

WSR 20-10-008**PREPROPOSAL STATEMENT OF INQUIRY
BELLINGHAM TECHNICAL COLLEGE**

[Filed April 24, 2020, 7:50 a.m.]

Subject of Possible Rule Making: Revise sections of chapter 495B-104 WAC to update language for clarification and to be consistent with current board and college policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide students, staff and visitors clear direction on college processes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ronda Laughlin, Rules Coordinator, 3028 Lindbergh Avenue, Bellingham, WA 98225, phone 360-752-8334, fax 360-752-7134, TTY 360-752-8515, email rlaughlin@btc.edu, website www.btc.edu.

April 24, 2020
Kimberly Perry
President

WSR 20-10-009**PREPROPOSAL STATEMENT OF INQUIRY
CONSERVATION COMMISSION**

[Filed April 24, 2020, 9:39 a.m.]

Subject of Possible Rule Making: Procedures and requirements for entering and exiting the office of conservation district supervisor, including, but not limited to, election and appointment of conservation district supervisors, for the purpose of populating and maintain[ing] conservation district governing boards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 89.08.040, 89.08.160, 89.08.190, 89.08.200.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The conservation commission is proposing amending and adding rules on this subject to establish procedures pertaining to entering and exiting the office of conservation district supervisor, to clarify statutory language, and to provide statewide consistency in these procedures as implemented by affected parties, including, but not limited to: Candidates, voters, conservation district officials, other local governments, and state agencies.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Regulating conservation district elections and appointments, and other processes related to entering and exiting the office of conservation district supervisors, is governed by chapter 89.08 RCW. Because the conservation commission is the only agency authorized under chapter 89.08 RCW to adopt rules on this subject, there are no other state or federal agencies with which to coordinate.

Process for Developing New Rule: The conservation commission has worked with and will continue to work with stakeholders to develop amendments and additional proposed rules. After the rule proposal publishes in the State Register, the commission will hold a public hearing and provide a comment period to receive feedback on the proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bill Eller, P.O. Box 47721, Olympia, WA 98504-7721, phone 509-385-7512, fax 360-407-6215, TTY 1-800-833-6388, email beller@scc.wa.gov, website <https://scc.wa.gov/>.

April 22, 2020
Ron Shultz
Director of Policy and
Intergovernmental Relations

WSR 20-10-012**PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY**

[Filed April 24, 2020, 3:31 p.m.]

Subject of Possible Rule Making: New WAC 182-502-0016A Continuing requirements—Residential treatment facilities; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71.24.035, 71.24.520, 71.24.585, and 42 U.S.C. 1315 (Sec. 1115).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is creating a new section within this chapter to meet the Centers for Medicare and Medicaid Services (CMS) milestone requirement 3 regarding the agency's Section 1115 Substance Use Disorder (SUD) Waiver Implementation Plan. Milestone 3 requires the adoption of rules reflecting the requirement that residential treatment facilities offer medication assisted treatment access on-site or facilitate off-site access. The agency is also initiating this rule making to implement provisions of RCW 71.24.585 related to behavioral health agencies and medication assisted treatment. During the course of this review, the agency may identify additional related changes that are required in order to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Centers for Medicare and Medicaid Services (CMS) via state plan amendment.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Williams (Rule Writer), P.O. Box 42716, phone 360-725-1346, fax 360-586-9727, telecommunication relay services (TRS) 711, email michael.williams@hca.wa.gov, website www.hca.wa.gov/about-hca/

rulemaking; or Jessica Blose (Program Questions), P.O. Box 45506, phone 360-725-1088, fax 360-586-9727, TRS 711, email jessica.blose@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

April 24, 2020
Wendy Barcus
Rules Coordinator

lication by contacting Jackie Bayne, 310 Maple Park Avenue S.E., Olympia, WA 98501, phone 360-705-7084, fax 360-705-6801, TTY 711, email BayneJ@wsdot.wa.gov, website www.wsdot.wa.gov/equalopportunity.

April 28, 2020
Kara Larsen, Director
Risk Management and
Legal Services Division

WSR 20-10-019
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed April 27, 2020, 12:07 p.m.]

The aging and long-term support administration requests the withdrawal of preproposal statement of inquiry notice filed as WSR 18-17-146 on August 21, 2018 (chapter 388-113 WAC), regarding background checks.

Katherine I. Vasquez
Rules Coordinator

WSR 20-10-035
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION

[Filed April 28, 2020, 10:54 a.m.]

Subject of Possible Rule Making: Ensuring Title VI compliance on state funded contracts.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 47.01.101 and 47.01.260(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Per Title VI, 42 U.S.C. § 2000, the Washington state department of transportation (WSDOT) has an obligation to ensure all of our programs and services are free from discrimination. Should WSDOT have evidence of discrimination in the award and administration of state funded construction contracts, in the form of a disparity study, WSDOT shall require contractors and consultants to submit an inclusion plan, which will demonstrate the actions they will take to ensure the contracts they are working under are free from discrimination.

Contractors and consultants shall supply an inclusion plan with the bids and proposal. If these inclusion plans do not sufficiently demonstrate actions that the contractor or consultant will use to mitigate discrimination on their projects, then the bid or proposal will be considered nonresponsive. This rule will apply to the department of transportation's contract award process to reduce and discourage discrimination in WSDOT's contracting.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Agency study.

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

WSR 20-10-042
PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC DISCLOSURE COMMISSION

[Filed April 28, 2020, 4:17 p.m.]

Subject of Possible Rule Making: Amend Title 390 WAC to comply with passage of SSB 6152, chapter 152, Laws of 2020, relating to certification concerning the level of foreign national ownership and control of entities that participate in Washington state elections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17A.110(1) and chapter 152, Laws of 2020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In order to comply with the requirements of chapter 152, Laws of 2020, as passed by the 2020 legislature, the agency must make changes to Title 390 WAC. The effective date is June 11, 2020.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Collaborative process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sean Flynn, 711 Capitol Way South, Suite 206, Olympia, WA 98504, phone 360-753-1111, fax 360-753-1112, email pdcc@pdcc.wa.gov, website www.pdc.wa.gov.

April 28, 2020
Barbara Sandahl
Deputy Director

WSR 20-10-057
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 20-02—Filed April 30, 2020, 11:27 a.m.]

Subject of Possible Rule Making: The department of ecology (ecology) is beginning rule making as per the directive of the Governor 19-18. The purpose of this rule making is to create a new rule under chapter 173-445 WAC, Greenhouse gas assessment for projects. This rule will address analysis and mitigation of greenhouse gas emissions for environmental assessments of industrial and fossil fuel projects.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.21C RCW, State Environmental Policy

Act; chapter 70.235 RCW, Limiting greenhouse gas emissions; chapter 70.94 RCW, Washington Clean Air Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rule is to adopt by September 1, 2021, per the directive of the Governor 19-18. The intent of this rule making is to provide consistent and comprehensive assessment methods for industrial and fossil fuel projects and to provide clarity and transparency to industry, the public, and agencies.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Ecology will notify and request input during rule making from state and local agencies who may be lead under the State Environmental Policy Act, United States Environmental Protection Agency, United States Army Corps of Engineers, state of Washington energy facility site evaluation council, Washington state clean air agencies, Washington state department of commerce, and Washington utilities and transportation commission.

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). During the rule development process, ecology will ask for feedback from stakeholders on rule language and key issues related to this rule making. Ecology will post rule-making information on our rule-making webpage and distribute it to our email lists.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Fran Sant, Rule-making Lead, Department of Ecology, Shorelands and Environmental Assistance, P.O. Box 47600, Olympia, WA 98504, phone 360-407-6004, for Washington relay service or TTY call 711 or 877-833-6341, email gap-rule@ecy.wa.gov, web site <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-445>, sign-up to receive Listserv announcements <http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=GAP-RULE&A=1>.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

April 30, 2020
Heather Bartlett
Deputy Director

interim guidance statement in August 2019 regarding the taxation of stand-alone concrete pumping services, which went into effect April 1, 2020. The department is considering updating WAC 458-20-211 to incorporate the clarification provided in the interim guidance statement, and may further consider addressing other related issues based on any comments received. Specifically, the department hopes to address the issue of distinguishing concrete pumping services that are rentals of equipment with an operator from sales of construction services and/or construction materials, in cases where multiple goods or services are provided for a single charge.

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. A previous public meeting was held on October 30, 2019, with respect to this rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brenton Madison, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1583, fax 360-534-1606, TTY 800-833-6384, email BrentonM@dor.wa.gov, website dor.wa.gov.

Additional comments: This is the second public meeting and as it was in the first, no preliminary draft of possible rule changes is available at this time. Due to the current *Stay Home, Stay Safe* order, this public meeting will be held telephonically, and not in person. The department will send further instructions in advance of the meeting to ensure meeting attendees are able to provide uninterrupted oral testimony.

Written comments may be submitted by mail or email and should be directed to Brenton Madison using one of the contact methods above. Written and oral comments will be accepted at the public meeting on June 8, 2020, at 10:00-11:30 a.m.

Public Meeting Location: Telephonic meeting only. Contact Keith Dacus at KeithD@dor.wa.gov for dial-in information.

May 1, 2020
Atif Aziz
Rules Coordinator

WSR 20-10-067

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed May 1, 2020, 2:17 p.m.]

Subject of Possible Rule Making: WAC 458-20-211 Leases or rentals of tangible personal property, bailments.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.01.060(2) and 82.032.300.

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

WSR 20-10-077

PREPROPOSAL STATEMENT OF INQUIRY HEALTH CARE AUTHORITY

[Filed May 4, 2020, 8:51 a.m.]

Subject of Possible Rule Making: WAC 182-501-0180 Health care services provided outside the state of Washington—General; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160; and 42 U.S.C. 1396a (80).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is amending WAC 182-501-0180 so it applies to both fee-for-service clients and clients enrolled in a managed care organization (MCO). During the course of this review, the agency may identify additional related changes that are required in order to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jason Crabbe (Rulemaking Questions), P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-9563, fax 360-586-9727, telecommunication relay services (TRS) 711, email jason.crabbe@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Joan Chappell (Program Questions), P.O. Box 45506, Olympia, WA 98504-5506, phone 360-725-1071, fax 360-586-9727, TRS 711, email joan.chappell@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

May 4, 2020
Wendy Barcus
Rules Coordinator

WSR 20-10-082
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed May 4, 2020, 1:54 p.m.]

Subject of Possible Rule Making: Update Title 110 WAC to better address the needs of and promote culturally relevant service delivery to LGBTQ+ children and youth. "LGBTQ" includes lesbian, gay, bisexual, transgender, and queer communities. Updates are anticipated, but may not be limited to, chapters 110-145, 110-147, and 110-148 WAC. Nonsubstantive, technical corrections may also be made.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.15.030; chapter 74.15 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department of children, youth, and families (DCYF) is charged with safeguarding the health, safety, and well-being of the children and youth that it serves. Rules are necessary to better prevent harassment, discrimination, and other treatment that undermines the self-esteem, health, and physical, mental, and social well-being of LGBTQ+ children and youth who participate in programs administered by the department.

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

DCYF will engage with Governor Inslee's LGBTQ commission during rule development.

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 DCYF Rules Coordinator, P.O. Box 40975, phone 360-902-7956, fax 360-902-7903, email dcyf.rulescoordinator@dcyf.wa.gov, website www.dcyf.wa.gov, <https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>.

May 4, 2020
Brenda Villarreal
Rules Coordinator

WSR 20-10-091
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)

[Filed May 5, 2020, 1:09 p.m.]

Subject of Possible Rule Making: The department is considering amending chapter 388-107 WAC and other related rules as may be required to implement SHB 2448 (chapter 278, Laws of 2020).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.97.230.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is considering amending chapter 388-107 WAC to implement SHB 2448 (chapter 278, Laws of 2020). The bill revised the eligibility and admission criteria for enhanced services facilities, and updated the scope of care by replacing the term "treatment" with either "support" or "service." The terms "mental health care" and "substance use" are replaced with "behavioral health disorder." The bill removed and updated the resident rights to reflect those of other long-term care settings.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies regulate this subject.

Process for Developing New Rule: The department will use a collaborative rule-making process to develop draft rules and seek informal review and comment on the draft rules prior to proposing them for adoption. To participate in the rule-making process, please contact the staff identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sondra Silverman, P.O. Box 45600, Olympia, WA 98504, phone 360-688-0715, email Silverman@dshs.wa.gov.

May 5, 2020
Katherine I. Vasquez
Rules Coordinator

WSR 20-10-092
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed May 5, 2020, 2:34 p.m.]

The aging and long-term support administration requests the withdrawal of preproposal statement of inquiry notice filed as WSR 17-07-119 on March 21, 2017 (chapter 388-76 WAC), regarding adult family homes.

Katherine I. Vasquez
Rules Coordinator

WSR 20-10-113
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF HEALTH

[Filed May 6, 2020, 11:03 a.m.]

Subject of Possible Rule Making: WAC 246-80-021 Prohibition vitamin E acetate, the state board of health (board) is considering permanently adopting existing emergency rules to ban the sale of vapor products containing vitamin E acetate. This applies to the sale, offer for sale, or possession with intent to sell or offer for sale vapor products containing vitamin E acetate at any location or by means including by telephone or other method of voice transmission, the mail or any other delivery service or the internet or other online service.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20.050 (2)(f).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In July 2019, the United States Centers for Disease Control and Prevention (CDC), United States Food and Drug Administration (FDA), state and local health departments, and other clinical and public health partners began investigating outbreaks of e-cigarette or vaping associated lung injury (EVALI). In September 2019, the CDC activated its Emergency Operations Center to aid in the investigation of the multi-state outbreak. As of its final update on February 18, 2020, the CDC has identified two thousand eight hundred seven confirmed cases reported across fifty states, the District of Columbia, Puerto Rico and the US Virgin Islands, including sixty-eight deaths confirmed in twenty-nine states and the District of Columbia. Twenty-seven cases of EVALI, including two deaths, have been reported in Washington state.

As part of the investigation into the multistate outbreak of EVALI, the CDC conducted laboratory tests of forty-eight samples of fluid collected from the lungs of patients with vaping-associated lung disease from ten states. An article released on November 8, 2019, showed that all of the samples contained vitamin E acetate, providing direct evidence of vitamin E acetate at the primary site of injury in the lungs. Vitamin E acetate is a chemical that is used as an additive or thickening ingredient in vapor products. The CDC has not determined that vitamin E acetate is present in only THC vapor products or only non-THC vapor products. THC was identified in eighty-two percent of the samples, and nicotine

was identified in sixty-two percent of the samples. A further study found ninety-four percent of EVALI patients tested had vitamin E acetate in the bronchoalveolar lavage but no samples from a health comparison group indicated evidence of vitamin E. Two samples showed presence of other toxicants (one each) in the EVALI group but did not provide sufficient evidence to identify another toxicant as the source of disease. The CDC has identified vitamin E acetate as a chemical strongly linked to EVALI and recommends that vitamin E acetate not be added to vapor products.

Based on these findings, the board is considering adopting a permanent ban of vitamin E acetate in vapor products.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of health and the liquor and cannabis board will be invited to participate in rule making to assure coordination across agencies.

Process for Developing New Rule: The board will use a collaborative rule-making approach. The board will work with partner health and regulatory agencies in drafting the rule and will reach out to stakeholders for additional input. The board will keep stakeholders and interested parties informed of the rule making through email, the board's listserv and rule-making website, and notices in the Washington State Register. Stakeholders and interested parties will have opportunity to provide comments throughout the rule-making process, including informal review of the draft rule, formal review and comment on the proposed rule, and at the board's public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Samantha Pskowski, P.O. Box 47990, Olympia, WA 98504-7990, phone 306[360]-789-2358, TTY 711, email samantha.pskowski@sboh.wa.gov, website sboh.wa.gov.

Additional comments: To be added to the listserv for this rule making email Samantha.Pskowski@sboh.wa.gov with the subject line "Vitamin E Acetate - Subscribe." For more information please view the website at <https://sboh.wa.gov/Rulemaking/CurrentRulesandActivity/VaporProductsandFlavors>.

May 6, 2020
Michelle A. Davis
Executive Director