

WSR 15-23-004**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed November 5, 2015, 12:09 p.m.]

Subject of Possible Rule Making: WAC 246-817-130 License without examination for dentists—Eligibility, 246-817-135 Licensure without examination for dentists—Application procedure, and 246-817-140 Licensure without examination for dentists. The commission is considering amending the licensing examination standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.32.0365 and 18.32.215.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 18.32.215 provides statutory requirements for dentists licensed in another state whom [who] apply for [a] Washington state dentist license. Current rules related to licensure without examination are confusing and refer to license by examination requirements. The commission is considering changing the rules to clearly identify license without examination requirements.

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

Process for Developing New Rule: Collaborative.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennifer Santiago, Department of Health, Dental Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4893, fax (360) 236-2901. Interested stakeholders may sign up for the dental commission's listserv at <http://listserv.wa.gov/cgi-bin/wa?SUBED1=dental-qac&A=1>. All rule-making notices will be e-mailed to the dental commission's interested parties list (listserv) and the Washington State Dental Association.

November 4, 2015
Trina Castle
Executive Director

WSR 15-23-005**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed November 5, 2015, 12:11 p.m.]

Subject of Possible Rule Making: WAC 246-817-550 Acts that may be performed by licensed dental hygienists under general supervision and 246-817-560 Acts that may be performed by licensed dental hygienists under close supervision, considering adding tasks that a dentist may delegate to a dental hygienist under general supervision.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.32.0365 and SB 5606, chapter 120, Laws of 2015.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The dental quality assurance commission is considering adding to the existing rule the fol-

lowing tasks that a dentist may delegate to a dental hygienist under general supervision: Head and neck exam and cancer screenings, administer local anesthetics, impression tasks, administer local anesthetic reversal agents, administer dental local anesthetic buffering systems, and deliver premedications.

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

Process for Developing New Rule: Collaborative.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennifer Santiago, Department of Health, Dental Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4893, fax (360) 236-2901. Interested stakeholders may sign up for the dental commission's listserv at <http://listserv.wa.gov/cgi-bin/wa?SUBED1=dental-qac&A=1>. All rule-making notices will be e-mailed to the dental commission's interested parties list (listserv), Washington State Dental Association, Washington State Dental Hygienists' Association, and local health jurisdictions.

November 4, 2015
Trina Castle
Executive Director

WSR 15-23-009**PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION**

[Filed November 6, 2015, 8:56 a.m.]

Subject of Possible Rule Making: WAC 260-70-590 Reporting to the test barn.

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 allow for the testing of hair samples in quarter horse racing.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Douglas L. Moore, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, doug.moore@whrc.state.wa.us.

November 6, 2015
Douglas L. Moore
Executive Secretary

WSR 15-23-063
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF
INSURANCE COMMISSIONER

[Filed November 13, 2015, 2:53 p.m.]

I am withdrawing the CR-101 Preproposal statement of intent for R 2015-10 special enrollment regulations, published by the code reviser in WSR 15-15-133.

When the office of insurance commissioner (OIC) filed the original CR-101 for this rule, the agency had planned to undertake two tasks in this rule process: Add the additional special enrollment rights that the federal government has created since the time that the OIC originally wrote the rule; and clarify some of the language in the existing special enrollment rule to reduce confusion. The OIC wrote the original CR-101 narrowly to encompass only these tasks.

Unfortunately, as the work has proceeded, the agency has discovered that there are some gaps in the existing special enrollment rule. Specifically, the rule is missing some special enrollment rights that already existed at the time the OIC originally wrote the rule, and one of the citations is incorrect.

As a result, we are withdrawing the original CR-101 and are filing a new CR-101 that incorporates broader language so that the agency will have the authority to implement these changes.

Mike Kreidler
Insurance Commissioner

WSR 15-23-064
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2015-16—Filed November 13, 2015, 2:55 p.m.]

Subject of Possible Rule Making: Health plan special enrollment rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.18.120(2), 48.20.450, 48.44.050, and 48.46.200.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 2013, the office of the insurance commissioner (OIC) adopted rules for open and special enrollment periods for the individual and small group market under the Affordable Care Act. The federal government has since adopted additional guidance that is not in the current rules, and some sections of the OIC's existing rules paraphrase federal requirements in a manner that can be difficult to understand.

OIC filed a CR-101 for this rule in July. The scope of the original CR-101 was limited to adding the new guidance and clarifying some existing sections. However, as the OIC has worked on the rule, the agency has identified some additional minor changes that are necessary.

As an example, there are some minor special enrollment issues that aren't included in the original rules, even though they come from federal rules that already existed when OIC

originally wrote these rules. There also is a rule reference in WAC 284-170-412(1) that points to an inapplicable section of a federal rule. Because the scope of the original CR-101 was so narrow, OIC is filing this new CR-101 so that the agency has the authority to address such additional minor issues.

Process for Developing New Rule: Submit written comments by January 4, 2016, to rulescoordinator@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 Bianca Stoner, P.O. Box 40258, Olympia, WA 98504-0258, rulescoordinator@oic.wa.gov.

November 13, 2015
Mike Kreidler
Insurance Commissioner

WSR 15-23-075
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed November 16, 2015, 2:50 p.m.]

Subject of Possible Rule Making: WAC 182-530-7700, 182-531-0250, 182-502-0006, and other rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160, Section 1902 (a)(10)(E) of the Social Security Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is amending rules to comply with Section 1902 (a)(10)(E) of the Social Security Act that requires changes to payment of medicare cost sharing for qualified medicare beneficiaries. During the course of this review, the agency may identify additional changes that are required in order to improve clarity or update policy.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Chantelle Diaz, P.O. Box 42716, Olympia, WA 98504-2716, fax (360) 586-9727, TTY 1-800-848-5429, e-mail Chantelle.Diaz@hca.wa.gov.

November 16, 2015
Wendy Barcus
Rules Coordinator

WSR 15-23-081**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed November 17, 2015, 8:53 a.m.]

Subject of Possible Rule Making: WAC 16-301-490 to 16-301-580, crucifer quarantine. As a result of the recent change to the crucifer quarantine to include eastern Washington, and as a result of a petition received requesting rule making on the topic, the department is considering changing the process for the field inspection of trial grounds.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.49.005, 17.24.041, and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To keep black leg out of Washington, the department has adopted permanent rules adding eastern Washington to the regulated area of the crucifer quarantine, and requiring testing of all crucifer seed lots. As a result of these changes to the crucifer quarantine, it has become necessary to change the trial ground process to make it applicable to eastern Washington production practices.

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

Process for Developing New Rule: The Washington state department of agriculture staff will develop the rule proposal and will communicate with stakeholders and other interested parties for their review and comment. Interested parties can also participate in the public hearing/public comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jeff Larsen, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1960, fax (360) 902-2085, jlarsen@agr.wa.gov; or Victor Shaul, 21 North 1st Avenue, Suite 203, Yakima, WA 98902, (509) 249-6955, fax (509) 454-4395, vshaul@agr.wa.gov.

November 17, 2015
Brad J. Avy
Assistant Director

WSR 15-23-103**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 15-14—Filed November 18, 2015, 9:07 a.m.]

Subject of Possible Rule Making: Ecology is conducting rule making to propose a new rule, chapter 173-186 WAC, Oil spill contingency plan—Railroad. The rule making will address, but not be limited to, the following:

- Describe the purpose and use of the contingency plans for rail.
- Describe the applicability and authorities of the rule, and timing for compliance.
- Include definitions for terms used in the rule.
- Define authority and process for contingency plan submittal and review.

- Establish a process for plan updates and notification of significant changes.
- Develop a signature authority for binding plan holders to the use of their plans.
- Establish contingency plan content requirements.
- Describe the required elements of the contingency plan field document.
- Establish notification requirements and call out procedures.
- Define training and personnel resources to fill roles in oil spill management teams.
- Identify resources at risk from rail spills.
- Establish equipment planning standards for responding to railroad oil spills.
- Establish best achievable protection planning requirements for railroads.
- Establish a drill program and drill evaluation criteria for railroad plan holders.
- Establish recordkeeping, noncompliance, and compliance information.
- Other issues to ensure consistency and clarity is maintained throughout the rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Ecology has broad authority under chapter 90.56 RCW to adopt rules for oil spill prevention and preparedness. During the 2015 legislative session, RCW 88.46.010 and 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of "facility," and RCW 90.56.210 was amended to expand ecology's authority to require state contingency plans for rail.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Increased crude by rail transport has changed the risk picture for oil spills in Washington state. During the 2015 legislative session, RCW 88.46.010 and 90.56.010 were amended to include railroads (not owned by the state) that transport bulk oil as cargo in the definition of "facility," and RCW 90.56.210 was amended to expand ecology's authority to require state contingency plans for rail. Ecology was directed to develop rules establishing contingency planning requirements for railroads transporting oil in bulk. Contingency plans for railroads will ensure that first responders are aware of the locations of oil transport, oil response equipment, and are trained to respond in a rapid, aggressive, and well-coordinated manner.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: At the federal level, the United States Department of Transportation Federal Railroad Administration has regulations that require oil spill response plans for railroads. Ecology currently regulates contingency planning requirements for vessels and pipelines. This rule making will in many ways mirror the federal requirements but will tailor the requirements to Washington's operating environments and risk. We will ensure that the new standards are compatible and coordinated with existing federal and state standards.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before pub-

lication by contacting Kim Morley, Washington Department of Ecology Spills Program, P.O. Box 47600, Olympia, WA 98504, phone (360) 407-7040, fax (360) 407-7288, e-mail Kim.Morley@ecy.wa.gov, web site <http://www.ecy.wa.gov/programs/spills/rules/1514ov.html>, listserv <http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development. Ecology will schedule one or more workshops and will provide an opportunity for stakeholders to submit written comments on any preliminary rule content prior to issuing a formal proposed rule. Ecology will also hold a comment period and at least one formal public hearing on the formal rule proposal to solicit comments prior to rule adoption. Ecology has established a web site and listserv to provide stakeholders and interested parties with updates on the process.

November 18, 2015

Dale Jensen

Spill Prevention, Preparedness
and Response Program Manager

WSR 15-23-105

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 15-13—Filed November 18, 2015, 9:29 a.m.]

Subject of Possible Rule Making: Ecology is conducting rule making to propose a new rule, chapter 173-185 WAC, Oil movement by rail and pipeline notification. The purpose of this rule is to:

- Specify the applicability of the rule.
- Define terms used in the rule and ensure consistency with other ecology regulations.
- Establish advance notice requirements for facilities that receive crude oil by rail.
- Establish biannual notice requirements for pipelines that transport crude oil through the state.
- Identify the manner that information must be submitted to ecology.
- Identify the process for emergency responders, local governments, and tribes to request oil movement information, and the process that ecology will use to provide nonaggregated information.
- Identify the types of aggregated information that ecology will disclose to the public.
- Establish penalties for noncompliance with the rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Ecology has broad authority under chapter 90.56 RCW to adopt rules for oil spill prevention and preparedness. During the 2015 legislative session, new provisions were added to chapter 90.56 RCW that authorize ecology to adopt rules on notice and disclosure of information on the movement of crude oil by rail and pipeline. Laws of 2015, ch. 274, § 8.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 2015, the Washington legislature directed ecology to develop rules on new reporting

requirements for the movement of crude oil by rail and pipeline.

Significant changes in the modes of transportation and properties of crude oil are occurring in Washington state. Washington state has experienced dramatic changes in the amount and types of oil transported by rail and pipeline. There has been an increase in the amount of heavy crude oils, such as diluted bitumen from Canada and Bakken from North Dakota, being transported through the state. Diluted bitumen is concerning because under some conditions it may become submerged below the water surface or sink to the bottom when spilled into water. Bakken crude is more volatile and flammable, and likely to seep into the groundwater quicker than other types of crude oil. Therefore, an accident involving these oil types may create greater environmental, safety, health, and economic impacts than other types of crude oil. Additionally, multiple recent proposals for new oil facilities may impact how oil is transported throughout Washington state.

Timely notice of oil movement information is needed for emergency responders and planners to effectively prepare for and respond to oil spills and other accidents associated with the transport of crude oil by rail and pipeline. Providing adequate information will help to protect the lives of people living and working near railroads and pipelines, the economy, and environmental resources of Washington.

The proposed rule would create reporting standards for facilities that receive crude oil by rail, and pipelines that transport crude oil through the state. Additionally, the rule would identify reporting standards for ecology to share information with emergency responders, local governments, tribes, and the public.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal and state agencies that regulate the environment, railroads, facilities, or pipelines covered by this rule include the United States Coast Guard, United States Department of Transportation (Pipeline and Hazardous Materials Safety Administration and Federal Railroad Administration), United States Environmental Protection Agency, Washington utilities and transportation commission, Oregon department of environmental quality, and Idaho department of environmental quality. Ecology will notify and solicit input from these federal and state agencies, and other stakeholders throughout this rule-making process.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Ecology will engage stakeholders and interested parties throughout this rule-making process. We will extend an offer for government-to-government consultation with tribal governments during each phase of rule development. Ecology will schedule multiple workshops and provide an opportunity for stakeholders to submit written comments on any preliminary rule language prior to issuing a formal rule proposal. We will also hold a comment period and at least one public hearing on the formal rule proposal to solicit comments prior to rule adoption. We will create a web page and

focus sheet summarizing the issues and important dates. We will rely on the rule web page, existing listservs, and e-mail communication to provide stakeholders and interested parties with updates on the process and opportunities to provide input. Interested parties can access information on this rule making by:

- Visiting the following agency web site <http://www.ecy.wa.gov/programs/spills/rules/1513ov.html>.
- Signing up for the listserv to receive e-mail notices at <http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>.
- Contacting Tiffany Johnson, Department of Ecology, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7625, fax (360) 407-7288, e-mail tiffany.johnson@ecy.wa.gov.

November 18, 2015

Dale Jensen
Spill Prevention, Preparedness,
and Response Program [Manager]

WSR 15-23-108

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed November 18, 2015, 10:12 a.m.]

Subject of Possible Rule Making: Chapter 16-662 WAC, Weights and measures—National handbooks and retail sale of motor fuel. The department is considering adopting, in whole or in part:

- (1) The 2016 edition of NIST Handbook 44 (Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices);
- (2) The 2016 edition of NIST Handbook 130 (Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality) with modifications; and
- (3) The 2016 edition of NIST Handbook 133 (Checking the Net Contents of Packaged Goods).

The department is also considering establishing in rule a civil penalty matrix for violations of the Motor Fuel Quality Act (chapter 19.112 RCW) and chapter 19.94 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.94.190, 19.94.195, 19.112.020, 19.112.140, and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this chapter is to establish requirements for the state of Washington that are reasonably consistent with the uniform rules adopted by the National Conference on Weights and Measures and that are in effect in other states. The department is considering adopting the most recent version of NIST Handbook 44, 130 (with modifications), and 133. The NIST handbooks are national consensus codes that establish industry standards for weighing and measuring devices, legal metrology, engine fuel quality, net contents of packaged goods, and specifications and tolerances for reference standards and field standard weights and measures. The department adopts these handbooks in order to maintain uniformity with other states where appro-

priate. Adoption in rule of the department's civil penalty matrix will provide clarity and transparency regarding how civil penalties for violations of the Motor Fuel Quality Act and chapter 19.94 RCW are calculated, including consideration of aggravating and mitigating circumstances.

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

Process for Developing New Rule: Department staff will discuss 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 Brad White, Assistant Director, Plant Protection Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail bwhite@agr.wa.gov; or Jerry Buendel, Weights and Measures Program Manager, Plant Protection Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1856, fax (360) 902-2094, e-mail jbuendel@agr.wa.gov.

November 17, 2015

Brad White
Assistant Director

WSR 15-23-112

PREPROPOSAL STATEMENT OF INQUIRY SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed November 18, 2015, 11:48 a.m.]

Subject of Possible Rule Making: The 2015-17 Biennial Appropriations Act expanded the current K-1 high poverty compliance methodology for teacher allocations to grades K-3 at all schools serving those grades. The office of superintendent of public instruction is considering amending current agency rules governing K-1 high poverty rules to align the rules with the biennial budget language. The rules that would be amended are as follows: WAC 392-140-915, 392-140-916, 392-140-921, 392-140-923, 392-140-932, 392-140-933, 392-140-934, 392-140-395 [392-140-935], 392-140-936, and 392-140-937.

Statutes Authorizing the Agency to Adopt Rules on this Subject: These amendments are authorized by RCW 28A.300.040(3) and 28A.150.290(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Without amending these rules, school districts could receive state basic education dollars in excess of what the biennial state budget approves.

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

Process for Developing New Rule: Consideration of public comments and recommendations in the course of amending rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting T. J. Kelly, phone (360) 725-6301, fax (360) 664-3683, thomas.kelly@k12.3wa.us [thomas.kelly@k12.wa.us].

November 18, 2015
Randy Dorn
Superintendent of
Public Instruction