

WSR 21-22-023

PREPROPOSAL STATEMENT OF INQUIRY

BOARD OF TAX APPEALS

[Filed October 22, 2021, 2:39 p.m.]

Subject of Possible Rule Making: Chapter 459-10 [456-10] WAC, Informal hearings—Practice and procedure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 82.03 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This section needs to be updated and made more readable, in addition to making it consistent with other sections of Title 459 [456] WAC et seq.

Process for Developing New Rule: Updating rule internally.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Keri Lamb, Clerk, Washington State Board of Tax Appeals, P.O. Box 40915, Olympia, WA 98504-0915, phone 360-753-5446, email bta@bta.wa.gov, website <https://bta.wa.gov>.

October 22, 2021

Andrea Vingo

Hearings Officer

WSR 21-22-027

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF REVENUE

[Filed October 25, 2021, 12:33 p.m.]

Subject of Possible Rule Making: WAC 458-20-17001 Government contracting—Construction, installations, or improvements to government real property.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department intends to update this rule to ensure consistency with statutory language, improve readability, format to current standards, and provide guidance on reporting requirements. See RCW 82.04.050, 82.04.190, 82.04.240, 82.04.280; and WAC 458-20-134, 458-20-170, 458-20-171, and 458-20-190.

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

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or by 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 by contacting Patrick Watkins, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1539, fax 360-534-1606, TTY 800-833-6384, email patrickw@dor.wa.gov, website dor.wa.gov.

Additional comments: Written comments may be submitted by mail or email and should be directed to Patrick Watkins using one of the contact methods above. Written and oral comments will be accepted at the public meeting, on November 17, 2021, at 11:00 a.m., at conference room to be determined, 6400 S.W. Linderson Way, Tumwater, WA. Contact Keith Dacus (KeithD@dor.wa.gov) for virtual attendance option.

October 25, 2021
Atif Aziz
Rules Coordinator

WSR 21-22-032
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed October 26, 2021, 10:49 a.m.]

Subject of Possible Rule Making: WAC 458-20-19402 Single factor receipts apportionment—Generally (Rule 19402).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300, 82.01.060(2), 82.04.067, 82.04.460, and 82.04.462.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Since amending Rule 19402 in 2015 to recognize section 305 of SSB 6333 (chapter 97, Laws of 2014), the department has continued to receive public comments requesting additional guidance on Part 3 - How to Attribute Receipts. Most comments are with regard to subsection (303)(c), on services relating to the customer's business activities. The department is considering updating this rule to clarify subsection (303)(c) specifically, and possibly other parts of the rule based on any comments received.

Process for Developing New Rule: All stakeholders interested in this rule making may contact the individual listed below. The public may participate by providing written comments throughout this rule making or by 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 by contacting Patrick Murphy, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1577, email patrickm@dor.wa.gov, website dor.wa.gov.

Additional comments: A draft of the rule will be posted to dor.wa.gov one month prior to the public meeting. Written comments may be submitted by mail or email and should be directed to Patrick Murphy using one of the contact methods above. Written and oral comments will be accepted at the public meeting on January 19, 2022, at 1:00 p.m., at Conference Room 114, 6400 Linderson Way S.W., Tumwater, WA 98501. Contact Keith Dacus at KeithD@dor.wa.gov if you are interested in attending the meeting virtually.

October 26, 2021
Atif Aziz
Rules Coordinator

WSR 21-22-033
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed October 26, 2021, 10:54 a.m.]

Subject of Possible Rule Making: RCW 82.08.0206 Exemptions—Working families—Eligible low-income persons—Penalties.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300, 82.08.0206.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department intends to create a rule to clarify eligibility requirements and program administration standards, including application submission procedures. The department is soliciting public comments on possible rule-making considerations relating to a number of topics including, but not limited to: Proof of identification, proof of state residency, proof of income, verification of qualifying children, determination of application due dates of original and amended claims, and preferred communication channels.

Process for Developing New Rule: The department intends to reach out to relevant stakeholders and community groups, along with eligible individuals, to participate in the rule-making process. All stakeholders in this rule making may contact the individual listed below. The public may participate by providing written comments throughout this rule making or by 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 by contacting Chelsea Brenegan, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1530, email chelseab@dor.wa.gov, website dor.wa.gov.

Additional comments: No preliminary rule draft is available at this time. Written comments may be submitted by mail or email and should be directed to Chelsea Brenegan using one of the contact methods above. Written and oral comments will be accepted at the public meeting on Monday, November 15, 2021, at 6:30 p.m., virtual. Contact Keith Dacus (KeithD@dor.wa.gov) for dial-in/login information.

October 26, 2021
Atif Aziz
Rules Coordinator

WSR 21-22-041
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed October 27, 2021, 10:11 a.m.]

Subject of Possible Rule Making: WAC 388-103-0001 What definitions apply to this chapter?; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.34.165.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The definition of abuse in RCW 74.34.020 was amended by E2SHB 1320 in the 2021 legislative session (chapter 215, Laws of 2021) to include reckless. The department plans to add a definition of reckless to WAC 388-103-0001. During this review, the agency may identify additional related rules or additional changes that are required to improve clarity or remove ambiguity.

Process for Developing New Rule: The department of social and health services (DSHS) welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Arielle Finney, P.O. Box 45600, Olympia, WA 98504, phone 360-485-7784, fax 360-438-8633, TTY 800-833-6388, email Arielle.Finney@dshs.wa.gov.

October 26, 2021
Katherine I. Vasquez
Rules Coordinator

WSR 21-22-042
PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR AND CANNABIS
BOARD

[Filed October 27, 2021, 10:54 a.m.]

Subject of Possible Rule Making: Chapter 314-55 WAC, the Washington state liquor and cannabis board (WSLCB) is considering new rules in response to future recommendations of the social equity in cannabis task force (task force), and changes to current rule that will reduce barriers to entry in the legal cannabis market. Additional rules specifically related to this topic may be amended or created as necessary to accomplish the overarching goal of this project.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.50.335, 69.50.336, 69.50.342.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are needed to realize and operationalize the goals of RCW 69.50.335 concerning cannabis retailer licenses, and RCW 69.50.336 concerning the task force. Together, these statutes established the task force and created a framework for a social equity program designed for the issuance and reissuance of certain cannabis licenses. The task force is responsible for making recommendations to WSLCB, and is currently in the process of framing those recommendations.

As the work of the task force nears completion, WSLCB will begin an evaluation of chapter 314-55 WAC to determine where revisions can be made, within current statutory authority, that will reduce barriers to entry in the legal cannabis market, promote business ownership among individuals who have been disproportionately impacted by cannabis-related laws, and support the work of the task force. Revisions considered will be designed to support socially equitable conditions by deconstructing current rules in a way that creates fair and meaningful access to the economic opportunities afforded by cannabis legalization.

Process for Developing New Rule: Collaborative rule development.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Katherine Hoffman, Policy and Rules Manager, P.O. Box 43100, Olympia, WA 98504, phone 360-664-1622, fax 360-664-9689, email rules@lcb.wa.gov, website lcb.wa.gov.

Additional comments: Interested persons can participate in the rule process through open public meetings and by submitting written comments, and are encouraged to sign up for the interested parties list (GovDelivery) at <https://public.govdelivery.com/accounts/WALCB/subscriber/new>. Rule-making notices and stakeholder engagement opportunities will be emailed via GovDelivery and posted to the WSLCB website at lcb.wa.gov.

October 27, 2021
David Postman
Chair

WSR 21-22-060
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY

[Filed October 28, 2021, 3:11 p.m.]

Subject of Possible Rule Making: WAC 182-538-130 Exemptions and ending enrollment in managed care; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is amending WAC 182-538-130 to permit children with special health care needs to request an exemption from, or an end to enrollment in, managed care. The agency is making this amendment to align the rule with the medicaid state plan and federal regulation (42 C.F.R. 438.50 (d)(3)). During this review, health care authority may identify additional related changes that are required to improve clarity or update policy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health and Human Services, 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 Brian Jensen, Rulemaking Questions, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-0815, fax 360-586-9727, telecommunication[s] relay service (TRS) 711, email brian.jensen@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Dianne Baum, Program Questions, P.O. Box 45506, Olympia, WA 98504-5506, phone 360-725-0470, fax 360-586-9727, TRS 711, email dianne.baum@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

October 28, 2021
Wendy Barcus
Rules Coordinator

WSR 21-22-076
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed November 1, 2021, 10:31 a.m.]

Subject of Possible Rule Making: The department is planning to amend WAC 388-112A-0010 What definitions apply to this chapter? and 388-112A-0300 What is the seventy-hour long-term care worker basic training?; and create a new section titled What are the minimum requirements for training programs to provide remote skills training? The department may amend other related rules as required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.39A.070, 74.39A.074, 18.20.270.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 18.20.270(9) stipulates that "the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department."

Under gubernatorial suspension of training rules and coordinated efforts to expand opportunities for remote training during the COVID-19 pandemic, DSHS contracted with a DSHS approved training company to conduct a pilot basic training program in which skills would be taught, demonstrated, reinforced, and remediated remotely.

Data from student Prometric skills test pass rates for students involved in the pilot revealed success at a rate equal to that of students trained in person. The success of the pilot indicates that remote skills training is not only feasible but can also be effective. Remote skills training has the potential to greatly increase the ability for students in remote areas to access training, and in turn augment an already strained long-term care workforce.

Currently, there are no rules in place that allow for remote skills training or set standards for training programs that might offer it.

Process for Developing New Rule: The department of social and health services (DSHS) welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-725-2495, fax 360-438-8633, TTY 1-800-833-6388, email angel.sullivan@dshs.wa.gov.

November 1, 2021
Katherine I. Vasquez
Rules Coordinator

WSR 21-22-077
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE LOTTERY

[Filed November 1, 2021, 11:07 a.m.]

Subject of Possible Rule Making: Chapter 315-20 WAC, Procedural rules—Contested cases—Petitions for declaratory ruling and rule making. Washington's lottery is proposing to add a new section to this chapter to allow the agency to hold brief adjudicative proceedings (BAP) for certain administrative cases.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040 (1), (3) and 34.05.482.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington's lottery is considering amendments to this chapter to allow the use of the BAP process and to identify which categories of cases are appropriate for a BAP in accordance with the Administrative Procedure Act. This could allow the agency [to] resolve certain administrative cases faster and at less cost to the agency.

Process for Developing New Rule: The agency will use a collaborative rule-making process to develop the proposed rule. The lottery will post the draft rule on the agency's website and notify interested parties of the opportunity to provide informal comments. Staff will evaluate comments in coordination with the lottery commission and edit the draft rule consistent with the intent of this rule making prior to proposing the rule for adoption. The proposed rule will be shared with interested parties via the agency's website. Formal comments will be taken in writing during the formal comment period and in person 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 Kristi Weeks, P.O. Box 4300, Olympia, WA 98504-3000, phone 360-810-2881, fax 360-515-0416, email KWeeks@walottery.com, website www.walottery.com.

November 1, 2021
Kristi Weeks
Director of Legal Services

WSR 21-22-078

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF LICENSING

[Filed November 1, 2021, 11:17 a.m.]

Subject of Possible Rule Making: New WAC 308-80-010(4), SHB 1269 passed in the 2021 regular session increasing the number of allowable licensed transporter plates/indicator tabs. New language is needed to support the clarification of number of allowable plates/tabs, responsibilities of licensees assigned these plates/tabs, and requirements of using plates/tabs outside of Washington state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Title 46 RCW; RCW 46.76.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To implement SHB 1269 as passed by [the] legislature during 2021 regular session. The additional language to WAC 308-80-010 will support by outlining the increase in number of allowable transporter plates for licensees; clarify responsibilities, duties, and requirements of issuance of these plates/indicator tabs.

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 Julia Manley, phone 360-664-6557/360-819-0146, TTY 711, email jmanley@dol.wa.gov, website www.dol.wa.gov.

November 1, 2021
Ellis Starrett
Rules and Policy Manager

WSR 21-22-097
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed November 2, 2021, 11:33 a.m.]

Subject of Possible Rule Making: The department is planning to create and adopt new chapter 388-394 WAC, Transitional cash assistance, and amend chapter 388-489 WAC, Transitional food assistance, and other related rules as may be required. These amendments are necessary to implement section 2 of SHB 1151 (chapter 9, Laws of 2021), effective July 1, 2022. The transitional cash assistance (TCA) program will be a state-funded cash assistance benefit available to households with children, not simultaneously receiving TANF, who terminate basic food benefits due to exceeding the gross income limit or voluntary closure. Families receiving TCA are eligible for transitional food assistance for a period of five months.

Statutes Authorizing the Agency to Adopt Rules on this Subject: SHB 1151 (chapter 9, Laws of 2021); RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: See above.

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 federal Supplemental Nutrition Assistance Program (SNAP) as enacted in the 2008 Food and Nutrition Act and codified in the Code of Federal Regulations. The department will amend rules that are consistent with the act, federal regulations, and FNS administrative notices and formal guidance.

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

The department of social and health services (DSHS) incorporates regulations from the federal agencies, exercises state options, and implements approved waivers of federal regulatory requirements by adopting administrative rules for food assistance programs under 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 Angie Aikins, Lead Program Manager, Economic Services Administration, Community Services Division, P.O. Box 45470, Olympia, WA 98504-5470, fax 360-725-4904, email angie.aikins@dshs.wa.gov.

November 2, 2021
Katherine I. Vasquez
Rules Coordinator

**WSR 21-22-105
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
EMPLOYMENT SECURITY DEPARTMENT**

[Filed November 2, 2021, 4:04 p.m.]

The leave and care division of the employment security department (department) is withdrawing the CR-101 Preproposal statement of inquiry published as WSR 21-09-014. The preproposal was filed on April 9, 2021, and related to Phase 3 of implementation for the long-term services and supports trust program.

The department intends to file a new CR-101 to modify the subject of rule making for Phase 3 of implementation.

April Amundson
Policy and Rules Manager
Leave and Care Division

WSR 21-22-106

PREPROPOSAL STATEMENT OF INQUIRY
EMPLOYMENT SECURITY DEPARTMENT

[Filed November 2, 2021, 4:11 p.m.]

Subject of Possible Rule Making: The paid family and medical leave (PFML) program (Title 50A RCW) is considering updating existing rules or adding new rules to ensure clarity and make necessary changes based on programmatic needs.

This preproposal statement of inquiry may include, but is not limited to, consideration of rules related to waiting period requirements, reportable hours and documentation requirements for applications and weekly benefit claims, premium assessment and application deadline for small business assistance grants, definition of "employer," filing a petition for review, designated representative, and other clarifying guidance as needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50A.05.060, 50A.24.010, 50A.15.020, 50A.15.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department recognizes the need for clear and usable guidance for ongoing programmatic operations. The department is considering new or amended rules to clarify:

- Requirements for hours reported during the waiting period;
- Reportable hours and documentation requirements for applications and weekly benefit claims;
- Premium assessment requirements for employers that have received small business assistance grants;
- When small business assistance grant applications must be received by the department;
- The definition of "employer" to ensure the department can communicate with employers identified by the employee; and
- Acceptable methods for receipt of petitions for review.

The department may also consider additional guidance as needed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No federal agencies and no other state agencies regulate the PFML program as authority is granted solely to the employment security department.

Process for Developing New Rule: The draft rules will be shared with the public, stakeholders, and the program's advisory committee. The department will solicit input from all involved parties and consider all comments in the development of the final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Janette Benham, 640 Woodland Square Loop S.E., Lacey, WA 98503, phone 360-790-6583, TTY Theresa Eckstein, State EO Office, 771 or 360-902-9354, email rules@esd.wa.gov, website paidleave.wa.gov/rulemaking/.

November 2, 2021
April Amundson
Policy and Rules Manager
Leave and Care Division

WSR 21-22-107

**PREPROPOSAL STATEMENT OF INQUIRY
EMPLOYMENT SECURITY DEPARTMENT**

[Filed November 2, 2021, 4:17 p.m.]

Subject of Possible Rule Making: The long-term services and supports trust program under Title 50B RCW requires rule making for implementation. Rule making is being done in distinct phases. This pre-proposal statement of inquiry is regarding Phase 3 to implement portions of the program that are under the employment security department's (ESD) authority. This phase may include, but is not limited to, audit functions, and other rules as necessary.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50B.04.020 (4)(c) and (e).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESD must implement and administer portions of chapter 50B.04 RCW. Rules will ensure clear guidance is available for implementation and administration.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington state health care authority, department of social and health services, and office of the state actuary also have program implementation and administration responsibilities under chapter 50B.04 RCW. ESD's rules drafting timeline will be shared with these agencies and feedback will be requested from them throughout the rule-making process.

Process for Developing New Rule: The draft rules will be shared with other state agencies, the public, stakeholders, and the program's commission and council. ESD will solicit input from all involved parties and consider all comments in the development of the final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Janette Benham, 640 Woodland Square Loop S.E., Lacey, WA 68503 [98503], phone 360-790-6583, TTY Teresa Eckstein, State EO Officer, 771 or 360-902-9354, email Rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/ltss/>.

November 2, 2021
April Amundson
Policy and Rules Manager
Leave and Care Division

WSR 21-22-111
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 21-09—Filed November 3, 2021, 8:38 a.m.]

Subject of Possible Rule Making: New chapter 173-925 WAC, Post-consumer recycled content for plastic containers.

The new rule will implement the requirements in chapter 70A.245 RCW, Recycling, waste, and litter reduction, to establish a post-consumer recycled (PCR) content program for covered products. Producers of covered products will have to meet the PCR content requirements as well as annually register, pay agency fees, and report.

The law requires the department of ecology (ecology) to:

- Prepare an annual workload analysis identifying agency cost to be incurred to implement, administer and enforce the law, and offer the analysis for public comment.
- Adopt rules that establish a PCR content program for producers of covered products and require them to annually register, pay agency fees, and report.

The rule will:

- Define terms and clarify intent of the law.
- Establish equitable producer fees required to fund ecology's administration and oversight of the PCR content program for covered products.
- Specify the information required to be provided by producers at registration and in annual reports.
- Establish the process ecology will follow for:
 - Conducting audits and investigations of producers' annual reports.
 - Measuring the amount and methods for assessing PCR content.
 - Reviewing and adjusting PCR content rates.
 - Excluding certain plastic containers or elements of containers from PCR content requirements.
 - Determining technical feasibility of meeting PCR content rates.
 - Establishing corrective action requirements for producers out of compliance.
 - Determining penalty reductions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70A.245 RCW, Recycling, waste, and litter reduction.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 2021 legislature passed chapter 70A.245 RCW to increase recycled content in specific types of plastic packaging to improve plastic packaging collection, processing, and markets. Rules are required to establish the process and procedures for regulatory compliance, producer payment of annual fees, and ecology oversight.

Many consumer brands have committed to voluntary recycled content standards for their plastic bottles, but very few have met those commitments. Mandated PCR content requirements are presumed to motivate increased recovery of plastic packaging in order to provide recyclable feedstock for producers to meet these requirements. Use of recycled content plastic will reduce the use of virgin plastic to manufacture these plastic containers and associated greenhouse gas emissions.

The law provides for adjustment of the PCR content targets, exclusions from meeting the targets under certain conditions, and cor-

rective action plans to help noncompliant producers reach the targets, as well as penalty reductions.

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 by contacting Kara Steward, Department of Ecology, Solid Waste Management Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 564-999-0555, for Washington relay service or TTY call 711 or 877-833-6341, email kara.steward@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-925>, <https://ecology.wa.gov/Waste-Toxics/Reducing-recycling-waste/2021-plastic-pollution-laws>.

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.

November 3, 2021
Laurie G. Davies
Solid Waste Management
Program Manager