

**WSR 23-09-009
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS**

[Filed April 7, 2023, 6:46 a.m.]

The board of registration for professional engineers and land surveyors requests withdrawal of the preproposal statement of inquiry filed as WSR 23-01-109, chapter 196-29 WAC. The CR-101 was filed on December 19, 2022, and appeared in issue 23-01 of the State Register. This document serves as the official notification of withdrawal.

Ken Fuller, PE
Director

WSR 23-09-011
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed April 7, 2023, 10:34 a.m.]

Subject of Possible Rule Making: Chapter 196-29 WAC, Professional practices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.43.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to chapter 196-29 WAC are necessary to amend and clarify the application of the practice standards. Minor housekeeping amendments are also necessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department of natural resources (DNR). Board of registration for professional engineers and land surveyors (board) staff will work with DNR staff on any proposed language to assure [ensure] coordination of language in chapter 332-130 WAC.

Process for Developing New Rule: Notice will be made to stakeholders and active licensees via the board's contact lists and will be posted on our website and distributed through the board and board staff. Interested parties may contact the individual listed below, and the public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Shanan Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, phone 360-664-1570, TTY 711, email shanan.gillespie@brpels.wa.gov, website <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity>.

April 11, 2023
Ken Fuller
Director

WSR 23-09-044
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 22-14—Filed April 17, 2023, 8:26 a.m.]

Subject of Possible Rule Making: The department of ecology (ecology) is initiating a rule making to create new chapter 173-187 WAC, Financial responsibility. Additionally, existing chapter 317-50 WAC, Financial responsibility for small tank barges and oil spill response barges, will be incorporated into the new rule and then repealed.

This rule making will implement updates to chapter 88.40 RCW as required under E2SHB 1691 and will incorporate the requirements of existing chapter 317-50 WAC, which will be repealed. The rule making will ensure that vessels and facility owners and operators have adequate financial resources to pay cleanup and damage costs arising from an oil spill.

The new rule will:

- Define the entities subject to financial responsibility requirements.
- Establish required levels of financial responsibility for oil handling facilities and pipelines.
- Specify the procedures and timelines for obtaining or renewing a certificate of financial responsibility.
- Establish requirements for acceptable evidence of financial responsibility, including self-insurance.
- Outline the process for ensuring timely updates to changes in financial status.
- Define the processes governing the suspension, revocation, and reissuance of certificates of financial responsibility considering potential liabilities incurred by a covered entity after an oil spill or other incident.
- Incorporate and update financial responsibility requirements currently included in chapter 317-50 WAC, Financial responsibility for small tank barges and oil spill response barges, and repeal that chapter.
- Make other changes to clarify language and make any corrections needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 88.40 RCW, Transport of petroleum products—Financial responsibility.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Through E2SHB 1691, codified in chapter 88.40 RCW, the legislature directs ecology to adopt rules regarding financial responsibility requirements for oil handling facilities and vessels. Under the new rule, regulated entities must demonstrate financial responsibility for response cleanup costs and as necessary to compensate the state and affected federally recognized Indian tribes, counties, and cities for damages that might occur during a spill. The main goal of the rule is to establish a process to implement Washington state certificates of responsibility.

The financial responsibility amounts for vessels are detailed in the law. However, the rule-making process will be used to establish financial responsibility requirements for regulated facilities. The law directs consideration of the worst-case amount of oil that could be spilled, as calculated in the applicant's oil spill contingency

plan approved under chapter 90.56 RCW, the cost of cleaning up the spilled oil, the frequency of operations at the facility, the damages that could result from the spill, and the commercial availability and affordability of financial responsibility.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal and state agencies that issue certificates of financial responsibility: United States Coast Guard National Pollution Funds Center, Environmental Protection Agency, Oregon Department of Environmental Quality, California Department of Fish and Wildlife Office of Spill Prevention and Response, and Alaska Department of Environmental Conservation Spill Prevention and Response. 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 by contacting Sonja Larson, Department of Ecology, Spill Prevention, Preparedness, and Response Program, P.O. Box 47600, Olympia, WA 90504, phone 360-480-2263, Washington relay service or TTY call 711 or 877-833-6341, email sonja.larson@ecy.wa.gov, website <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-187>. For updates about this rule making, join our listserv SPILLS-PROGRAM@LISTSERV.ECOLOGY.WA.GOV.

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 17, 2023

Carlos Clements

Spill Prevention, Preparedness, and Response Program Manager

WSR 23-09-046
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
NATURAL RESOURCES

[Filed April 17, 2023, 10:45 a.m.]

Subject of Possible Rule Making: The department is considering amendments and/or additions to chapter 332-30 WAC regarding the use of state-owned aquatic lands for commercial finfish net pen aquaculture.

Statutes Authorizing the Agency to Adopt Rules on this Subject: The management philosophy the department follows regarding state-owned aquatic lands is described generally in RCW 79.105.010 where the legislative intent of the Aquatic Lands Act is outlined. In RCW 79.105.030, specific management guidelines for providing a balance of public benefits for all citizens of the state are given including: Encouraging direct public use and access; fostering water-dependent uses; ensuring environmental protection; utilizing renewable resources; and generating revenue consistent with the above. Pursuant to RCW 79.105.360, the department of natural resources (DNR) shall adopt rules as are necessary to carry out the purposes of RCW 79.105.010, 79.105.030, and other certain aquatic land statutes.

In addition, to effectively carry out these management directives, RCW 43.30.540 specifically authorizes the board of natural resources to make and enforce rules and regulations to carry out the provisions of chapters 79.105 through 79.140 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Potential rules on the subject are intended to reflect DNR's management responsibilities and objectives by clarifying what and how commercial finfish net pen aquaculture activities may be authorized on state-owned aquatic lands. Rules will address, among other things, the department's environmental concerns such as degradation of the benthic environment, biofouling, and additional ecological impacts to aquatic habitat in relation to commercial finfish net pen aquaculture operations on state-owned aquatic land.

DNR is exploring options to modify chapter 332-30 WAC to better achieve DNR's management guidelines with respect to commercial finfish net pen aquaculture and invites public comment as to how this may be best accomplished.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington department of fish and wildlife, Washington state department of ecology, Washington state department of agriculture, United States Army Corps of Engineers, National Oceanic and Atmospheric Administration. DNR intends to hold separate interagency meetings. In addition, invitations to any workshops and/or public meetings will be sent to the above listed entities.

Process for Developing New Rule: Full rule-making process. In addition to providing the minimum level of public involvement required by the Administrative Procedure Act, DNR plans to follow a community relations approach to developing this rule. Opportunities for the public to submit comments will be offered in advance of filing notice of a proposed rule. Public workshops will be held to present context for the rule, pose key questions, and host brainstorming sessions. Additionally, DNR will consult with interested tribes and provide opportunities for government-to-government communications for those wishing to participate. Legislators and their staff will be notified and asked

to provide feedback to DNR. Interested stakeholder groups will also be notified.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Noel Sharp, DNR, Aquatic Resources Division, 1111 Washington Street S.E., Mailstop 47027, Olympia, WA 98504, phone 360-995-2496, fax 360-902-1081, email netpens@dnr.wa.gov, website www.dnr.wa.gov; or Michal Rechner, DNR, Aquatic Resources Division, 1111 Washington Street S.E., Mailstop 47027, Olympia, WA 98504.

April 17, 2023
Thomas Gorman
Division Manager

WSR 23-09-049
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed April 17, 2023, 12:43 p.m.]

Subject of Possible Rule Making: The department is considering amending WAC 388-76-10315 Resident record—Required. The intent is to help the regulated community comply with the rule by providing clear language about long-term care ombuds access to resident records. The department may amend other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.128.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule making was requested as a means to align the rule with federal requirements for long-term care ombuds access to resident records. The amended rule will give clarity to adult family home providers. It will also support adult family home residents who may benefit from, or are currently receiving, long-term care ombuds advocacy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will compare the draft rules with 45 C.F.R. § 1324.11 (e) (2), Centers for Medicare and Medicaid Services (CMS) requirements related to long-term care ombuds access to resident records. The department will confirm consistency with the federal requirements and will consult with CMS as necessary.

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 Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 564-999-3182, fax 360-438-7903, email colleen.jensen1@dshs.wa.gov.

April 17, 2023
Katherine I. Vasquez
Rules Coordinator

WSR 23-09-057
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed April 18, 2023, 9:03 a.m.]

Subject of Possible Rule Making: Adding a Roth option to the department of retirement system's (department) deferred compensation plan (DCP) and implementing Section 603 of the SECURE Act 2.0.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.770(5), as enacted by the 2022 legislation and Section 603 of the SECURE Act 2.0.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In accordance with EHB 1752 from the 2022 legislative session, the department is required to offer a Roth option within DCP no later than December 2023. Chapters 415-02 and 415-501 WAC require changes to clarify how the department will administer DCP once Roth is included. The department must also make additional changes to implement the requirements of Section 603 of the federal SECURE Act 2.0.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will consult with tax counsel to ensure compliance with Internal Revenue Service requirements and federal law.

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 Bianca Stoner, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, website www.drs.wa.gov/sitemap/rules.

April 18, 2023
Bianca Stoner
Rules Coordinator

**WSR 23-09-058
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed April 18, 2023, 9:12 a.m.]

Pursuant to RCW 34.05.335 and WAC 01-21-060, the department of retirement systems withdraws preproposal statement of inquiry (CR-101) WSR 23-03-021, filed January 9, 2023, adding a Roth option to the department's deferred compensation plan.

Comments, questions, or concerns may be directed to Bianca Stoner at 360-664-7291 or drs.rules@drs.wa.gov.

Bianca Stoner
Legal Services Manager

WSR 23-09-066
PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION

[Filed April 19, 2023, 8:03 a.m.]

Subject of Possible Rule Making: The gambling commission (commission) is considering development of a rule (or rules) related to the requirements for problem gambling signage and other materials per RCW 9.46.071.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission is interested in exploring more explicit requirements related to the problem gambling signage and other materials to ensure that those who might have a problem gambling disorder are aware that there are avenues for getting help.

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

Process for Developing New Rule: Regular rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa C. McLean, Legislative and Policy Manager, P.O. Box 42400, Olympia, WA 98504-2400, phone 360-486-3454, TTY 360-486-3637, email rules.coordinator@wsgc.wa.gov, website www.wsgc.wa.gov.

April 17, 2023

Lisa C. McLean

Legislative and Policy Manager

WSR 23-09-072
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed April 19, 2023, 10:30 a.m.]

Subject of Possible Rule Making: Medical insurance premium reimbursement, law enforcement officers' and firefighters' (LEOFF) Plan 2 members.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.26.470.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide clarification regarding reimbursement of medical premiums for LEOFF Plan 2 members who are catastrophically disabled in the line of duty.

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 Bianca Stoner, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, website www.drs.wa.gov/rules.

April 19, 2023
Bianca Stoner
Rules Coordinator