.040(2).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by mailing, faxing, or e-mailing comments to Patricia Anderson, Forest Practices Board, Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, fax (360) 902-1428, e-mail forest.practicesboard@dnr.wa.gov.

August 23, 2010
 Peter Goldmark
 Chair

WSR 10-18-057
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed August 30, 2010, 8:27 a.m.]

Subject of Possible Rule Making: Chapter 308-107 WAC, Ignition interlock driver's licenses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110 and 46.20.385.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules must be updated to account for changes made in the 2010 legislative session.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington state patrol regulates ignition interlock devices and vendors, and will be consulted in the promulgation of these rules.

Process for Developing New Rule: Input from interested stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Clark J. Holloway, Department of Licensing, P.O. Box 9020, Olympia, WA 98507-9020, (360) 902-3846, cholloway@dol.wa.gov.

August 30, 2010
 Walt Fahrer
 Rules Coordinator

WSR 10-18-061
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed August 30, 2010, 10:38 a.m.]

Subject of Possible Rule Making: Chapter 415-02 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to department rules are needed to implement SHB 2196.

Process for Developing New Rule: The department of retirement systems (DRS) will develop the draft rule(s) with the assistance of the attorney general's office. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the rule-making process. After the rule(s) is drafted, DRS will file a copy with the office of the code reviser with a notice of proposed rule making. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-5397, e-mail Rules@drs.wa.gov.

August 30, 2010
Ken Goolsby
Rules Coordinator

WSR 10-18-062
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed August 30, 2010, 10:48 a.m.]

Pursuant to RCW 34.05.335 and WAC 1-21-060, the department of retirement systems requests to withdraw its preproposal statement of inquiry (CR-101) filed on June 22, 2010, as WSR 10-13-136.

Ken Goolsby
Rules and
Contracts Coordinator

WSR 10-18-063
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed August 30, 2010, 10:50 a.m.]

Subject of Possible Rule Making: Chapters 415-02, 415-103, and 415-104 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: EHB 2519 and SHB 1679 were passed during the 2010 legislative session. Agency rules require updating for compliance with duty death and disability benefits outlined in EHB 2519 and SHB 1679.

Process for Developing New Rule: The department of retirement systems (DRS) will develop the draft rule(s) with the assistance of the attorney general's office. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the rule-making process. After the rule(s) is drafted, DRS will file a copy with the office of the code reviser with a notice of proposed rule making. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-5397, e-mail rules@drs.wa.gov.

August 30, 2010
Ken Goolsby
Rules Coordinator

WSR 10-18-068
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed August 30, 2010, 11:52 a.m.]

Subject of Possible Rule Making: WAC 415-02-710.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Technical corrections to make rule consistent with statute, rule has conflicting information.

Process for Developing New Rule: The department of retirement system (DRS) will develop the draft rule(s) with the assistance of the attorney general's office. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the rule-making process. After the rule(s) is drafted, DRS will file a copy with the office of the code reviser with a notice of proposed rule making. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-5397, e-mail Rules@drs.wa.gov.

August 30, 2010
Ken Goolsby
Rules Coordinator

WSR 10-18-070

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed August 31, 2010, 8:29 a.m.]

Subject of Possible Rule Making: WAC 458-40-540 Forest land values and 458-40-660 Timber excise tax—Stumpage value tables.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.33.096, 82.32.300, and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 84.33.140 requires that forest land values be adjusted annually by a statutory formula contained in RCW 84.33.140(3). The department anticipates amending the forest land values rule (WAC 458-40-540) to adjust the table of forest land values in Washington as required by statute. County assessors will use these published land values for property tax purposes in 2011.

RCW 84.33.091 requires the department of revenue to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The department anticipates amending WAC 458-40-660 to provide valuations for the first half of 2011.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the United States Forest Service and Washington state department of natural resources both regulate forest practices, neither is involved in valuation for taxation purposes. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there should be no need to involve them in the valuation revisions provided in this rule.

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. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of anticipated changes will be available upon request shortly before the public meeting. Written comments on and/or requests for copies of the rule may be directed to: Mark E. Bohe, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, phone (360) 570-6133.

Public Meeting Location: Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on October 19, 2010, at 10:00 a.m.

August 31, 2010

Alan R. Lynn

Rules Coordinator

WSR 10-18-085

PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2010-11—Filed August 31, 2010, 3:43 p.m.]

Subject of Possible Rule Making: Washington state specific requirements for medicare supplement policy replacement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060 (3)(a) and 48.66.165.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Federal Medicare Improvements for Patients and Providers Act of 2008, and the 2008 NAIC model medicare supplement regulation, set forth new benefit standards for standardized medicare supplement plans issued on or after June 1, 2010.

Current WAC 284-66-063 allows, but does not require, a medicare supplement issuer to allow a medicare supplement policyholder or certificate holder to replace his or her pre-2010 standardized plan with a 2010 standardized plan without evidence of insurability. This appears to conflict with RCW 48.66.045, which specifically requires a medicare supplement issuer to issue specified replacement coverage to a policyholder or certificate holder without evidence of insurability and without regard to whether the original standardized plan was issued before or after 2010. Modification of WAC 284-66-063 and 284-66-064 will thus eliminate any inconsistency between the regulation and the underlying statute by clearly stating that medicare supplement issuers must allow such policy replacement, as set forth in RCW 48.66.045, without regard to whether or not the original standardized policy was issued prior to 2010.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Centers for Medicare and Medicaid Services (CMS). CMS will be included in the communication process as this rule is developed.

Process for Developing New Rule: Submit written comments by April 25, 2011.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, kacys@oic.wa.gov.

August 31, 2010

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2009-08, filed 11/24/09, effective 1/19/10)

WAC 284-66-063 Benefit standards for policies or certificates issued or delivered after June 30, 1992 and before June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General standards. The following standards apply to medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) A medicare supplement policy or certificate may not exclude or limit benefits for losses incurred more than three months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within three months before the effective date of coverage.

(b) A medicare supplement policy or certificate must provide that benefits designed to cover cost sharing amounts under medicare will be changed automatically to coincide with any changes in the applicable medicare deductible, copayment or coinsurance amounts. Premiums may be modified to correspond with such changes.

(c) A medicare supplement policy or certificate may not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(d) Each medicare supplement policy must be guaranteed renewable and:

(i) The issuer may not cancel or nonrenew the policy solely on the ground of health status of the individual; and

(ii) The issuer may not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(iii) If the medicare supplement policy is terminated by the group policyholder and is not replaced as provided under (d)(v) of this subsection, the issuer must offer certificate holders an individual medicare supplement policy that (at the option of the certificate holder) provides for continuation of the benefits contained in the group policy, or provides for benefits that otherwise meet the requirements of this subsection.

(iv) If an individual is a certificate holder in a group medicare supplement policy and the individual terminates membership in the group, the issuer must offer the certificate holder the conversion opportunity described in (c)(iii) of this subsection, or at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(v) If a group medicare supplement policy is replaced by another group medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy must offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy may not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(e) Termination of a medicare supplement policy or certificate must be without prejudice to any continuous loss that began while the policy was in force, but the extension of benefits beyond the period that the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of medicare Part D benefits will not be considered in determining a continuous loss.

(f) If a medicare supplement policy or certificate eliminates an outpatient prescription drug benefit as a result of

requirements imposed by the Medicare Prescription Drug Improvement and Modernization Act of 2003, the modified policy or certificate is deemed to satisfy the guaranteed renewal requirements of this section.

(g)(i) A medicare supplement policy or certificate must provide that benefits and premiums under the policy or certificate must be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four months) that the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within ninety days after the date the individual becomes entitled to the assistance.

(ii) If the suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate must be automatically reinstated effective as of the date of termination of the entitlement if the policyholder or certificate holder provides notice of loss of the entitlement within ninety days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

(iii) Each medicare supplement policy must provide that benefits and premiums under the policy will be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy must be automatically reinstated (effective as of the date of loss of coverage within ninety days after the date of the loss).

(h) Reinstatement of the coverages:

(i) May not provide for any waiting period with respect to treatment of preexisting conditions;

(ii) Must provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of the suspension. If the suspended medicare supplement policy or certificate provided coverage for outpatient prescription drugs, reinstatement of the policy for medicare Part D enrollees must be without coverage for outpatient prescription drugs and must otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension; and

(iii) Must provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

(2) If an issuer makes a written offer to the medicare supplement policyholders or certificate holders of one or more of its plans, to exchange his or her standardized plan to a 2010 standardized plan during a specified period, the offer and subsequent exchange must comply with the following requirements:

(a) An issuer need not provide justification to the commissioner if the insured (~~replaces~~) exchanges a 1990 standardized policy or certificate with a 2010 standardized policy or certificate.

(b) An issuer may not apply new preexisting condition limitations or a new incontestability period to the (~~replacement~~) new 2010 standardized policy for those benefits contained in the former exchanged policy or certificate of the insured, but may apply preexisting condition limitations of no more than three months to any benefits contained in the new 2010 standardized policy or certificate that were not contained in the former exchanged policy.

(c) The new policy or certificate must be offered to all policyholders or certificate holders within a given plan, except where the offer or issue would be in violation of state or federal law.

(3) Standards for basic ("core") benefits common to benefit plans A-J. Every issuer must make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other medicare supplement insurance benefit plans in addition to the basic "core" package, but not in place of the basic "core" package.

(a) Coverage of Part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the sixty-first day through the ninetieth day in any medicare benefit period;

(b) Coverage of Part A medicare eligible expenses incurred for hospitalization to the extent not covered by medicare for each medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent of the medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate or other appropriate medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five days. The provider must accept the issuer's payment as payment in full and may not bill the insured for any balance;

(d) Coverage under medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(e) Coverage for the coinsurance amount, or in the case of hospital; outpatient department services paid under a prospective payment system, the copayment amount, of medicare eligible expenses under Part B regardless of hospital confinement, subject to the medicare Part B deductible;

(4) Standards for additional benefits. The following additional benefits must be included in medicare supplement benefit plans "B" through "J" only as provided by WAC 284-66-066.

(a) Medicare Part A deductible: Coverage for all of the medicare Part A inpatient hospital deductible amount per benefit period.

(b) Skilled nursing facility care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a medicare benefit period for posthospital skilled nursing facility care eligible under medicare Part A;

(c) Medicare Part B deductible: Coverage for all of the medicare Part B deductible amount per calendar year regardless of hospital confinement.

(d) Eighty percent of the medicare Part B excess charges: Coverage for eighty percent of the difference between the actual medicare Part B charge as billed, not to exceed any charge limitation established by the medicare program or state law, and the medicare-approved Part B charge.

(e) One hundred percent of the medicare Part B excess charges: Coverage for all of the difference between the actual medicare Part B charge as billed, not to exceed any charge limitation established by the medicare program or state law, and the medicare-approved Part B charge.

(f) Basic outpatient prescription drug benefit: Coverage for fifty percent of outpatient prescription drug charges, after a two hundred fifty dollar calendar year deductible, to a maximum of one thousand two hundred fifty dollars in benefits received by the insured per calendar year, to the extent not covered by medicare. The outpatient prescription drug benefit may not be included for sale or issuance in a medicare supplement policy after December 31, 2005.

(g) Extended outpatient prescription drug benefit: Coverage for fifty percent of outpatient prescription drug charges, after a two hundred fifty dollar calendar year deductible to a maximum of three thousand dollars in benefits received by the insured per calendar year, to the extent not covered by medicare. The outpatient prescription drug benefit may not be included for sale or issuance in a medicare supplement policy after December 31, 2005.

(h) Medically necessary emergency care in a foreign country: Coverage to the extent not covered by medicare for eighty percent of the billed charges for medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, that would have been covered by medicare if provided in the United States and that began during the first sixty consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars, and a lifetime maximum benefit of fifty thousand dollars. For purposes of this benefit, "emergency care" means care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i) Preventive medical care benefit: Coverage for the following preventive health services not covered by medicare:

(i) An annual clinical preventive medical history and physical examination that may include tests and services from (ii) of this subsection and patient education to address preventive health care measures.

(ii) Preventive screening tests or preventive services, the selection and frequency that is determined to be medically appropriate by the attending physician.

Reimbursement must be for the actual charges up to one hundred percent of the medicare-approved amount for each service, as if medicare were to cover the service as identified in *American Medical Association Current Procedural Terminology (AMA CPT)* codes, to a maximum of one hundred twenty dollars annually under this benefit. This benefit may not include payment for any procedure covered by medicare.

(j) At-home recovery benefit: Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

(i) For purposes of this benefit, the following definitions apply:

(A) "Activities of daily living" include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(B) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(C) "Home" means any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by medicare. A hospital or skilled nursing facility is not considered the insured's place of residence.

(D) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four hours in a twenty-four hour period of services provided by a care provider is one visit.

(ii) Coverage requirements and limitations.

(A) At-home recovery services provided must be primarily services that assist in activities of daily living.

(B) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by medicare.

(C) Coverage is limited to:

(I) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits may not exceed the number of medicare approved home health care visits under a medicare approved home care plan of treatment.

(II) The actual charges for each visit up to a maximum reimbursement of forty dollars per visit.

(III) One thousand six hundred dollars per calendar year.

(IV) Seven visits in any one week.

(V) Care furnished on a visiting basis in the insured's home.

(VI) Services provided by a care provider as defined in this section.

(VII) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(VIII) At-home recovery visits received during the period the insured is receiving medicare approved home care services or no more than eight weeks after the service date of the last medicare approved home health care visit.

(iii) Coverage is excluded for: Home care visits paid for by medicare or other government programs; and care provided by family members, unpaid volunteers, or providers who are not care providers.

(5) Standardized medicare supplement benefit plan "K" must consist of the following:

(a) Coverage of one hundred percent of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any medicare benefit period;

(b) Coverage of one hundred percent of the Part A hospital coinsurance amount for each medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any medicare benefit period;

(c) Upon exhaustion of the medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent of the medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five days. The provider must accept the issuer's payment as payment in full and may not bill the insured for any balance;

(d) Medicare Part A deductible: Coverage for fifty percent of the medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in (j) of this subsection;

(e) Skilled nursing facility care: Coverage for fifty percent of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a medicare benefit period for post-hospital skilled nursing facility care eligible under medicare Part A until the out-of-pocket limitation is met as described in (j) of this subsection;

(f) Hospice care: Coverage for fifty percent of cost sharing for all Part A medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in (j) of this subsection;

(g) Coverage for fifty percent, under medicare Part A or B, of the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulation) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in (j) of this subsection;

(h) Except for coverage provided in (i) of this subsection, coverage for fifty percent of the cost sharing otherwise applicable under medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in (j) of this subsection;

(i) Coverage of one hundred percent of the cost sharing for medicare Part B preventive services after the policyholder pays the Part B deductible; and

(j) Coverage of one hundred percent of all cost sharing under medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under medicare Parts A and B of four thousand dollars in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

(6) Standardized medicare supplement benefit plan "L" must consist of the following:

(a) The benefits described in subsection (4)(a), (b), (c) and (i) of this section;

(b) The benefit described in subsection (4)(d), (e), (f) and (h) of this section but substituting seventy-five percent for fifty percent; and

(c) The benefit described in subsection (4)(j) of this section but substituting two thousand dollars for four thousand dollars.

AMENDATORY SECTION (Amending Matter No. R 2009-08, filed 11/24/09, effective 1/19/10)

WAC 284-66-064 Benefit standards for policies or certificates issued or delivered on or after June 1, 2010.

No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a medicare supplement policy or certificate unless it complies with these benefit standards. Benefit standards applicable to medicare supplement policies or certificates issued before June 1, 2010, remain subject to the requirements of WAC 284-66-060 and 284-66-063.

(1) General standards. The following standards apply to medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) A medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than three months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within three months before the effective date of coverage.

(b) A medicare supplement policy or certificate must provide that benefits designed to cover cost sharing amounts under medicare will be changed automatically to coincide with any changes in the applicable medicare deductible, copayment or coinsurance amounts. Premiums may be modified to correspond with such changes.

(c) No medicare supplement policy or certificate may provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured other than the nonpayment of premium.

(d) Each medicare supplement policy shall be guaranteed renewable and:

(i) The issuer may not cancel or nonrenew the policy solely on the ground of health status of the individual; and

(ii) The issuer may not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(iii) If the medicare supplement policy is terminated by the group policyholder and is not replaced as provided under (d)(v) of this subsection, the issuer shall offer certificate holders an individual medicare supplement policy which, at the option of the certificate holder:

(A) Provides for continuation of the benefits contained in the group policy; or

(B) Provides for benefits that otherwise meet the requirements of this subsection.

(iv) If an individual is a certificate holder in a group medicare supplement policy and the individual terminates membership in the group, the issuer must:

(A) Offer the certificate holder the conversion opportunity described in (d)(iii) of this subsection; or

(B) At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(v) If a group medicare supplement policy is replaced by another group medicare supplement policy purchased by the same policyholder, the issue of the replacement policy must offer coverage to all persons covered under the old group policy on its date of termination.

(vi) Termination of a medicare supplement policy or certificate must be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of medicare Part D benefits will not be considered in determining a continuous loss.

(vii)(A) A medicare supplement policy or certificate must provide that benefits and premiums under the policy or certificate are suspended at the request of the policyholder or certificate holder for the period not to exceed twenty-four months in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within ninety days after the date the individual becomes entitled to assistance.

(B) If suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated, effective as of the date of termination of entitlement within ninety days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

(C) Each medicare supplement policy must provide that benefits and premiums under the policy must be suspended for any period that may be provided by federal regulation at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act. If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy must be automatically reinstated effective as of the date of loss of coverage if the policyholder provides notice of loss of coverage within ninety days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

(viii) Reinstitution of coverages as described in this section:

(A) Must not provide for any waiting period with respect to treatment of preexisting conditions;

(B) Must provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

(C) Must provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

(2) Every issuer of medicare supplement insurance benefit plans A, B, C, D, F, F with high deductible, G, M, and N must make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other medicare supplement insurance plans in addition to the basic core package, but not in lieu of it.

(a) Coverage of Part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the 61st day through the 90th day in any medicare benefit period.

(b) Coverage of Part A medicare eligible expenses incurred for hospitalization to the extent not covered by medicare for each medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent of the medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system rate or other appropriate medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five days. The provider must accept the issuer's payment as payment in full and may not bill the insured for any balance;

(d) Coverage under medicare Parts A and B for the reasonable cost of the first three pints of blood or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced in accordance with federal regulations;

(e) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of medicare eligible expenses under Part B regardless of hospital confinement, subject to the medicare Part B deductible.

(f) Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

(3) The following additional benefits must be included in medicare supplement benefit Plans B, C, D, F, F with high deductible, G, M, and N as provided by WAC 284-66-066:

(a) Coverage for one hundred percent of the medicare Part A inpatient hospital deductible amount per benefit period.

(b) Coverage for fifty percent of the medicare Part A inpatient hospital deductible amount per benefit period.

(c) Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a medicare benefit period for posthospital skilled nursing facility care eligible under medicare Part A.

(d) Coverage for one hundred percent of the medicare part B deductible amount per calendar year regardless of hospital confinement.

(e) Coverage for all of the difference between the actual medicare Part B charges as billed, not to exceed any charge limitation established by the medicare program or state law, and the medicare-approved Part B charge.

(f) Coverage to the extent not covered by medicare for eighty percent of the billed charges for medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which

care would have been covered by medicare if provided in the United States and which care began during the first sixty consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars and a lifetime maximum benefit of fifty thousand dollars. For purposes of this benefit, "emergency care" means care needed immediately because of an injury or an illness of sudden and unexpected onset.

(4)(a) Every issuer of a standardized medicare supplement plan B, C, D, F, F with high deductible, G, K, L, M, or N issued on or after June 1, 2010, must issue, without evidence of insurability, coverage under a 2010 plan B, C, D, F, F with high deductible, G, K, L, M, or N to any policyholder if the medicare supplement policy or certificate replaces another medicare supplement policy or certificate B, C, D, F, F with high deductible, G, K, L, M, or N or other more comprehensive coverage, including any standardized medicare supplement policy issued prior to June 1, 2010.

(b) Every issuer of a standardized medicare supplement plan A issued on or after June 1, 2010, must issue, without evidence of insurability, coverage under a 2010 plan A to any policyholder if the medicare supplement policy or certificate replaces another medicare supplement policy or certificate or other more comprehensive coverage, including any standardized medicare supplement policy issued prior to June 1, 2010.

WSR 10-18-086

PREPROPOSAL STATEMENT OF INQUIRY OFFICE OF INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2010-12—Filed August 31, 2010,
3:58 p.m.]

Subject of Possible Rule Making: The commissioner is considering adopting rules concerning property and casualty insurance rate cap rules, transition rating rules, rate stability formulas, and other rating methods. The rules may:

1. Specify situations in which these rules, formulas and other rating methods would or would not result in rates that are unfairly discriminatory;

2. Clarify the meaning of RCW 48.19.040 as it applies to these rules, formulas and other rating methods and the rate manuals which they involve; and

3. Establish processes and procedures that insurers must use when implementing rate cap rules, transition rating rules, rate stability formulas, and other rating methods.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Using advanced information technology and predictive modeling methods, property and casualty insurers are implementing increasingly sophisticated systems for calculating insurance premiums. When new rating factors are inserted into premium formulas and then applied to an existing book of business, many policyholders may see significant premium changes. To mitigate this effect, insurers often propose rating rules or formulas that reduce the magnitude of the premium changes for certain policyholders. These rating rules or formulas, however, may

result in different premiums being charged to similarly situated policyholders, which may be contrary to RCW 48.18.-480. A regulation could specify the situations in which these rating rules or formulas would or would not result in rates that are unfairly discriminatory. The regulation could also clarify how the requirements of RCW 48.19.040 apply to these situations. If such a regulation were adopted, the commissioner would have objective standards by which to evaluate and approve or disapprove insurers' proposed rating rules or formulas, and consumers would be better protected from unfairly discriminatory rates.

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

Process for Developing New Rule: Submit written comments by October 15, 2010, to Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail jimt@oic.wa.gov, fax (360) 586-3109.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail jimt@oic.wa.gov, fax (360) 586-3109.

August 31, 2010

Mike Kreidler

Insurance Commissioner

WSR 10-18-093

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed September 1, 2010, 8:41 a.m.]

Subject of Possible Rule Making: Multiseason permit levels and spring bear permit season adjustments.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.04.055, 77.12.047, 77.32.070, and 77.32.-450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provides special recreational opportunity.

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

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 Dave Pulliam, Wildlife Program Assistant Director, 600 Capitol Way North, Olympia, WA 98504-1091, phone (360) 902-2515. Contact by September 27, 2010. Expected proposal filing on or after October 20, 2010.

September 1, 2010

Lori Preuss

Rules Coordinator

WSR 10-18-097

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medicaid Purchasing Administration)

[Filed September 1, 2010, 9:11 a.m.]

Subject of Possible Rule Making: Chapter 388-548 WAC, Federally qualified health centers (FQHC), and other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 42 U.S.C 1396a(bb).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is amending this chapter to add a new section regarding medicaid cost reporting requirements for alternative payment methodology (APM) rebasing. With the addition of this new section, other sections may need updating such as the definition section and reimbursement section – to further clarify the department's payment policy.

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 Wendy L. Boedigheimer, Rules Program Manager, P.O. Box 45504, Olympia, WA 98504-5504, phone (360) 725-1306, fax (360) 586-9727, TTY (800) 848-5429, e-mail boediwl@dshs.wa.gov.

September 1, 2010

Katherine I. Vasquez

Rules Coordinator

WSR 10-18-104

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 1, 2010, 9:50 a.m.]

Subject of Possible Rule Making: The department may propose amendments to WAC 388-418-0005 How will I know what changes I must report?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to amend WAC 388-418-0005 to reflect reporting requirements for basic food households. The proposed amendments will be consistent with federal regulations and guidance.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) enforces the provisions of the fed-

eral food stamp program as set forth under the Food and Nutrition Act of 2008, guidance provided by FNS, and the program requirements established in Title 7 of the United States Code of Federal Regulations.

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 Holly St. John, Community Services Division, P.O. Box 45440, Olympia, WA 98504-5440, phone (360) 725-4895, fax (360) 725-4905, e-mail stjohhc@dshs.wa.gov.

September 1, 2010
Katherine I. Vasquez
Rules Coordinator

WSR 10-18-105
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed September 1, 2010, 9:51 a.m.]

Subject of Possible Rule Making: The community services division is proposing to amend WAC 388-478-0055 How much do I get from my state supplemental payment (SSP)? and possible other related WACs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department may propose to modify rules in order to stay within available funds. The department is required by federal law C.F.R. 20 §416-2095 through §416.2099 to maintain the total amount of SSI state supplement benefits spending at the same level each calendar year.

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

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 Olga Walker, Program Manager, Community Services Division, P.O. Box 45470, Olympia, WA

98504-5470, phone (360) 725-4641, fax (360) 725-4904, e-mail olga.walker@dshs.wa.gov.

September 1, 2010
Katherine I. Vasquez
Rules Coordinator

WSR 10-18-106
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed September 1, 2010, 9:51 a.m.]

Subject of Possible Rule Making: The department may propose amendments to WAC 388-406-0040 What happens if the processing of my application is delayed? and possible other related WACs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to amend subsection (6) of WAC 388-406-0040 to clarify the start date for Basic Food. This will allow the rule to be clear and consistent with other sections of chapter 388-406 WAC regarding the start date for Basic Food.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) publish federal regulations for the supplemental nutrition assistance program in the Federal Register. Rules published in the Federal Register are incorporated into the United States Code of Federal Regulations. FNS also issues administrative notices and interim guidance to inform states of new program requirements that are not yet in the United States Code of Federal Regulations.

The state legislature authorizes the department to administer the food stamp program and food assistance program for legal immigrants under RCW 74.04.500, 74.04.510, and 74.08A120 [74.08A.120].

DSHS incorporates regulations from the federal agencies, exercises state options, and implements approved waivers of federal regulatory requirements by adopting administration rules for food assistance programs administered under the Washington state combined application program (WASHCAP) and the Washington Basic Food program.

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 Kim Chea, Program Manager, Community Services Division, P.O. Box 45470, Olympia, WA

98504-5470, phone (360) 725-4653, fax (360) 725-4905, e-mail kimberly.chea@dshs.wa.gov.

September 1, 2010
Katherine I. Vasquez
Rules Coordinator

WSR 10-18-108
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed September 1, 2010, 11:30 a.m.]

Subject of Possible Rule Making: Recreational harvest of shellfish in Puget Sound.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: It is currently illegal to recreationally harvest shellfish from public beaches that are closed by the Washington department of health (DOH). However, there are no rules prohibiting people from harvesting shellfish from private and other beaches that are closed by DOH. Such rules will allow the Washington department of fish and wildlife to protect the state's shellfish industry and enhance recreational shellfish harvesting opportunities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DOH.

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 Lori Preuss, WDFW Enforcement, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail Lori.Preuss@dfw.wa.gov. Contact by October 15, 2010. Expected proposal filing date is October 20, 2010.

September 1, 2010
Lori Preuss
Rules Coordinator