

WSR 22-19-004
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed September 8, 2022, 4:16 p.m.]

Subject of Possible Rule Making: WAC 326-02-034 Political subdivision fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 39.19.220, 39.19.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under current rules, the formula for determining each political subdivision's fees contains gaps that create ambiguity. The fees also do not increase smoothly as expenditures rise under the current formula. Finally, the cap on fees has not been updated since 2004, despite the growth in expenditures. As a result, political subdivisions with greater expenditures pay a lower proportion in fees compared to political subdivisions with less expenditures. The new formula will make fees more predictable, less ambiguous, and more proportionate to expenditures. The resulting increase in collections will offset increases in the staff cost for the office of minority and women's business enterprises to certify businesses.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Julie Bracken, 1110 Capitol Way South, Suite 150, Olympia, WA, phone 360-664-9750, fax 360-586-7079, email rules@omwbe.wa.gov, website omwbe.wa.gov.

Septemeber 8, 2022
Julie Bracken
Public Records Officer
Rules Coordinator
Records Manager

**WSR 22-19-034
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR AND CANNABIS
BOARD**

[Filed September 14, 2022, 11:30 a.m.]

Consistent with RCW 34.05.335 and WAC 1-21-060, the Washington state liquor and cannabis board is withdrawing its preproposal statement of inquiry (CR-101) filed as WSR 22-11-032 on May 11, 2022, regarding definitions and the evaluation of additives, solvents, ingredients, or compounds used in the production of cannabis products.

David Postman
Chair

WSR 22-19-037
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 22-02—Filed September 14, 2022, 12:18 p.m.]

Subject of Possible Rule Making: The Washington state department of ecology (ecology) plans to amend chapter 173-305 WAC, Hazardous waste fee regulation. This rule making will specifically focus on amending WAC 173-305-220, the hazardous waste planning fee (planning fee). We will also update citations in this chapter to match new statutory references per the requirements of SHB 2246, chapter 20, Laws of 2020.

The planning fee in WAC 173-305-220 doesn't state which risk factor to apply to an individual waste stream that designates as both dangerous waste (DW) and extremely hazardous waste (EHW). This rule making will clarify how ecology calculates the planning fee by adding language that directs ecology to apply a risk factor of one to a waste stream that designates as both DW and EHW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70A.218.030 Voluntary reduction plan—Fees.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Ecology establishes the planning fee in part on the risk associated with the type of waste generated. Fees for EHW are subject to a risk factor (a multiplier) that is 10 times higher than for DW. However, WAC 173-305-220 doesn't state which risk factor applies to an individual waste stream that is both DW and EHW. This lack of clarity leads to inequitable fees for some businesses. Businesses that generate and report a waste stream that is both DW and EHW pay a higher fee than businesses that generate the same waste stream but don't report the EHW code. We will consider adding language to WAC 173-305-220 to clarify that fees for these waste streams should be calculated as DW only.

In this rule making, we intend to:

- Prevent an inequitable financial impact to facilities that report both DW and EHW codes for an individual waste stream without changing how those facilities manage waste.
- Increase transparency by clarifying how ecology applies risk factors to the planning fee formula.
- Codify the practice outlined in the interim policy for the hazardous waste planning fee, or closely related modifications to this practice.

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: Ecology will follow the standard process for the adoption of the 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 Megan Hillyard, Department of Ecology, Hazardous Waste and Toxics Reduction Program, P.O. Box 330316, Shoreline, WA 98133-9716, phone 425-559-5463, Washington relay service or TTY call 711 or 877-833-6341, email hwtrrulemaking@ecy.wa.gov, website <https://ecology.wa.gov/HW-Planning-Fee-Rule>, sign up to receive email notices Hazardous Waste Planning Fee Rulemaking ListServ [contact agency for link].

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.

September 14, 2022

Katrina Lassiter, Program Manager
Hazardous Waste and Toxic Reduction Program

**WSR 22-19-054
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed September 16, 2022, 8:39 a.m.]

This memo serves as notice that the board of nursing home administrators (board) is withdrawing the CR-101 in which the board is considering adopting a new section in chapter 246-843 WAC regarding a retired active status credential, and amending WAC 246-843-180 regarding renewals of expired licenses, which was filed on June 22, 2022, and published in WSR 22-13-186.

The board is withdrawing this CR-101 to change the scope of its rule making. The board determined requirements for renewing an expired nursing home administrator's license should more broadly include continuing education course requirements and not a state exam. A new CR-101 will be filed that will include this new scope, as well as including consideration of adopting a new section of rule to establish a retired active status credential.

Individuals requiring information on this rule should contact Kendra Pitzler, program manager, at kendra.pitzler@doh.wa.gov.

Tami M. Thompson
Regulatory Affairs Manager

WSR 22-19-058

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed September 16, 2022, 9:24 a.m.]

Subject of Possible Rule Making: Chapter 246-843 WAC, Nursing home administrators. The board of nursing home administrators (board) is considering amendments to WAC 246-843-180 to require proof of meeting the course requirements in WAC 246-843-130(6) before renewing an expired license and further considering a new section to establish a retired active status credential.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.52.061, 18.130.050, and 18.130.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board is considering the establishment of retired active status as a way for nursing home administrators to continue to practice in a limited way at a reduced cost. Having access to a retired active status would allow nursing home administrators to be more readily available during a health emergency such as the coronavirus disease 2019 (COVID-19) pandemic. The board is considering adding proof of course requirements for a renewal of an expired license as a means to check that all active licensees have sufficient knowledge of current Washington laws and rules.

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 Kendra Pitzler, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4723, fax 360-236-2901, TTY 711, email kendra.pitzler@doh.wa.gov, website www.doh.wa.gov.

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

September 16, 2022
Carl Christensen, Ph.D., RN
Chair

WSR 22-19-078
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Behavioral Health Administration)
[Filed September 20, 2022, 10:21 a.m.]

Subject of Possible Rule Making: WAC 388-880-056 How SCC considers a resident for release to an LRA (amend), 388-880-057 How SCC considers a resident's revocation of LRA status (amend), 388-880-058 How SCC considers a recommendation for a resident's unconditional discharge (amend), 388-880-059 Communicating and coordinating resident discharge and conditional release related matters (amend); and possible other sections as required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71.09.070, 71.09.090, and 71.09.097.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department of social and health services (DSHS) recognizes these WAC have not been updated since 2013 and since then there have been policy and RCW changes that require an update. DSHS has decided to combine WAC 388-880-056 through 388-880-058 into one WAC. This will help clarify expectations of the senior clinical team and clarify how the special commitment center (SCC) reviews residents whose less restrictive alternative status is revoked. WAC 388-880-059 is being amended to clarify communication expectations for SCC when a resident is conditionally released or discharged.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This currently only affects the behavioral health administration and SCC.

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 Emma Palumbo, Olympia, WA 98504-5854, phone 360-972-6214, email emma.palumbo@dshs.wa.gov.

September 20, 2022
Katherine I. Vasquez
Rules Coordinator

WSR 22-19-087
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY

[Filed September 20, 2022, 3:32 p.m.]

Subject of Possible Rule Making: WAC 182-531A-1200 Applied behavior analysis (ABA)—Services provided via telemedicine; other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160; ESSB 1196, 67th legislature, 2021 regular session.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is revising this section to remove the information regarding telemedicine and add a cross reference to new rules that the agency is developing for audio-only telemedicine, in alignment with ESSB 1196. The new audio-only rules will reside in new WAC 182-501-0300 and are being developed under a different rule making filed under WSR 21-15-065. The agency is removing this information from various chapters in Title 182 WAC and creating this one-stop shop rule for audio-only telemedicine. During the course of this review, the health care authority 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: RCW 41.05.021, 41.05.160; ESSB 1196, 67th legislature, 2021 regular session.

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 Valerie Freudenstein, Rule-Making Questions, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1344, fax 360-586-9727, telecommunication[s] relay service (TRS) 711, email Valerie.freudenstein@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking; or Melissa Kunder, Program Questions, P.O. Box 45502, Olympia WA 98504-5502, phone 360-725-5297, fax 360-586-9727, TRS 711, email Melissa.Kunder@hca.wa.gov, website www.hca.wa.gov/about-hca/rulemaking.

September 20, 2022
Wendy Barcus
Rules Coordinator

WSR 22-19-088
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF
ADMINISTRATIVE HEARINGS

[Filed September 21, 2022, 6:55 a.m.]

Subject of Possible Rule Making: The office of administrative hearings (OAH) is proposing to amend chapter 10-24 WAC relating to accommodations for people with disabilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.250, 34.12.030, and 34.12.080; Title II of The Americans with Disabilities Act of 1990; chapter 49.60 RCW, Washington law against discrimination.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To ensure that OAH's accommodation rule for people with disabilities is "clearly and simply stated, so that it can be understood by those required to comply," RCW 34.05.220(5). To ensure that the rule is meeting its intended purpose and OAH's strategic goals.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Justice and the Washington human rights commission. OAH coordinates with these agencies by staying informed and in compliance with their regulations.

Process for Developing New Rule: OAH welcomes the public to participate in developing its rules. Anyone interested should contact the staff person identified below. OAH is compiling a list of parties who might be interested in this rule amendment. At a later date, OAH will file a notice of proposed rule making (CR-102) with the office of the code reviser. A copy of the notice will be sent to everyone on the list of interested parties, as well as anyone who requests a copy. The notice will also be posted on web page <https://oah.wa.gov/Content-Area-Management/Rule-Making-Hub/Rulemaking-Activities>.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sabiha Malikani Ahmad, Staff Attorney, P.O. Box 42488, Olympia, WA 98504-2488, phone 360-407-2739, fax 360-664-8721, TTY 711, email rulemaking@oah.wa.gov, website www.oah.wa.gov.

September 20, 2022

Lorraine Lee

Agency Director and Chief Administrative Law Judge

WSR 22-19-089
PREPROPOSAL STATEMENT OF INQUIRY
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE

[Filed September 21, 2022, 8:13 a.m.]

Subject of Possible Rule Making: Chapter 461-08 WAC, Environmental and land use hearings office (Shorelines hearings board), Practice and procedure—Review of the granting, denying or rescinding of substantial development permits—Hearings.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.21B.170, 90.58.175.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule changes are needed for the following reasons:

- To clarify electronic filing procedures and remove fax and paper filing. The rule change will provide procedures for electronic filing via a case management system portal.
- To require the filing of dispositive motions no later than 90 days before the hearing date, allowing more time for the board to consider dispositive issues prior to hearing.
- To remove the holding of settlement conferences from the presiding officer powers and duties. The change will allow other board members and judges to hold settlement conferences, not limiting it to the presiding officer.
- To clarify that proof of service must be filed with the board clerk to perfect the appeal, reducing confusion about proof of service requirements.
- To allow parties who have settled an appeal to submit a request for dismissal rather than a written order of dismissal.
- To remove the requirement that parties apply to the board to request a certificate of appealability for direct review of board decisions by the court of appeals. Without the requirement, parties may file directly with the court of appeals without receiving certification by the board.

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 Jamie Merly, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501, phone 360-485-1282, fax 360-586-2253, email Jamie.Merly@eluhwa.gov, website www.eluhwa.gov.

September 20, 2022

Jamie Merly

Director of Legal and Administrative Services

WSR 22-19-090
PREPROPOSAL STATEMENT OF INQUIRY
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE

[Filed September 21, 2022, 8:11 a.m.]

Subject of Possible Rule Making: Chapter 371-08 WAC, Environmental and land use hearings office (pollution control hearings board) practice and procedure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.21B.170.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule changes are needed for the following reasons:

- To clarify electronic filing procedures and remove fax and paper filing. The rule change will provide procedures for electronic filing via a case management system portal.
- To require the filing of dispositive motions no later than 90 days before the hearing date, allowing more time for the board to consider dispositive issues prior to hearing.
- To clarify what the "date of receipt" means for timely filing of an appeal. The clarification reduces confusion about the timeliness of filing an appeal.
- To remove the holding of settlement conferences from the presiding officer powers and duties. The change will allow other board members and judges to hold settlement conferences, not limiting it to the presiding officer.
- To clarify that proof of service must be filed with the board clerk to perfect the appeal, reducing confusion about proof of service requirements.
- To allow parties who have settled an appeal to submit a request for dismissal rather than a written order of dismissal.
- To reduce confusion about forest practices appeals by adding existing statutory language to the rule that describes the filing requirements for these appeals.
- To repeal the board jurisdictional rule. Board jurisdiction is set forth in statute and rule making lags behind the statutory delegation of authority, causing inconsistencies and confusion to appellants.
- To remove the requirement that parties apply to the board to request a certificate of appealability for direct review of board decisions by the court of appeals. Without the requirement, parties may file directly with the court of appeals without receiving certification by the board.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The environmental and land use hearings office will reach out to the department of natural resources (DNR) regarding forest practices appeal's rule-making activity and will keep DNR apprised of progress and opportunities for input.

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 Jamie Merly, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501, phone 360-485-1282, fax 360-586-2253, email Jamie.Merly@eluhwa.gov, website www.eluhwa.gov.

September 20, 2022

Jamie Merly
Director of Legal and Administrative Services

WSR 22-19-091
PREPROPOSAL STATEMENT OF INQUIRY
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE

[Filed September 21, 2022, 8:15 a.m.]

Subject of Possible Rule Making: Chapter 242-03 WAC, growth management hearings board, rules of practice and procedure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 36.70A.270.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rule changes will clarify electronic filing procedures and remove fax and paper filing. The rule changes will provide procedures for electronic filing via a case management system portal.

The rule change will remove the requirement that the board dismiss actions upon stipulation for dismissal by the parties. This rule change is needed to align with RCW 36.70A.290, which requires the board to set a hearing, except in limited situations.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The environmental and land use hearings office will reach out to the department of commerce (DOC) regarding rule-making activity and will keep DOC apprised of progress and opportunities for input.

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 Jamie Merly, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501, phone 360-485-1282, fax 360-586-2253, email Jamie.Merly@elaho.wa.gov, website www.elaho.wa.gov.

September 20, 2022

Jamie Merly

Director of Legal and Administrative Services