

WSR 23-13-057
RULES OF COURT
STATE SUPREME COURT
[June 8, 2023]

IN THE MATTER OF THE PROPOSED ) ORDER
AMENDMENTS TO ADMISSION ) NO. 25700-A-1514
AND PRACTICE RULES (APR) 1, 2, 3, )
8, 9, 11, AND 28 )

The Washington State Bar Association, having recommended the adoption of the proposed amendments to Admission and Practice Rules (APR) 1, 2, 3, 8, 9, 11, and 28, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the proposed amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 8th day of June, 2023.

Johnson, J.
Madsen, J.
Owens, J.
Stephens, J.
Gonzalez, C.J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.

APR 1

IN GENERAL; SUPREME COURT; PREREQUISITES
TO THE PRACTICE OF LAW; COMMUNICATIONS TO THE BAR;
CONFIDENTIALITY; DEFINITIONS

(a) - (d) [Unchanged.]

(e) Definitions. The following definitions apply throughout these Admission and Practice Rules except where otherwise stated:

(1) [Unchanged.]

(2) "Bar" means the Washington State Bar Association, including Bar staff.

(3) - (9) [Unchanged.]

APR 2

BOARD OF GOVERNORS

(a) Powers. In addition to any other power or authority in other rules, the Board of Governors shall have the power and authority to:

(1) Appoint a Board of Bar Examiners from among the active and judicial members of the Bar for the purposes of assisting the Bar grading examinations for admission or licensing and in writing and maintaining the Washington Law Component;

(2) Appoint a Law Clerk Board from among the active and judicial members of the Bar for the purposes of assisting the Bar in supervising the Law Clerk Program;

(3) - (7) [Unchanged.]

(b) [Unchanged.]

APR 3

APPLICANTS FOR ADMISSION TO PRACTICE LAW

(a) [Unchanged.]

(b) **Qualification for Lawyer Bar Examination.** To qualify to sit for the lawyer bar examination, a person must not be eligible for admission by motion or Uniform Bar Examination (UBE) score transfer and must present satisfactory proof of:

(1)-(2) [Unchanged.]

(3) graduation from a university or law school in any jurisdiction where the common law of England is the basis for its jurisprudence with a degree in law that would qualify the applicant to practice law in that jurisdiction and admission to the practice of law in that same or other jurisdiction where the common law of England is the basis of its jurisprudence, together with current good standing, ~~in any jurisdiction where the common law of England is the basis of its jurisprudence,~~ and active legal experience for at least three of the five years immediately preceding the filing of the application; or

(4)-(5) [Unchanged.]

(c)-(h) [Unchanged.]

(i) **Applications; Fees; Filing.**

(1) Every applicant for admission shall:

(A) [Unchanged.]

(B) Pay upon the filing of the application such fees as may be set by the Board of Governors subject to ~~review~~ approval by the Supreme Court; and

(C) [Unchanged.]

(2)-(3) [Unchanged.]

APR 5

PREADMISSION REQUIREMENTS; OATH; RECOMMENDATION FOR ADMISSION; ORDER ADMITTING TO PRACTICE LAW

(a)-(g) [Unchanged.]

(h) **Oath for ~~LPOs~~ Limited Practice Officers—Contents of Oath.**

OATH FOR LIMITED PRACTICE OFFICERS

STATE OF WASHINGTON

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, do solemnly declare:

1.-5. [Unchanged.]

\_\_\_\_\_  
Signature ~~Limited Practice Officer~~

Subscribed and sworn to before me this \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_.

JUDGE

(i) **Oath for Limited Practice Officer and of ~~LLLT~~ Limited License Legal Technician.** The Oath for Limited Practice Officer and the Oath of ~~LLLT~~ Limited License Legal Technician shall be taken before an elected or appointed judge, excluding judges pro tempore, sitting in open court in the state of Washington.

(j) **Contents of Oath of LLLT Limited License Legal Technician.**

The oath that all applicants shall take is as follows:

OATH OF LIMITED LICENSE LEGAL TECHNICIAN

STATE OF WASHINGTON

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, do solemnly declare:

1.-8. [Unchanged.]

\_\_\_\_\_  
Signature ~~Limited License Legal Technician~~  
Subscribed and sworn to before me this \_\_\_\_\_ day of

\_\_\_\_\_  
Judge

(k) - (m) [Unchanged.]

APR 8

NONMEMBER LAWYER LICENSES TO PRACTICE LAW

(a) [Unchanged.]

(b) **Exception for Particular Action or Proceeding.** A lawyer member who is not admitted in Washington state but who is in good standing of, and permitted to practice law in, the bar of any other state or territory of the United States or of the District of Columbia, or a lawyer who is providing legal services for no fee through a qualified legal services provider pursuant to rule 8(f), may appear as a lawyer in any action or proceeding only

(i)-(ii) [Unchanged.]

(1)-(6) [Unchanged.]

(c)-(g) [Unchanged.]

APR 9

LICENSED LEGAL INTERNS

(a) [Unchanged.]

(b) **Eligibility.** To be eligible to apply to be a Licensed Legal Intern, an applicant must have arranged to be supervised by a qualifying lawyer and:

(1) Be a student duly enrolled and in good academic standing in a J.D. program at an approved law school who has:

(A) successfully completed not less than two-thirds of a law school's prescribed 3-year course of study or five-eighths of a law school's prescribed 4-year course of study, and

(B) [Unchanged.]

(2) Be an enrolled law clerk who:

(A) is certified by Bar staff to be in compliance with the provisions of APR 6 and to have successfully completed not less than five-eighths of the law clerk program's prescribed 4-year course of study; and

(B) [Unchanged.]

(3) Be a J.D. graduate of an approved law school who has not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of graduation; or

(4) Have completed the APR 6 law clerk program and not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of completion of the APR 6 law clerk program; or

(5) Be a graduate of an approved law school with an LL.M. that meets the requirements in APR 3 (b) (4) and who qualifies under APR 3 (b) (4) to take the Washington lawyer bar examination and who has not been admitted to the practice of law in any state or territory of the United States or the District of Columbia, provided that the application is made within nine months of graduation.

(c) [Unchanged.]

(d) **Application.** The applicant must submit an application ~~on~~ in a form ~~provided and manner as prescribed by the Bar and signed by both the applicant and the supervising lawyer.~~

(1)-(2) [Unchanged.]

(3) Full payment of any required fees must be submitted with the application. The fees shall be set by the Board of Governors subject to ~~review~~ approval by the Supreme Court.

(4) Bar staff shall review all applications to determine whether the applicant and the supervising lawyer have the necessary qualifications, and whether the applicant possesses the requisite good moral character and fitness to engage in the limited practice of law provided for in this rule. Bar staff may investigate any information contained in or issues raised by the application that reflect on the factors contained in APR 21(a)-24, and any application that reflects one or more of the factors set forth in APR 21(a) shall be referred to Bar Counsel for review.

(5)-(6) [Unchanged.]

(7) Upon Supreme Court approval of an applicant, the Bar shall ~~send to the applicant, in care of the supervising lawyer's mailing address on record with the Bar,~~ deliver to the supervising lawyer, with a copy to the applicant, a letter ~~confirming~~ confirmation of approval by the Supreme Court and a Licensed Legal Intern identification card. An applicant must not perform the duties of a Licensed Legal Intern before receiving the ~~confirming letter~~ confirmation and identification card.

(8) Once an application is accepted and approved and a license is issued, a Licensed Legal Intern is subject to the Rules of Professional Conduct and the Rules for Enforcement of Lawyer Conduct and to all other laws and rules governing lawyers admitted to the Bar of this state, and is personally responsible for all services performed as a Licensed Legal Intern. Any ~~offense~~ conduct by a Licensed Legal Intern that would subject a lawyer admitted to practice law in this state to ~~suspension or disbarment may be punished by~~ discipline may result in the Bar taking action on the Licensed Legal Intern's license, including termination of the Licensed Legal Intern's license, or requiring disclosures by or condition on the Licensed Legal Intern and supervising lawyer that appear reasonably necessary to safeguard against unethical conduct by the Licensed Legal Intern during the term of the limited license. ~~suspension or forfeiture of the Licensed Legal Intern's privilege of taking the lawyer bar examination and being admitted to practice law in this state.~~

(9) A Licensed Legal Intern may have up to two supervising ~~attorneys~~ lawyers in different offices at one time. A Licensed Legal Intern may submit an application for approval to add a supervising ~~attorney~~ lawyer in another office or to change supervising ~~attorneys~~ lawyers any time within the term of the limited license. When a Licensed Legal Intern applies to add a concurrent supervising attorney in another office, the Intern must notify both the current supervising ~~attorney~~ lawyer and the proposed new supervising ~~attorney~~ lawyer in writing about the application, and both the current and the new supervising attorney must approve the addition and certify that such concurrent supervision will not create a conflict of interest for the Licensed Legal Intern. The qualifications of the new supervising ~~attorney~~ lawyer will be reviewed by Bar staff who may approve or deny the supervisor. The Licensed Legal Intern will be notified of approval or denial of the new supervising ~~attorney~~ lawyer as described above and must not

perform the duties of a licensed legal intern before receiving a new ~~confirming letter~~ confirmation containing notification of approval and a new identification card.

**(e) Scope of Practice, Prohibitions, and Limitations.** In addition to generally being permitted to perform any duties that do not constitute the practice of law as defined in GR 24, a Licensed Legal Intern shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule.

(1) A Licensed Legal Intern may engage in the following activities without the presence of the supervising attorney lawyer:

(A) [Unchanged.]

(B) Prepare correspondence containing legal advice to clients or negotiating on behalf of clients, pleadings, motions, briefs, or other documents. All such correspondence, pleadings, motions, and briefs must be reviewed and signed by the supervising attorney lawyer, as well as any other documents requiring the signature of a lawyer. On any correspondence or legal document signed by the Licensed Legal Intern, the Licensed Legal Intern's signature shall be followed by the title "Licensed Legal Intern" and the Licensed Legal Intern's identification number;

(C)-(D) [Unchanged.]

(2)-(7) [Unchanged.]

**(f) Additional Obligations of Supervising Lawyer.** Agreeing to serve as the supervising lawyer for a Licensed Legal Intern imposes certain additional obligations on the supervising lawyer. The failure of a supervising lawyer to comply with the duties set forth in this rule shall be grounds for disciplinary action pursuant to the Rules for Enforcement of Lawyer Conduct. In addition to the duties stated or implied above, the supervising lawyer:

(1)-(6) [Unchanged.]

(7) must meet with ~~any the~~ Licensed Legal Intern ~~they are supervising~~, in person or by telephone, a minimum of one time per week, to review cases being handled and to provide feedback on performance, to provide additional guidance and instruction, and to answer questions or issues raised by the Licensed Legal Intern;

(8)-(10) [Unchanged.]

**(g)** [Unchanged.]

**(h) Term of Limited License.** A limited license issued pursuant to this rule shall be valid, unless it is revoked or supervision is terminated, for a period of not more than 30 consecutive months, and in no case will it be valid if it has been more than 18 months since the Licensed Legal Intern graduated from law school or completed the APR 6 Law Clerk program.

(1) The approval given to a law student by the law school dean or the dean's designee or to a law clerk by the tutor may be withdrawn at any time by ~~mailing~~ delivering notice to that effect to the Bar, and must be withdrawn if the student ceases to be duly enrolled as a student prior to graduation, takes a leave of absence from the law school or from the clinical program for which the limited license was issued, or ceases to be in good academic standing, or if the APR 6 law clerk ceases to comply with APR 6. When the approval is withdrawn, the Licensed Legal Intern's license must be terminated promptly.

(2)-(3) ]Unchanged.]

APR 11

MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

**(a)-(i)** [Unchanged.]

**(j) Sponsor Duties.** All sponsors must comply with the following duties unless waived by the Bar for good cause shown:

(1) The sponsor must not advertise course credit until the course is approved by the Bar but may advertise that the course credits are pending approval by the Bar after an application has been submitted. The sponsor shall communicate to the lawyer, LLLT, or LPO the number of credits and denominate whether the credits are "law and legal procedure" as defined under subsection (f)(1), "ethics and professional responsibility" as defined under subsection (f)(2), or "other," meaning any of the other subjects identified in subsections (f)(3)-(7).

(2)-(7) [Unchanged.]

**(k)** [Unchanged.]

**APR 28**

**LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS**

**A.-F.** [Unchanged.]

**G. Conditions Under Which A Limited License Legal Technician May Provide Services**

(1) [Unchanged.]

(2) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician that includes the following provisions:

(a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process ~~or negotiate the client's legal rights or responsibilities~~, unless permitted under GR 24(b) or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;

(b)-(g) [Unchanged.]

(3)-(4) [Unchanged.]

**H.** [Unchanged.]

**I. Continuing Licensing Requirements**

(1) [Unchanged.]

(2) *Financial Responsibility.* Each active LLLT shall show proof of ability to respond in damages resulting from their acts or omissions in the performance of services permitted under APR 28 by:

(a)-(c) [Unchanged.]

(3)-(4) [Unchanged.]

**J.-O.** [Unchanged.]

**APPENDIX APR 28**

**REGULATIONS OF THE APR 28 LIMITED LICENSE**

**LEGAL TECHNICIAN BOARD**

[Unchanged.]

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 23-14-007**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
[Filed June 21, 2023, 5:24 p.m.]

**Notice of Interpretive or Policy Statement**

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

**Economic Services Administration**  
**Division of Child Support (DCS)**

Document Title: DCS Administrative Policy (AP) 1.13 - How DCS Develops Policies.

Subject: AP 1.13.

Effective Date: June 8, 2023.

Document description: This DCS administrative policy explains procedures for how DCS develops policies.

To receive a copy of the interpretive or policy statements, contact Amy Hahl, DCS, P.O. Box 11520, Tacoma, WA 98411-5520, phone 360-397-9801, TDD/TTY 800-833-6384, fax 360-664-5342, email Amy.Hahl@dshs.wa.gov, website <http://www.dshs.wa.gov/dcs/>.

WSR 23-14-028

ATTORNEY GENERAL'S OFFICE

ATTORNEY GENERAL'S OFFICE

[Filed June 22, 2023, 9:21 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION  
WASHINGTON ATTORNEY GENERAL**

The Washington attorney general routinely publishes notice of an opportunity to comment for opinion requests that we receive from the heads of state agencies, state legislators, and county prosecuting attorneys if we anticipate publishing a formal opinion in response to the request. We do so in order to provide members of the public with a chance to provide any legal analysis that they would like us to consider as we develop our opinion. In preparing any comments, please be aware that our opinion will provide our considered legal analysis of the question presented, and therefore comments that address the interpretation of the law are more helpful than comments that express an opinion as to what the law should be.

You may provide your comments to the attorney general's office by email to [OpinionComments@atg.wa.gov](mailto:OpinionComments@atg.wa.gov) or by writing to the Office of the Attorney General, Solicitor General Division, Attention Opinions Chief, P.O. Box 40100, Olympia, WA 98504-0100. We will consider any comments we receive before we complete our opinion. Although there is no deadline for submitting comments, comments are the most helpful if received within 30 days of this notice. Comments focused solely on what the law should be are less helpful than comments that interpret current law. You may also request a copy of the opinion request in which you are interested and information about the attorney general's opinion process.

If you are interested in receiving notice of new formal opinion requests via email, you may visit the attorney general's website at <http://www.atg.wa.gov/ago%E2%80%90opinions> for more information on how to join our AGO opinions list.

The attorney general's office seeks public input on the following opinion request(s):

**Opinion Docket No. 23-06-02**

**Request by Shawn Sant, Franklin County Prosecuting Attorney**

**QUESTION:**

Can county commissioners increase the employee benefits for health insurance where the commissioners would also receive such increases during the current term of office?



WSR 23-14-030

AGENDA

UTILITIES AND TRANSPORTATION  
COMMISSION

[Filed June 26, 2023, 11:06 a.m.]

The Washington utilities and transportation commission (commission) submits its semi-annual rule development agenda report for publication in the Washington State Register pursuant to RCW 34.05.314.

Please direct any questions to Paige Doyle at 360-664-1140 or paige.doyle@utc.wa.gov.

**Semi-Annual Rules Development Agenda  
(July 1 - December 31, 2023)**

Additional rule-making activity not on the agenda may be undertaken to meet conditions not now anticipated.

Dates that are in bold print indicate that filing has occurred. All other dates are projected. The commission maintains a schedule of rule-making activity that is updated several times per month. See www.utc.wa.gov.

WAC CITATION	DOCKET	TITLE	AGENCY CONTACT	PROPOSED TIMELINE AND STATUS			DESCRIPTION OF POSSIBLE CHANGES
				CR-101	CR-102 or CR-105	CR-103 HEARING	
<b>CURRENT:</b>							
480-100-600	UE-210183	Carbon and electricity markets rule making	Deborah Reynolds 360-664-1255	<b>5/3/21</b>	<b>3/22/22</b>	<b>5/6/22</b>	Define the requirements for using markets purchases to meet the standards of RCW 19.405.030, [19.405.]040, and [19.405.]050, and address prohibition on double counting of nonpower attributes under RCW 19.405.040 with other programs. The commission may also consider the interpretation of the term "use" in RCW 19.405.040 (1)(a)(ii) and the reporting requirements for compliance with RCW 19.405.030.
					To be determined	To be determined	
480-100 and 480-90	U-210800	Customer notice and fees rule making	Andrew Roberts 360-664-1101	<b>4/28/22</b>	To be determined	To be determined	Consider potential changes and improvements to customer notice, credit, and collection rules, including permanent elimination of late fees, disconnection and reconnection fees, and deposits.

WAC CITATION	DOCKET	TITLE	AGENCY CONTACT	PROPOSED TIMELINE AND STATUS			DESCRIPTION OF POSSIBLE CHANGES
				CR-101	CR-102 or CR-105	CR-103 HEARING	
480-70 (related to solid waste services)	TG-220140	Solid waste rule making	Mike Young 360-664-1155	4/28/22	To be determined	To be determined	Consider potential changes to current rules applicable to the provision of solid waste collection service, including revising customer notice requirements, allowing electronic filings and billing, exploring the possibility of implementing a mandatory low-income residential rate program, clarifying the time for making up missed service, eliminating residential deposits and fees, customer notice requirements, tariff filing processes, free and reduced rates, refusal of service, cancellation of service, complaints, billing, establishing credit and deposits, and other related topics.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF POSSIBLE CHANGES
			CR-101	CR-102 or CR-105	CR-103 or HEARING	
<b>PROPOSED:</b>						
480-100-600	Cumulative impact analysis rule making	Melissa Cheesman 360-489-5270	To be determined	To be determined	To be determined	The cumulative impact analysis rule making will incorporate department of health's new analysis on climate change impacts and fossil fuel impacts into commission rules implementing the Clean Energy Transformation Act.
480-100-240	Update WAC 480-93-240 to better align with RCW 19.122.055	Scott Rukke 360-870-4923	To be determined	To be determined	To be determined	After RCW 19.122.055(2) was revised to create a dedicated damage prevention account for penalties, WAC 480-93-240 (3)(a) should have been revised to remove the requirement that penalties should be deducted from pipeline operator fees. In addition, RCW 19.122.050 is incorrectly cited and should be RCW 19.122.055.

Amanda Maxwell  
Executive Director and Secretary

## WSR 23-14-034

## AGENDA

## OFFICE OF

## FINANCIAL MANAGEMENT

[Filed June 26, 2023, 2:04 p.m.]

Following is the office of financial management's (OFM) semi-annual rule-making agenda for publication in the Washington State Register. This list identifies rules under development and rules with anticipated rule-making action during the next six months.

This agenda is available on OFM's website at <https://ofm.wa.gov/about/rule-making-activities>. The information on the OFM website is updated as rule-making notices are filed. If OFM should begin rule-making activities for a rule not listed on the attached agenda, that information will also be posted.

If you have any questions, please feel free to contact Nathan Sherrard at [Nathan.Sherrard@ofm.wa.gov](mailto:Nathan.Sherrard@ofm.wa.gov) or by phone at 360-972-6551. If you have specific questions about state personnel rules, these can readily be addressed by Brandy Chinn with OFM rules and appeals. Brandy can be reached at [Brandy.Chinn@ofm.wa.gov](mailto:Brandy.Chinn@ofm.wa.gov) or at 360-407-4141.

**Semi-Annual Rule-Making Agenda  
July 1 through December 31, 2023**

WAC Citation	Subject Matter/Purpose of Rule	Current Activity Approximate Filing Date
357-16-017 357-16-220 357-19-377 357-19-380	Wage and salary. Amend chapters 357-16 and 357-19 WAC to align with chapter 242, Laws of 2022 (ESSB 5761).	Propose permanent adoption at the August 10, 2023, quarterly director's meeting.
357-31-480 357-31-500	Housekeeping in nature.	Propose permanent adoption at the August 10, 2023, quarterly director's meeting.
357-58-141	Location-based premium cleanup. Amend 357-58-141 to clarify when a Washington management service employee must receive location-based premium pay.	Propose permanent adoption at the August 10, 2023, quarterly director's meeting.
357-31-027 357-31-100 357-31-327 357-31-330	Health Labor Emergency Standards Act (HELSEA). Amend chapter 357-31 WAC to align with HELSEA.	Propose permanent adoption at the August 10, 2023, quarterly director's meeting.
357-04-030 357-19-195 357-19-197 357-19-200	Exempt return rights. Amend chapters 357-04 and 357-19 WAC to align with chapter 148, Laws of 2023 (ESHB 1361).	Propose permanent adoption at the August 10, 2023, quarterly director's meeting.
357-01-1745 357-04-125 357-16-197 357-19-413 357-46-165 357-46-195 357-58-190	COVID-19 vaccination requirements. Repeal COVID-19 vaccination requirement in Title 357 WAC to align with Governor Jay Inslee's decision to rescind Directive #22-13.1.	Propose permanent adoption at the July 24, 2023, special director's meeting.
357-31-687 357-31-797	Shared leave pools. Housekeeping in nature.	CR-102 filing anticipated in July.
357-28-265	Leave to obtain vaccination. Amend WAC to state leave with pay during the employee's regular work schedule is considered timed work for the purpose of overtime compensation.	CR-102 filing anticipated in July.

WAC Citation	Subject Matter/Purpose of Rule	Current Activity Approximate Filing Date
357-28-082 357-28-084 357-28-086 357-28-088 357-28-120 357-28-135 357-28-155	Step M cleanup. Amend chapter 357-28 WAC to clarify when an employee may be appointed to step M based on questions received since inception.	CR-102 filing anticipated in July.
357-31-100 357-31-160	Sick leave restoration. To clarify longstanding interpretation that an employer may restore an employee's unused sick leave credits greater than five years after their separation, as determined by the employer's leave policy.	CR-102 filing anticipated in July.
357-28-245 357-58-160	Overtime eligibility designation approvals. Remove the requirement for general government employers to request director approval when a nonrepresented employee's position is changed from overtime eligible to overtime exempt.	CR-102 filing anticipated in July.
357-31-165 357-31-166	Vacation leave accrual. Housekeeping in nature.	CR-102 filing anticipated in July.

Nathan Sherrard  
Assistant Legal Affairs Counsel  
Legal and Legislative Affairs

**WSR 23-14-041**  
**NOTICE OF PUBLIC MEETINGS**  
**TRAFFIC SAFETY COMMISSION**  
 [Filed June 27, 2023, 6:15 a.m.]

Following is the 2024 schedule of regular quarterly meetings of the Washington traffic safety commission:

Date	Time	Location
January 18, 2024	10 a.m. - 12 p.m.	Hybrid meeting Virtual via Microsoft Teams and in-person at Washington Traffic Safety Commission 621 8th Avenue S.E. Suite 409 Olympia, WA 98501
April 18, 2024	10 a.m. - 12 p.m.	Hybrid meeting Virtual via Microsoft Teams and in-person at Washington Traffic Safety Commission 621 8th Avenue S.E. Suite 409 Olympia, WA 98501
July 18, 2024	10 a.m. - 12 p.m.	Hybrid meeting Virtual via Microsoft Teams and in-person at Washington Traffic Safety Commission 621 8th Avenue S.E. Suite 409 Olympia, WA 98501
October 17, 2024	10 a.m. - 12 p.m.	Hybrid meeting Virtual via Microsoft Teams and in-person at Washington Traffic Safety Commission 621 8th Avenue S.E. Suite 409 Olympia, WA 98501

If you need further information, please contact Geri Nelson at 360-725-9898 or gnelson@wtsc.wa.gov.

WSR 23-14-043

AGENDA

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed June 27, 2023, 11:17 a.m.]

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [23-15](#) issue of the Register.

**WSR 23-14-044**

**NOTICE OF PUBLIC MEETINGS**

**BELLINGHAM TECHNICAL COLLEGE**

[Filed June 27, 2023, 11:41 a.m.]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for Thursday, September 21, 2023, has been cancelled. Call 360-752-8334 for information.

WSR 23-14-045

INTERPRETIVE STATEMENT

DEPARTMENT OF REVENUE

[Filed June 27, 2023, 11:42 a.m.]

INTERPRETIVE STATEMENT ISSUED

The department of revenue has issued the following excise tax advisory (ETA): **ETA 3076.2023 *Deductibility of Interest Received on Investments or Loans Primarily Secured by First Mortgages or Trust Deeds on Nontransient Residential Properties.***

This ETA provides guidance on the B&O tax deductions available under RCW 82.04.4292. It is being updated to reflect the loan servicing fee deduction available under RCW 82.04.4292(4), explain the limitation placed on the deductions under RCW 82.04.29005, and provide clarification on the specific elements required for a taxpayer to qualify for the deductions.

A copy of this document is available via the internet at excise tax advisories [contact agency for link].

Atif Aziz  
Tax Policy Manager  
Rules Coordinator



## WSR 23-14-046

## DEPARTMENT OF HEALTH

[Filed June 27, 2023, 11:51 a.m.]

In accordance with the Healthy Environment for All (HEAL) Act (RCW 70A.02.010), the following are the types of agency actions that the department of health (DOH) has determined are significant agency actions that require an environmental justice assessment:

- The development and adoption of significant legislative rules as defined in RCW 34.05.328;
- The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out;
- A capital project, grant, or loan award by a covered agency of at least \$12,000,000 or a transportation project, grant, or loan by a covered agency of at least \$15,000,000; and
- The submission of agency request legislation to the office of the governor or the office of financial management for approval.

As stated in RCW 70A.02.060, actions designated as significant agency actions must be actions that may cause environmental harm or affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population.

Consistent with RCW 70A.02.060, DOH may deem additional actions significant, in addition to the significant agency actions listed above. Starting July 1, 2025, DOH must begin applying environmental justice assessments to any additional significant agency actions designated by the agency.

DOH is beginning a process to identify additional types of significant agency actions for consideration. To help guide that process, DOH held an informal public comment period from May 5 - June 15, 2023, to identify additional types of DOH actions that would benefit from an environmental justice assessment starting in 2025. A summary of comments regarding additional actions for consideration is below:

**Comment Summary:** One commenter recommended that DOH expand the list of types of significant agency actions being considered to include issuance of grants and loans under existing programs as significant agency actions.

**Response Summary:** Due to limited existing capacity, DOH will begin implementation on existing significant agency actions named in statute; however, the agency is also beginning a process to identify additional types of significant agency actions for implementation starting in 2025. We appreciate this comment and will consider including this action for implementation in 2025.

**Recommended Action:** Explore feasibility of expanding significant agency actions to include grants and loans under existing programs for implementation of environmental justice assessments in 2025.

If you need further information, please contact Leah Wood, Equity and Environmental Justice Consultant, DOH, 111 Israel Road S.E., Tumwater, WA 98501, phone 360-913-2580, email leah.wood@doh.wa.gov, web www.doh.wa.gov.

WSR 23-14-048

INTERPRETIVE STATEMENT

DEPARTMENT OF REVENUE

[Filed June 27, 2023, 12:47 p.m.]

INTERPRETIVE STATEMENT ISSUED

The department of revenue has issued the following excise tax advisory (ETA): **ETA 3043.2023 - Low-Density Light and Power Utility Deduction.**

The department of revenue has revised ETA 3043. This ETA explains the public utility tax deduction provided by RCW 82.16.053 to qualifying power and light businesses.

RCW 82.16.053 requires the department to determine the state average electric power rate each year and inform taxpayers of this rate. This rate is used by power and light businesses to compute the amount of the deduction. The revised ETA 3043 updates the information to provide the rate for the period of July 1, 2023, through June 30, 2024.

A copy of this document is available via the internet at excise tax advisories [contact agency for link].

Atif Aziz  
Tax Policy Manager  
Rules Coordinator

**WSR 23-14-049**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**

[Filed June 27, 2023, 1:22 p.m.]

The date(s) in **bold** have changed in the following schedule of regular meetings of the public employment relations commission in 2023, all to be tentatively held in Olympia with location and format subject to change:

<b>Date</b>	<b>Time</b>	<b>Location</b>
January 10, 2023	10:00 a.m.	112 Henry Street N.E. Suite 300 Olympia, WA
February 2023	No meeting	
March 2023	No meeting	
April 11, 2023	10:00 a.m.	Same as above
May 2023	No meeting	
June 13, 2023	10:00 a.m.	Same as above
<b>July 2023</b>	<b>No meeting</b>	
August 8, 2023	10:00 a.m.	Same as above
September 12, 2023	10:00 a.m.	Same as above
October 10, 2023	10:00 a.m.	Same as above
November 14, 2023	10:00 a.m.	Same as above
December 2023	No meeting	

If you need further information, contact Vanessa Smith at [vanessa.smith@perc.wa.gov](mailto:vanessa.smith@perc.wa.gov) or 360-570-7332.

WSR 23-14-050

AGENDA

DEPARTMENT OF AGRICULTURE

[Filed June 27, 2023, 1:43 p.m.]

Following are the commodity commissions' semi-annual rules development agenda for the period of July 1 through December 31, 2023. This document is being sent in compliance with RCW 34.05.314.

If you have questions regarding the commissions' rule-making agenda, please contact Megan Finkenbinder at 360-902-1887 or mfinkenbinder@agr.wa.gov.

SEMI-ANNUAL RULES AGENDA FOR COMMODITY COMMISSIONS

July 1 - December 31, 2023

WAC Chapter	Rule Title or Subject	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-102	CR-105	CR-103	
16-561	Washington red raspberry commission	Megan Finkenbinder	September 2023			District removal.

Megan Finkenbinder  
Rules Coordinator

## WSR 23-14-053

## HEALTH CARE AUTHORITY

[Filed June 27, 2023, 2:30 p.m.]

## NOTICE

Subject: Medicaid State Plan Amendment (SPA) 23-0042 Nursing Facility Budget Dial, Swing Bed Rate, Ventilator, Tracheotomy, Enhanced Behavioral Services, Enhanced Behavioral Services Respite, and Enhanced Behavioral Services Specialty Services Rates and Minimum Occupancy Assumptions for Rate Calculation.

Effective Date: July 1, 2023.

Description: The health care authority (HCA) and the aging and long-term support administration (AL TSA) of the department of social and health services (DSHS) intends to submit SPA 23-0042 in order to increase the nursing facility budget dial, swing bed rate, and the nursing facility specialty rates for ventilator and tracheotomy rates; convert the enhanced behavioral services (EBS), enhanced behavioral services and respite (EBS + respite), and enhanced behavioral services and specialized services (EBS + specialized services) from flat rates to add-ons; and adjust the minimum occupancy percentages for indirect care calculations. SPA 23-0042 is expected to:

- Increase the budget dial by six percent, an increase of \$21.59 per day.
- Increase the swing bed rate by 12 percent, an increase of \$31.94 per day.
- Increase the ventilator rate to a flat add-on of \$192. Previously varied by provider, no provider will see a decrease.
- Increase the tracheotomy rate to a flat add-on of \$123. Previously varied by provider, no provider will see a decrease.
- Convert EBS from a flat rate inclusive of daily rate of \$435 to an add-on of \$175. The previous flat rate did not allow for recognition of the varying base costs experienced by nursing facilities across the state and reflected in the regular daily rate. This new add-on will be in addition to the daily rate calculated through the regular nursing facility methodology.
- Convert EBS + respite from a flat rate inclusive of daily rate of \$435 to an add-on of \$175. The previous flat rate did not allow for recognition of the varying base costs experienced by nursing facilities across the state and reflected in the regular daily rate. This new add-on will be in addition to the daily rate calculated through the regular nursing facility methodology.
- Convert EBS + specialized services from a flat rate inclusive of daily rate of \$475 to an add-on of \$235. The previous flat rate did not allow for recognition of the varying base costs experienced by nursing facilities across the state and reflected in the regular daily rate. This new add-on will be in addition to the daily rate calculated through the regular nursing facility methodology.
- Set the minimum occupancy for the indirect care calculation at 80 percent for state fiscal years 2024 and 2025 (July 1, 2023, through June 30, 2025).

SPA 23-0042 is under development. HCA and DSHS would appreciate any input or concerns regarding this SPA. To request a copy when it becomes available or submit comments, please contact the person named below.

Interested parties may submit comments and concerns about the rates or the effects the changes may have on beneficiary access to care or continued service access. Please submit comments and concerns to Elizabeth Pashley, regulatory advisor, at Elizabeth.pashley@dshs.wa.gov with a courtesy copy to Ann Myers, state plan coordinator, at ann.myers@hca.wa.gov by July 31, 2023. Please note that all comments are subject to public review and disclosure, as are the names of those who comment.

CONTACT: Elizabeth Pashley, Office of Rates Management, ALTSA, DSHS, P.O. Box 45600, phone 360-995-2807, TRS 711, fax 360-725-2641, email Elizabeth.Pashley@gmail.com, website <https://www.dshs.wa.gov/altsa/management-services-division/office-rates-management>.

**WSR 23-14-054**

**NOTICE OF PUBLIC MEETINGS**

**FRUIT COMMISSION**

[Filed June 27, 2023, 3:04 p.m.]

**CHANGE OF LOCATION - COMMISSION MEETING**

The following scheduled meeting location has been CHANGED to: August 2, 2023, at 11:00 a.m., at Wenatchee Convention Center, 121 North Wenatchee Avenue, Wenatchee, WA 98801.

The Washington state fruit commission (WSFC) complies with the Americans with Disabilities Act. These meetings are open to all persons without regard to race, color, national origin, gender, religion, age, or disability. Persons who are interested in attending and/or listening in, or require alternative means of communication (such as Braille, large print, sign language), language interpretation, or special accommodations, should contact WSFC at 509-453-4837 at least four business days prior to the meeting.

If there are any questions regarding this meeting, please contact the WSFC offices at 509-453-4837.

## WSR 23-14-055

## HEALTH CARE AUTHORITY

[Filed June 27, 2023, 3:37 p.m.]

## NOTICE

Subject: Medicaid State Plan Amendment (SPA) 23-0043 Adult Family Home, Adult Day Respite, Nurse Delegation, Enhanced Service Facility, Assisted Living Facility, Home Care Agency Provider, Consumer Directed Employer Rates (Home and Community Services).

Effective Date: July 1, 2023.

Description: The health care authority (HCA) and the aging and long-term support administration (AL TSA) of the department of social and health services (DSHS) intend to submit SPA 23-0043 in order to increase daily rates for adult family homes, adult day respite, nurse delegation, enhanced service facilities, assisted living facilities, agency providers, and consumer directed employer [rates] as outlined below. SPA 23-0043 is expected to:

- Increase adult family home daily rate by 19 percent, a weighted average increase of \$31.46 per day.
- Increase nurse delegation - individual by three percent, an increase of \$1.60 per hour.
- Increase nurse delegation - agency by 23 percent, an increase of \$11.88 per hour.
- Increase enhanced service facility daily rates by 31 percent, an increase of \$141.10 per day.
- Increase assisted living facility daily rate by 18 percent, a weighted average increase of \$19.68 per day.
- Increase home care agency provider hourly rate by 13 percent, an increase of \$4.44 per hour.
- Increase consumer directed employer rates by seven percent, an increase of \$2.12 per hour.

SPA 23-0043 is under development. HCA and DSHS would appreciate any input or concerns regarding this SPA. To request a copy when it becomes available or submit comments, please contact the person named below.

Interested parties may submit comments and concerns about the rates or the effects the changes may have on beneficiary access to care or continued service access. Please submit comments and concerns to Elizabeth Pashley, regulatory advisor, at [Elizabeth.pashley@dshs.wa.gov](mailto:Elizabeth.pashley@dshs.wa.gov) with a courtesy copy to Ann Myers, state plan coordinator, at [ann.myers@hca.wa.gov](mailto:ann.myers@hca.wa.gov) by July 31, 2023. Please note that all comments are subject to public review and disclosure, as are the names of those who comment.

CONTACT: Elizabeth Pashley, Office of Rates Management, AL TSA, DSHS, P.O. Box 45600, phone 360-995-2807, TRS 711, fax 360-725-2641, email [Elizabeth.Pashley@gmail.com](mailto:Elizabeth.Pashley@gmail.com), website <https://www.dshs.wa.gov/altsa/management-services-division/office-rates-management>.



**WSR 23-14-057**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fish and Wildlife Commission)  
 [Filed June 28, 2023, 7:50 a.m.]

**FISH AND WILDLIFE COMMISSION 2023 MEETING CALENDAR**

The following bolded location has been changed for the 2023 calendar.

<b>Date</b>	<b>Meeting Type</b>
January 13	Web conference
January 26 - 28	Webinar
February 17	Web conference
March 16 - 18	Hybrid - Wenatchee
April 6 - 8	Hybrid - Anacortes
May 12	Web conference
June 22 - 24	Hybrid - Seattle
July 14	Web conference
August 10 - 12	Hybrid - Olympia
September 28 - 30	<b>Hybrid - Yakima</b>
October 26 - 28	Hybrid - Olympia
November 17	Web conference
December 14 - 16	Webinar

Commission meetings and committees are open to the public. Meeting agendas, minutes, and recordings are available on the commission's website. Meetings are both virtual and hybrid.

WSR 23-14-058

**NOTICE OF PUBLIC MEETINGS**

**HEALTH CARE AUTHORITY**

(Public Employees Benefits Board)

[Filed June 28, 2023, 8:48 a.m.]

**Proposed Public Employees Benefits Board (PEBB)  
Program Policy Statements**

The health care authority (HCA) will hold a public meeting to consider proposed PEBB program administrative policies.

HCA will hold a virtual public meeting on **Tuesday, August 8, 2023, at 9:30 a.m.** To attend the virtual public meeting, you must register in advance at [hca.wa.gov/hca-public-hearing](https://hca.wa.gov/hca-public-hearing). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the webinar.

The proposed policies can be downloaded online at [hca.wa.gov/pebb-rules](https://hca.wa.gov/pebb-rules). Public comment on these policies can be submitted to Leanne Clark at P.O. Box 42684, Olympia, WA 98504-2684 or via email at [Leanne.Clark@hca.wa.gov](mailto:Leanne.Clark@hca.wa.gov). The deadline for public comment is August 8, 2023, by 11:59 p.m.

For further information or to receive a hard copy of the proposed policies, please contact Leanne Clark at [Leanne.Clark@hca.wa.gov](mailto:Leanne.Clark@hca.wa.gov).

WSR 23-14-059

NOTICE OF PUBLIC MEETINGS

HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Filed June 28, 2023, 8:49 a.m.]

**Proposed School Employees Benefits Board (SEBB)  
Program Policy Statements**

The health care authority (HCA) will hold a public meeting to consider proposed SEBB program administrative policies.

HCA will hold a virtual public meeting on **Tuesday, August 8, 2023, at 9:30 a.m.** To attend the virtual public meeting, you must register in advance at [hca.wa.gov/hca-public-hearing](https://hca.wa.gov/hca-public-hearing). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the webinar.

The proposed policies can be downloaded online at [hca.wa.gov/sebb-rules](https://hca.wa.gov/sebb-rules). Public comment on these policies can be submitted to Leanne Clark at P.O. Box 42720, Olympia, WA 98504-2720 or via email at [Leanne.Clark@hca.wa.gov](mailto:Leanne.Clark@hca.wa.gov). The deadline for public comment is August 8, 2023, by 11:59 p.m.

For further information or to receive a hard copy of the proposed policies, please contact Leanne Clark at [Leanne.Clark@hca.wa.gov](mailto:Leanne.Clark@hca.wa.gov).

WSR 23-14-060

AGENDA

DEPARTMENT OF LICENSING

[Filed June 28, 2023, 9:32 a.m.]

**Semi-Annual Rule-Making Agenda  
July through December 2023**

This report details current and anticipated rule-making activities for the department of licensing (DOL). This agenda is sent as a requirement of RCW 34.05.314. If you have any questions regarding this report or DOL rule-making activities, please contact Ellis Starrett at 360-902-3846 or rulescoordinator@dol.wa.gov.

This agenda is for information purposes, and the noted dates of anticipated rule-making actions are estimates. Any errors in this agenda do not affect the rules and rule-making notices filed with the office of the code reviser and published in the Washington State Register. There may be additional DOL rule-making activities that cannot be forecasted as DOL initiates rule making to implement new state laws, meet federal requirements, or meet unforeseen circumstances. See the "Key" below for explanations of terms and acronyms.

**Key:**

**CR** means "code reviser" on notice forms created by the office of the code reviser for use by all state agencies.

**CR-101** is a preproposal statement of inquiry filed under RCW 34.05.310.

**CR-102** is a proposed rule-making notice filed under RCW 34.05.320 or 34.05.340.

**Proposal is exempt under RCW 34.05.310(4)** means a rule that does not require the filing of a CR-101 notice under RCW 34.05.310(4).

**CR-105** is an expedited rule-making notice filed under RCW 34.05.353. This is an accelerated rule adoption process with no public hearing required.

**CR-103P** is a rule-making order permanently adopting a rule, and filed under RCW 34.05.360 and 34.05.380.

**CR-103E** Emergency rules are temporary rules filed under RCW 34.05.350 and 34.05.380 by using a CR-103E rule-making order. Emergency rules may be used to meet certain urgent circumstances. These rules are effective for 120 days after the filing date and may be extended in certain circumstances.

**Blank cells in tables** mean the anticipated filing date is not known at the time this rules agenda is filed.

**RCW is the Revised Code of Washington.**

**WSR** number is the Washington State Register official filing reference number given by the office of the code reviser when a notice is filed.

Proposed Rule Making				
Rule	Scope	Agency Contact	Deadline	Legislation Effective Date
Transportation network companies	Outline the auditing process for transportation network companies related to the passage of HB [ESHB] 2076.	Kelsey Stone kelsey.stone@dol.wa.gov	N/A	March 1, 2023
Cosmetology minimum instruction guidelines	Update the education requirements to allow applicants within 100 hours of education completion to register for/take their exam.	Kelsey Stone kelsey.stone@dol.wa.gov	N/A	July 23, 2023

Proposed Rule Making				
Rule	Scope	Agency Contact	Deadline	Legislation Effective Date
Military spouse employment	Add a definition of military coordinator, update requirements for military spouse licenses, and update language for temporary licensing timelines.	Kelsey Stone kelsey.stone@dol.wa.gov	N/A	October 1, 2023
Cemetery license expiration	Update license expiration dates for facility licenses, operator licenses, license renewals, and annual statements.	Kelsey Stone kelsey.stone@dol.wa.gov	N/A	October 31, 2023
Semiautomatic assault rifle fee	Remove the requirement for firearms dealers to collect an \$18 fee during SAR purchases and transfers.	Kelsey Stone kelsey.stone@dol.wa.gov	N/A	January 1, 2024
Real estate agency law	Qualify "as soon as reasonably practical" regarding when agency agreements are required to be established.	Kelsey Stone kelsey.stone@dol.wa.gov	N/A	January 1, 2024
Motorcycle safety permits	Clarify permit requirements in rule.	Colton Myers colton.myers@dol.wa.gov	N/A	N/A
Administrative reviews and interviews	Update the specifics of conducting a document review or interview for the hearings unit.	Colton Myers colton.myers@dol.wa.gov	N/A	N/A
Formalizing processes	Formalize the process for handling formal hearings for drivers who hold commercial driver's licenses (CDLs), update the definition of "good cause", formalize the process for requesting an interpreter for a hearing, and removing the driving declaration for habitual traffic offenders.	Colton Myers colton.myers@dol.wa.gov	N/A	N/A
Commercial driver's licenses	Modify testing exam fees, allow CDL holders to renew online, and allow individuals who have previously surrendered their license to obtain another without having to test again.	Colton Myers colton.myers@dol.wa.gov	N/A	January 1, 2024
Reports of sale	Outline the new ability for dealers to file reports of sale on behalf of customers.	Carl Backen cbacken@dol.wa.gov	N/A	July 22, 2023
Unlicensed fuel businesses	Set reporting requirements for unlicensed businesses selling, purchasing, distributing, storing, transporting, or delivering fuel.	Carl Backen cbacken@dol.wa.gov	N/A	N/A
Young drivers	Create requirements for driver training schools to provide information for an interactive map, establish alternative pathways to licensure for driver training school instructors, modify intermediate driver's licensing requirements, and update course requirement rules.	Ellis Starrett estarrett@dol.wa.gov	N/A	October 1, 2024

<b>Proposed Rule Making</b>				
<b>Rule</b>	<b>Scope</b>	<b>Agency Contact</b>	<b>Deadline</b>	<b>Legislation Effective Date</b>
Older drivers	Adopt strategies to address driver safety for medically at-risk drivers after a study is conducted in collaboration with the Washington state transportation commission, the department of health, and stakeholders representing medically at-risk drivers and older drivers.	Ellis Starrett estarrett@dol.wa.gov	N/A	December 1, 2024
<b>Ongoing Rule Making</b>				
<b>Rule</b>	<b>Scope</b>	<b>Agency Contact</b>	<b>CR-101</b>	<b>CR-102</b>
Data privacy WSR 21-10-098 and 22-17-171	Implementing SSB 5152, enhancing data stewardship and privacy protections for vehicle and driver data.	Ellis Starrett estarrett@dol.wa.gov	May 5, 2021	August 24, 2022
Traffic safety education waiver WSR 23-06-024	Update rules to reflect the current process for waiving a driver education requirement; in response to a rule-making petition.	Ellis Starrett estarrett@dol.wa.gov	February 22, 2023	N/A
Appraisers PAREA standards WSR 22-23-163	This rule making would align state rule with recognized national industry guidance that created alternative pathways to licensure.	Kelsey Stone kelsey.stone@dol.wa.gov	November 23, 2022	N/A
Abandoned recreational vehicles clarity update WSR 22-20-115 and 23-10-094	Update WAC for clarity and to address stakeholder workgroup requests.	Carl Backen cbacken@dol.wa.gov	October 5, 2022	May 3, 2023
Temporary plate issuance WSR 23-07-113	Update rules to align with changes resulting from HB 1790 (passed in 2022) regarding the process for issuing temporary license plates.	Carl Backen cbacken@dol.wa.gov	March 21, 2023	N/A

## WSR 23-14-061

## AGENDA

## DEPARTMENT OF AGRICULTURE

[Filed June 28, 2023, 11:31 a.m.]

Following is the department of agriculture's (department) semi-annual rules development agenda for the period July 1 and [through] December 31, 2023. This document is being sent in compliance with RCW 34.05.314.

The department may undertake additional rule-making activity as conditions warrant. If you have questions regarding the department's rule-making agenda, please contact Gloriann Robinson at 360-902-1802 or grobinson@agr.wa.gov.

SEMI-ANNUAL RULES DEVELOPMENT AGENDA  
July 1 - December 31, 2023

WAC Chapter	Rule Title or Subject	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102 CR-105	CR-103	
TBD	Cannabis testing laboratory quality standards	Trecia Ehrlich Hemp Program phone 360-584-3711 tehrlich@agr.wa.gov	January 2023	TBD	TBD	Establishes cannabis testing laboratory quality standards in rule as required by HB 1859 (chapter 135, Laws of 2022).
16-54	Animal importation	Dr. Ben Smith Animal Services Division phone 509-350-0081 bsmith@agr.wa.gov	TBD	TBD	TBD	Update definitions and references to C.F.R. citations, update and/or remove requirements, processes, and forms to align with neighboring states and federal regulations.
16-131	Marijuana-infused edibles	Will Satak Food Safety Program phone 360-951-5086 wsatak@agr.wa.gov	N/A	July 2023	September 2023	Replaces the term "marijuana" with the term "cannabis" to align with HB [2SHB] 1210 (chapter 16, Laws of 2022). <i>Expedited rule making.</i>
16-149	Cottage food	Will Satak Food Safety Program phone 360-951-5086 wsatak@agr.wa.gov	N/A	July 2023	September 2023	Increases the annual sales cap to \$35,000 and changes the renewal cycle from annually to every two years in alignment with HB [SHB] 1500 (chapter 352, Laws of 2023). <i>Expedited rule making.</i>
16-157	Organic food standards and certification	Brenda Book Organic Program phone 360-902-2090 bbook@agr.wa.gov	October 2022	TBD	TBD	Updates the organic certification fee schedule.
16-160	Registration of materials for organic food production	Brenda Book Organic Program phone 360-902-2090 bbook@agr.wa.gov	October 2019 May 2021 June 2023	TBD	TBD	Increases registration fees and restructures the fee schedule. Updates the registered material logo.
16-161	Organic cannabis certification	Brenda Book Organic Program phone 360-902-2090 bbook@agr.wa.gov	October 2017 August 2022	TBD	TBD	Establishes standards for the certification of organic cannabis and cannabis products in compliance with the National Organic Program.

WAC Chapter	Rule Title or Subject	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102 CR-105	CR-103	
16-228	General pesticide rules	Christina Zimmerman Licensing and Registration Program phone 360-902-2150 czimmerman@agr.wa.gov	September 2023	TBD	TBD	Amends the chapter to align with SB 5330 (chapter 186, Laws [of 2023]), including stating that any reciprocal license or certification may be suspended or revoked upon notification that the original license or certification was terminated, removing the provision that allows certain licensees [to] operate at 16 years old, and incorporates changes to federal regulations.
16-253	New; cottage food production of pet treats	Ashlee-Rose Ferguson Animal Feed Program phone 360-902-1905 aferguson@agr.wa.gov	July 2023	TBD	TBD	Creates a new chapter of WAC with regulations specific to pet food treats manufactured in personal residences.
16-302	General rules for seed certification	Paula Moore Seed Program phone 509-249-6950 Paula.moore@agr.wa.gov	November 2022	TBD	TBD	Aligns standards for applicable crops with the Association of Official Seed Certifying Agencies newly adopted seed and field standards, creates a Pacific Northwest sod quality standard and tagging process, makes clerical changes to address inconsistencies between crop standards, removes references to repealed WAC, adds an application deadline for dryland seed production, and other clarifying changes.
16-325	Seed potato isolation district	Scott Brooks Plant Services Program phone 360-485-1235 sbrooks@agr.wa.gov	July 2021	June 2023	August 2023	Adds requirements for all lots entering the isolation district to be test[ed] free of bacterial ring rot. Provides 48-hour notification to the department of all shipments entering the isolation district. Adds a new violation section regarding the disposition of material shipped into the isolation district violation. <i>Rule making initiated as a result of a petition.</i>



WAC Chapter	Rule Title or Subject	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101	CR-102 CR-105	CR-103	
16-390	Fruit and vegetable inspection fees and other charges	Jessica Allenton Commodity Inspection Division phone 360-902-1828 jallenton@agr.wa.gov	N/A	July 2023	September 2023	Amends WAC 16-390-240, United States Department of Agriculture (USDA) audit verification and terminal market inspection fees, to match the fees most recently adopted by the USDA-Agricultural Marketing Service (AMS) to comply with the department's cooperative agreement with USDA-AMS for services the department provides. <i>Expedited rule making.</i>
16-470	Apple maggot quarantine	Greg Haubrich Pest Program phone 360-902-2071 ghaubrich@agr.wa.gov	July 2023	TBD	TBD	Expands the apple maggot quarantine further into Okanogan County.
16-470	Japanese beetle quarantine	Greg Haubrich Pest Program phone 360-902-2071 ghaubrich@agr.wa.gov	August 2021	June 2022	August 2022	Expands the internal quarantine and amends the regulated articles that have restricted movement out of the quarantine area.
16-482	Seed potato quarantine	Scott Brooks Plant Services Program phone 360-485-1235 sbrooks@agr.wa.gov	July 2021	June 2023	August 2023	Adds a section stating that potatoes entering the seed potato isolation district are subject to additional requirements under chapter 16-325 WAC. <i>Rule making initiated as a result of a petition.</i>
16-610	Livestock identification	Brennan Kimbel Livestock Identification Program phone 360-688-0893 bkimbel@agr.wa.gov	N/A	May 2023	July 2023	Aligns the rule with SSB 5439 by adding a statement that the \$20.00 call out fee is not charged by certified veterinarians and private field inspectors and adding a requirement that the livestock identification advisory committee must review the costs and operations of the livestock identification program. Also amends the rule by clarifying the definition of "call out fee" by stating that it is a fee charged by department inspectors. <i>Expedited rule making.</i>
16-611	Nutrient management	Kyrre Flege Dairy Nutrient Management Program phone 360-746-1249 kflege@agr.wa.gov	TBD	TBD	TBD	Updates the recordkeeping requirements for dairy producers.

Gloriann Robinson  
Rules Coordinator

## WSR 23-14-066

## DEPARTMENT OF COMMERCE

[Filed June 28, 2023, 2:45 p.m.]

## Notification of Significant Agency Action Types

The Healthy Environment for All Act, passed in 2021, requires agencies to perform environmental justice assessments for specific covered activities, termed "significant agency action" (SAA). SAA is statutorily defined in RCW 70A.02.010(12):

(a) Significant legislative rules: The development and adoption of significant legislative rules as defined in RCW 34.05.328.

(b) New grant and loan programs: The development and adoption of any new grant or loan program that commerce is explicitly authorized or required by statute to carry out.

(c) Capital projects  $\geq$  \$12 million: A capital project, grant, or loan award of at least \$12 million or a transportation project, transportation grant, or transportation loan of at least \$15 million.

(d) Agency request legislation: The submission of agency request legislation to the office of the governor or the office of financial management for approval.

(e) Other deemed actions: Any other agency actions deemed significant by a covered agency consistent with RCW 70A.02.060.

Commerce released the agency SAAs, including an additional SAA for public comment, as required by RCW 70A.02.060(3). The public comment period ran from May 11 through June 8, 2023. Commerce received 20 responses, of which none rejected or amended the additional SAA. Commerce intends to adopt an additional SAA as worded below:

Where practicable, as determined by commerce upon recommendation of the applicable program:

- Projects of existing commerce grant or loan programs that do not otherwise qualify as an SAA under RCW 70A.02.010(12); and/or
- Federally funded loans or grants, where the federal agency has identified the program as a covered investment in a covered program under the Justice40 Initiative.

Additional SAAs must be determined by agencies no later than July 1, 2023; however, additional SAAs are not subject to environmental justice assessments until July 1, 2025.

**WSR 23-14-067**

**NOTICE OF PUBLIC MEETINGS  
LAW ENFORCEMENT OFFICERS' AND  
FIREFIGHTERS' PLAN 2 RETIREMENT BOARD**

[Filed June 28, 2023, 3:14 p.m.]

The law enforcement officers' and fire fighters' Plan 2 retirement board has voted to cancel their August 23 meeting date.

The next scheduled meeting will be July 26 and will be held at the Washington state investment board in Olympia, with public access available by Zoom video conference and phone.

Please feel free to contact 360-586-2320 or email [Jessie.jackson@leoff.wa.gov](mailto:Jessie.jackson@leoff.wa.gov) with any questions.

## WSR 23-14-075

## PUGET SOUND PARTNERSHIP

[Filed June 29, 2023, 8:38 a.m.]

## DETERMINATION OF TYPES OF SIGNIFICANT AGENCY ACTIONS (SAAs)

Pursuant to RCW 70A.02.060, the Puget Sound partnership (partnership) and covered agencies will conduct environmental justice assessments for significant agency actions (SAAs) identified in RCW 70A.02.010 (12) (a) through (e):

- Adopting or developing significant legislative rules as defined in RCW 34.05.328.
- Adopting or developing new grant or loan programs initiated after July 1, 2023.
- Designing or awarding capital projects, grants, or loans of \$12 million or more.
- Developing agency request legislation.
- Any other actions deemed significant consistent with RCW 70A.02.060.

The partnership has identified the following specific SAAs:  
Per RCW 70A.02.010 (12) (c):

- Puget Sound acquisition and restoration biennial grant round.  
Per RCW 70A.02.010 (12) (e) and 70A.02.060:
- The Puget Sound partnership science work plan, 2025-2028 and beyond.
- The action agenda for Puget Sound, 2026-2030 and beyond.

Starting July 1, 2023, the partnership will complete an environmental justice assessment for significant agency actions to inform and support consideration of tribal nations, overburdened communities, and vulnerable populations when making decisions, and to assist the agency with the equitable distribution of environmental benefits, the reduction of environmental harms, and the identification and reduction of environmental and health disparities.

The partnership can identify additional types of SAAs which will require environmental justice assessments starting July 1, 2025. The partnership will annually identify any potential additional SAAs by reviewing any new legislative requests and any new decision packages which may establish a new SAA.

We invite feedback and comments on the list of SAAs and other types of partnership actions that would benefit from an assessment starting in 2025. The partnership will continue to consult and engage with and review comments from tribal nations, overburdened communities, and vulnerable populations on an ongoing basis. Input will inform decisions on conducting assessments and how the partnership communicates and engages with the public.

Comments may be sent via email to Melissa Schutten, equity and environmental justice manager, at [melissa.schutten@psp.wa.gov](mailto:melissa.schutten@psp.wa.gov); or by mail at Puget Sound Partnership, C/O Melissa Schutten, P.O. Box 40900, Olympia, WA 98504.

WSR 23-14-077

NOTICE OF PUBLIC MEETINGS

HEALTH CARE AUTHORITY

(Health Care Cost Transparency Board)

[Filed June 29, 2023, 10:21 a.m.]

**Revised to reflect the July 18 meeting as cancelled.**

The following is the schedule of regular meetings for the Washington state health care authority's (HCA) health care cost transparency board for 2023:

Date	Time	Location
October 18, 2023	2 - 4 p.m.	*Hybrid
November 15, 2023	2 - 4 p.m.	*Hybrid

\*Unless indicated otherwise, meetings will be hybrid with attendance options either via the Zoom platform or in person at HCA. To view and participate in the Zoom meeting at HCA [contact agency for Zoom information], or attend in person at HCA, Cherry Street Plaza, Sue Crystal conference rooms 106A and 106B, 626 8th Avenue S.E., Olympia, WA 98501.

Visit our health care cost transparency board [web] page to learn more about the board, meeting materials, and Zoom information.

Sign up to receive announcements about the board [contact agency for link].

Live captioning may be available: Communication access real-time transcription (CART) services or live closed captioning may be available for this event, on demand. To request this accommodation, please submit a request to addie.augsburger@hca.wa.gov as soon as possible. We will make every effort to accommodate this request but cannot guarantee that a CART writer will be available.

If you need further information or are a person with a disability and need a special accommodation, please contact hcahcctboard@hca.wa.gov.

WSR 23-14-080

NOTICE OF PUBLIC MEETINGS

SKAGIT VALLEY COLLEGE

[Filed June 29, 2023, 3:00 p.m.]

The Skagit Valley College board of trustees, at their June 13, 2023, meeting, approved the following meeting schedule for 2023-2024. Unless otherwise noted, all meetings will be held the second Tuesday of the month at the Mount Vernon campus, 2405 East College Way, Mount Vernon, WA 98273, and will begin at 4:30 p.m.

2023-2024 Board Meeting Dates

2023

July - no meeting is scheduled.

August - no meeting is scheduled.

September 8 (annual planning meeting) - time and location TBD.

October 10, 4:30 p.m. - Mount Vernon campus.

November 14, 4:30 p.m. - Whidbey Island campus, 1900 S.E. Pioneer Way, Oak Harbor, WA 98277.

December 12, 4:30 p.m. - Mount Vernon campus.

2024

January - no meeting is scheduled.

February 13, 4:30 p.m. - Mount Vernon campus.

March 12, 4:30 p.m. - Whidbey Island campus, 1900 S.E. Pioneer Way, Oak Harbor, WA 98277.

April - no meeting is scheduled.

May 14, 4:30 p.m. - Mount Vernon campus, budget study session at 3:30 p.m.

June 11, 4:30 p.m. - Mount Vernon campus.

WSR 23-14-084

NOTICE OF PUBLIC MEETINGS

CRANBERRY COMMISSION

[Filed June 29, 2023, 5:16 p.m.]

2023 MEETING SCHEDULE

Amended

The Washington cranberry commission will hold the following meetings in 2023.

February 23, 2023	10:00 a.m. - 12:00 p.m.	Barge Restaurant 160 Laurel Avenue Raymond, WA
July 19, 2023	2:00 - 3:00 p.m.	Pacific Coast Cranberry Research Foundation 2907 Pioneer Road Long Beach, WA

For more information, contact Jack Stein at 360-580-2940 or [jk.stein@comcast.net](mailto:jk.stein@comcast.net).

**WSR 23-14-085**  
**NOTICE OF PUBLIC MEETINGS**  
**WALLA WALLA**  
**COMMUNITY COLLEGE**

[Filed June 29, 2023, 5:44 p.m.]

The July 26, 2023, and August 23, 2023, regularly scheduled meetings of the board of trustees of Walla Walla Community College, District Number Twenty, have been canceled.

Please direct any questions to Doreen Kennedy at [doreen.kennedy@wwcc.edu](mailto:doreen.kennedy@wwcc.edu) or phone 509-527-4274.



WSR 23-14-087

HEALTH CARE AUTHORITY

[Filed June 30, 2023, 8:23 a.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 23-0044 Update Cross-Reference for ICF/IID Compliance.

Effective Date: July 1, 2023.

Description: The health care authority (HCA) intends to submit SPA 23-0044 to update the cross-reference to Attachment 4.35-B on Numbered Page 79c to Attachment 4.35-H, to correctly identify the section of the medicaid state plan that describes enforcement of compliance for intermediate care facilities for individuals with intellectual disabilities (ICF/IID).

SPA 23-0044 is a "housekeeping" action and is anticipated to have no affect on the aggregate payment, expenditures, or reimbursement for these services.

A copy of draft SPA 23-0044 is available for review. HCA would appreciate any input or concerns regarding this SPA. To request a copy or submit comments, please contact the person named below by July 31, 2023 (please note that all comments are subject to public review and disclosure, as are the names of those who comment).

CONTACT: Antony W. Vaupel, Assistant Attorney General, P.O. Box 40124, email Anthony.vaupel@atg.wa.gov.

**WSR 23-14-105**

**NOTICE OF PUBLIC MEETINGS**

**HEALTH CARE AUTHORITY**

(Health Technology Clinical Committee)

[Filed July 3, 2023, 8:25 a.m.]

The health technology clinical committee reached a final coverage decision for the following technology at their June 23, 2023, meeting: Transcranial magnetic stimulation for selected conditions, Decision No: 20230317A.

All documents related to this evidence assessment, including final coverage decision, are available on the health technology assessment program website [www.hca.wa.gov/about-hca/programs-and-initiatives/health-technology-assessment](http://www.hca.wa.gov/about-hca/programs-and-initiatives/health-technology-assessment).

For further information, contact Val Hamann, Program Specialist, Health Technology Assessment, P.O. Box 626, Olympia, WA 98504-2712, [valerie.hamann@hca.wa.gov](mailto:valerie.hamann@hca.wa.gov).

WSR 23-14-107

**NOTICE OF PUBLIC MEETINGS  
WESTERN WASHINGTON UNIVERSITY**

[Filed July 3, 2023, 10:20 a.m.]

**2023 Board of Trustees Meeting Schedule  
Notice of Change**

The August 17 and 18 regular meeting location has been changed to: Olympic College, 1000 N.W. Olympic College Way, Building 1, Room 119-120, Poulsbo, WA and will begin at 11:00 a.m. on Thursday and resume at 9:00 a.m. on Friday.

A public comment period will be held August 18 from 9:05 to 9:15 a.m. A sign-up period will be offered 8:45 to 9:00 a.m.

Any questions regarding the meeting schedule or the public comment period may be directed to Rebecca Hansen-Zeller, secretary to the board of trustees, at 360-650-4071 or email [hanse65@wwu.edu](mailto:hanse65@wwu.edu). Updated information is also posted on the university's website <https://trustees.wwu.edu/>.

**WSR 23-14-109**  
**INDETERMINATE SENTENCE**  
**REVIEW BOARD**

[Filed July 3, 2023, 3:28 p.m., effective August 3, 2023]

**Reviser's note:** The following material has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

Following is chapter 381-90 WAC for filing. The indeterminate sentence review board is exercising its exemption to the Administrative Procedure Act under RCW 34.05.030 and is requesting the code revisor's office publish the revisions to this chapter as shown below.

Corey McNally  
Executive Director

**OTS-4739.1**

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-010 Purpose.** The purpose of this chapter is to specify policies and procedures for hearings conducted to determine the release of individuals convicted of community custody board (~~inmates sentenced under RCW 9.94A.507~~) offenses pursuant to RCW 9.95.420, and individuals convicted of offenses committed as juveniles who are eligible for release consideration pursuant to RCW 10.95.030(3) and 9.94A.730. The following regulations set forth procedural guidelines. These guidelines do not create procedural or substantive rights in any person, and should not be interpreted or applied in such a manner as to abridge rights already guaranteed by the United States Constitution or the Washington state Constitution. The regulations should be interpreted to have sufficient flexibility so as to be consistent with law and to permit the indeterminate sentence review board to accomplish its statutory purposes.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-010, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-020 Authority.** RCW 9.95.420 (~~and~~), 9.94A.507, 10.95.030(3), and 9.94A.730.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-020, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-030 Scope.** The provisions of this chapter shall apply to ~~((offenders))~~ individuals sentenced under RCW 9.94A.507 and 9.95.420, or eligible for release consideration under RCW 10.95.030(3) or 9.94A.730.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-030, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-040 Definitions.** For purposes of this chapter, the following words have the following meanings:

"Actuarial risk assessment instruments" means the tools used by the department of corrections to assess an ~~((inmate's))~~ individual's risk of reoffense.

"Board" means the appointed members of the indeterminate sentence review board created under chapter 9.95 RCW.

"Classification counselor" means an employee of the department of corrections responsible for carrying out specific duties concerning the supervision of sentenced ~~((offenders))~~ individuals in the prison system.

"Community custody" means that portion of an ~~((offender's sentence of confinement served in the community subject to the controls placed on the offender's movement and activities by the court, board and department of corrections))~~ individual's sentence subject to controls including crime-related prohibitions and affirmative actions from the court or the board based on risk to community safety, that is served under supervision in the community and which may be modified or revoked for violations or release conditions.

"Department" means the Washington state department of corrections.

"Electronically" when used in reference to submission of documents to the board, means via facsimile, electronic mail or other generally accepted electronic means.

"End of sentence review process" means the review and report issued by the end of sentence review committee in compliance with RCW 72.09.340, 72.09.345 and where appropriate RCW 72.09.370.

"In person" means physical presence, or presence via teleconference or videoconference.

"ISRB" means the indeterminate sentence review board.

"Revocation" means a repeal of community custody and a return to prison.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-040, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-050 Release determination for community custody board cases.**

(1) RCW 9.95.420 requires that any convicted person sentenced under the provisions of RCW 9.94A.507 shall be subject to a board hearing to determine releasability. The hearing must be held no later than ~~((ninety))~~ 90 days before the expiration of the minimum term. However the hearing cannot be held unless the board has received:

(a) The results from the end of sentence review process;

(b) Recommendations for conditions of community custody from the department.

(2) The end of sentence review committee report may include, but is not limited to:

(a) A prediction based upon the administration of actuarial risk assessment instruments and the sexual and criminal history of the ~~((offender))~~ person, of the likelihood that the ~~((offender))~~ individual will commit new sex offenses if released;

(b) The institutional progress report(s) covering the ~~((inmate's))~~ individual's adjustment, achievement, infractions and program participation during incarceration;

(c) Psychiatric or psychological reports, such as IQ appraisals, personality inventories, actuarial risk assessments and sexual history polygraphs;

(d) Behavioral details of the crime(s) of conviction, such as law enforcement reports, prosecutor's statements, court records, and pre-sentence investigation reports;

(e) Recommendations for conditions of community custody in addition to those set by the sentencing court;

(f) The department's risk management level and the sex offender notification level;

(g) Written confirmation that the ~~((inmate))~~ individual has had an opportunity to review the information the department is submitting to the board and an opportunity to make a written statement.

(3) The board shall determine whether it is more likely than not that the ~~((offender))~~ individual will engage in sex offenses if released to the community in spite of board-imposed conditions of community custody. The board decision related to an ~~((offender's))~~ individual's likelihood of sexual reoffense is based upon a preponderance of the evidence.

(4) In making a release decision the board may also consider:

(a) The length of time necessary for the ~~((offender))~~ individual to complete treatment and programming;

(b) The ~~((offender's))~~ individual's failure to participate in required evaluations;

(c) The ~~((offender's))~~ individual's proposed release plan;

~~((and))~~ (d) Testimony of relevant persons related to the case to include but not limited to the case manager or designee and any relevant treatment providers or designee; and

(e) Other pertinent information.

(5) If the board finds the ~~((offender))~~ individual not releasable, the board may add up to ~~((sixty))~~ 60 months to the minimum term.

(6) If the ~~((offender))~~ individual is found not releasable and time is added to the minimum term:

(a) The (~~offender may petition for~~) individual may request an earlier review when (~~the offender completes~~) they have completed required treatment or programming.

(b) The board retains the authority to schedule an earlier review at its discretion.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-050, filed 3/31/09, effective 5/1/09.]

#### NEW SECTION

##### **WAC 381-90-052 Release determination for juvenile board cases.**

(1)(a) RCW 10.95.030(3) requires that any convicted person sentenced under its provisions shall be subject to a board hearing to determine releasability. The hearing shall be held on the first available hearing date following the completion of the court-imposed minimum term.

(b) No later than 180 days prior to the expiration of the minimum term, the department shall conduct, and the individual shall participate in a psychological evaluation. The evaluation shall include, but is not limited to:

(i) A prediction based upon administration of actuarial risk assessment instruments and the criminal history of the person, of the likelihood that the individual will engage in future criminal behavior if released on conditions to be set by the board;

(ii) The institutional progress report(s) covering the inmate's adjustment, achievement, infractions, and program participation during incarceration;

(iii) Prior psychiatric or psychological reports such as IQ appraisals or personality inventories;

(iv) Behavioral details of the crime(s) of conviction, such as law enforcement reports, prosecutor's statements, court records, and presentence investigation reports;

(v) The department's risk management level and the sex offender notification level (if applicable).

(2) According to the provisions of RCW 9.94A.730, any person who meets the specified criteria may petition the board for early release. The hearing will be held upon receipt of a psychological evaluation and after completion of appropriate notifications pursuant to RCW 9.95.422.

(a) If an individual does not meet eligibility criteria, the board will notify the person of the denial of their petition, and will provide information whether the individual will be eligible to petition at a future date.

(b) No later than 180 days from the receipt of the approved petition for early release, the department shall conduct, and the individual shall participate in a psychological evaluation. The evaluation shall include information as noted under subsection (1)(b) of this section.

(c) RCW 9.95.422 requires that the board must provide notice of release hearings, a copy of the petition for early release, and any evaluation or information relevant to the release decision without redaction, except as provided by law, to the sentencing court, the prosecuting attorney, and the crime victim or surviving family member upon request, at least 90 days prior to the early release hearing.

(3) For hearings held under either RCW 10.95.030(3) or 9.94A.730, the board shall determine whether it is more likely than not the individual will engage in new criminal law violations if released to the community in spite of board-imposed conditions of community custody. The board decision related to an individual's likelihood of criminal reoffense is based upon a preponderance of the evidence.

(4) In making a release decision, the board may also consider:

(a) An end of sentence review committee report if the individual has been convicted of an offense with sexual elements;

(b) A psychological report;

(c) Rehabilitative efforts and the length of time necessary for the individual to complete treatment and programming;

(d) The individual's failure to participate in required evaluations;

(e) The individual's proposed release plan;

(f) Testimony of relevant persons related to the case to include but not limited to the case manager or designee and any relevant treatment providers or designee; and

(g) Other pertinent information.

(5) If the board finds an individual sentenced under RCW 10.95.030(3) not releasable, the board may add up to five years to the minimum term. Subsequent hearings will be held approximately 90 days prior to the expiration of the minimum term.

(a) The individual may request an earlier review when they have completed required treatment or programming.

(b) The board retains the authority to schedule an earlier review at its discretion.

(6) If the board finds an individual who filed a petition for early release consideration pursuant to RCW 9.94A.730 not releasable, the individual may file a new petition for early release five years from the date of the denial, or at an earlier date as set by the board.

(7) RCW 9.95.422 requires that the board provide comprehensive minutes of all related meetings and hearings on petitions for early release filed pursuant to RCW 9.94A.730 within 30 days of the meeting or hearing. Minutes will be posted to the public website of the board.

[]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-060 Release determination after community custody revocation.** The board may set a new minimum term if the (~~offender~~) individual is returned to prison on a revocation.

(1) For individuals released pursuant to RCW 9.95.420, the new minimum term shall not exceed the remaining portion of the maximum sentence. Subsequent release determinations will be conducted as set out in WAC 381-90-050.

(2) For individuals released pursuant to RCW 10.95.030(3), the new minimum term shall not exceed five years. Subsequent release determinations will be conducted as set out in WAC 381-90-052.

(3) For individuals released pursuant to RCW 9.94A.730, the board may return the individual for up to the remainder of the court-imposed term of incarceration. The individual may file a new petition for ear-



ly release five years from the date of return to the institution, or at an earlier date as set by the board. Subsequent release determinations will be conducted as set out in WAC 381-90-052.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-060, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-080 ((Inmate)) Incarcerated individual to be served notice.** The board will send the hearing notice to the institution superintendent/designee in advance of any hearing. The hearing notice shall specify the reason for the hearing, time, date, and place.

(1) Upon receipt of the hearing notice, the superintendent or designee shall serve the ((inmate)) incarcerated individual with the document.

(2) The original hearing notice is to be signed by the ((inmate)) individual with date of service noted and returned to the board ((headquarters)) electronically. The department should retain a copy in the ((inmate's)) incarcerated individual's institutional file and provide a copy to ((the inmate)) them.

(3) In cases where the ((inmate)) incarcerated individual refuses to sign the notice, the superintendent or designee shall note the date of service and obtain the signature of a witness to such service. A copy of the signed form should be returned to the board electronically.

(4) ((The inmate)) For individuals being considered for release pursuant to RCW 9.95.420, they will be allowed to review a copy of the end of sentence review report with supporting documents prior to the hearing. The ((inmate)) incarcerated individual shall sign an acknowledgment form that the documents have been reviewed, noting the date and amount of time spent in review. If an interpreter assisted the ((offender)) individual, the interpreter shall also sign and date the acknowledgment form. A copy of the signed form should be returned to the board electronically.

(5) For individuals being considered for release pursuant to RCW 10.95.030(3) or 9.94A.730, they will be allowed to review copies of relevant file material prior to the hearing. The person shall sign an acknowledgment form that the documents have been reviewed, noting the date and amount of time spent in review. If an interpreter assisted the individual, the interpreter shall also sign and date the acknowledgment form. A copy of the signed form should be returned to the board electronically.

(6) The ((inmate)) incarcerated individual shall be given the opportunity to make a written statement to the board.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-080, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-090 ((Inmate)) Incarcerated individual shall be advised of rights.** Each ((inmate)) individual who becomes the subject of a hearing conducted under the provisions of RCW 9.95.420, 10.95.030(3), or 9.94A.730, shall be advised of their rights at the time(s) he/she is served with a notice of the hearing. The written notice provided by the board will advise the ((inmate)) individual of the following rights:

- (1) To participate in a hearing before a panel of the board and to testify under oath. The board may hold the hearing with the ((inmate)) individual in person, by telephone, or via video conferencing;
- (2) To submit letters or statements in support of release;
- (3) To review the ESRC report ((and supporting)) or relevant documents prior to the hearing; and
- (4) To receive a written decision from the board.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-090, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-100 Conducting a hearing.** All hearings conducted under the provisions of this chapter shall be held before a panel of at least two members of the indeterminate sentence review board. One member shall be designated, by decision of the panel, as the presiding member.

At the time of the hearing under the provisions of RCW 9.95.420, 10.95.030(3), and 9.94A.030, the presiding member will determine if the ((inmate)) incarcerated individual was given proper notice of the hearing, was advised of the reason for the hearing, and was properly advised of their rights.

A limited number of observers may be present by prior approval of the panel members conducting the hearing, provided that the superintendent or designee authorizes such observers in the facility. Observers may also be permitted telephonically or via video conferencing.

The board reserves the right to exclude any person from the ((room during a)) hearing upon its own motion or the motion of any party to the hearing provided that good cause for such exclusion is articulated on the record.

The presiding member may recess the hearing at any time for consultation with the other panel member(s) or for any reason.

The panel conducting the hearing will submit its recommendation to the full board for final determination.

In the event of a language and/or communication problem, a certified interpreter shall be present to interpret and assist.

The board will accept written information pertaining to the ((inmate)) individual from any interested person.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-100, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-120 ((Inmate)) Incarcerated individual to be present.**

(1) The subject of any hearing conducted under the provisions of this chapter may participate in the hearing. However, in the event the ((inmate)) incarcerated individual refuses to appear, the board ((will)) may:

(a) Continue the hearing until the next available docket ((The ISRB will notify the inmate that if they refuse to attend the next scheduled hearing, the hearing will be conducted)); or

(b) Hold the hearing in absentia ((and)). The board's decision will be based on all available evidence.

(2) If an individual is found not releasable after a hearing that is held in absentia, the individual may request an earlier review if they are willing to attend a rescheduled hearing.

(3) The board retains the authority to schedule an earlier review at its discretion.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-120, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-150 Disposition.** (1) The board shall make a finding of whether ((or not)) it is more likely than not that the ((inmate)) incarcerated individual will commit another sex offense if released to the community, pursuant to RCW 9.95.420.

(2) The board shall make a finding of whether it is more likely than not that the inmate will engage in new criminal behavior if released to the community, pursuant to RCW 10.95.030(3) or 9.94A.730.

(3) A list of factors that the board may consider includes, but is not limited to:

((1)) (a) Refusal to participate in available programs or resources designed to assist an inmate to reduce the risk of reoffense (e.g., stress and anger management, victim awareness, substance abuse treatment, mental health treatment, sex ((offender)) offense specific treatment).

((2)) (b) Serious and/or repetitive disciplinary infractions during incarceration.

((3)) (c) Evidence of an inmate's continuing intent or propensity to engage in sex offenses, violent acts, or criminal behavior.

((4)) (d) Statements or declarations by the inmate of intent not to comply with conditions of community custody.

((5)) (e) End of sentence review determination based on actuarial assessments identifying risk to sexually reoffend.

(f) Psychological evaluation including actuarial assessment information identifying risk to engage in criminal behavior.

(g) Testimony of relevant persons related to the case to include but not limited to the case manager or designee and any relevant treatment providers or designee.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-150, filed 3/31/09, effective 5/1/09.]

AMENDATORY SECTION (Amending WSR 09-08-109, filed 3/31/09, effective 5/1/09)

**WAC 381-90-170 Hearing record preservation.** There will be ((a)) an audio recording made of all hearings conducted under the provisions of this chapter. Such recordings shall be preserved ((~~at the offices of the ISRB in Olympia~~)) by the board in compliance with the current record retention schedule. Parties requesting a copy of any hearing must do so in writing. Parties may be required to reimburse the ((~~ISRB~~)) board for the costs involved in duplication.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-170, filed 3/31/09, effective 5/1/09.]

## WSR 23-14-126

## AGENDA

## HEALTH CARE AUTHORITY

[Filed July 5, 2023, 10:56 a.m.]

The Washington health care authority (HCA) prepares a semi-annual rule-making agenda in January and July each year for publication in the Washington State Register pursuant to RCW 34.05.314. This report details current and anticipated rule-making activities for HCA. Additional rule-making activity may occur which is not listed on this agenda as conditions warrant.

Rule-making information is available on HCA's website <https://www.hca.wa.gov/about-hca/rulemaking>.

To be notified of any changes, you may sign up for email notifications [https://public.govdelivery.com/accounts/WAHCASUBSCRIBER/new?gsp=WAHCA\\_10](https://public.govdelivery.com/accounts/WAHCASUBSCRIBER/new?gsp=WAHCA_10).

If you have questions about this rule-making agenda, contact Wendy Barcus, Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, email [wendy.barcus@hca.wa.gov](mailto:wendy.barcus@hca.wa.gov).

**Semi-Annual Rule-Making Agenda  
July through December 2023**

WAC Chapter	Rule Subject	Current Activity		
		Preproposal Notice CR-101	Proposed Rule CR-102 (Public Hearing) or CR-105 (Expedited)	Emergency CR-103E
<b>HEALTH CARE AUTHORITY – GENERAL</b>				
New chapter 182-52	Establishment of prescription drug affordability board (2SSB 5532)	WSR 22-15-035 Filed 7/14/2022		
New chapter 182-80	Primary care transformation model— Provider certification	WSR 23-01-066 Filed 12/14/2022 <b>Withdrawn</b> WSR 23-06-071 Filed 3/1/2023		
<b>BEHAVIORAL HEALTH</b>				
New chapter 182-120	Antipsychotic medication rights and less restrictive alternative treatment	WSR 20-09-130 Filed 4/21/2020		
182-135	Recovery residence program	WSR 23-11-079 Filed 5/17/2023		
<b>PUBLIC EMPLOYEE BENEFITS (PEB)</b>				
182-12-5000	Retirees who regained eligibility for public employees benefits board (PEBB) retiree insurance coverage as authorized in SSB 5490, chapter 15, Laws of 2023, 68th legislature, 2023 regular session			CR-103E WSR 23-12-019 Effective 5/25/2023
182-12-5100	What options for health plan enrollment are available to a retired employee of an employer group that previously ended participation in PEBB insurance coverage, as authorized in SSB 1804, section 3, chapter 312, Laws of 2023			CR-103E WSR 23-12-057 Effective 6/2/2023
<i>New rules – number not assigned yet</i>	Rules related to SHB 1804			<i>HCA intends to file rule making within the next six months.</i>
<i>New rules – number not assigned yet</i>	Rules related to HB 1008			<i>HCA intends to file rule making within the next six months.</i>
<b>SCHOOL EMPLOYEE BENEFITS (SEB)</b>				
182-30-5000 182-30-5010	SEB board employer groups, as authorized in SSB 5275, chapter 13, Laws of 2023			CR-103E WSR 23-14-095 Effective 7/23/2023
<b>WASHINGTON APPLE HEALTH (MEDICAID)</b>				

WAC Chapter	Rule Subject	Current Activity		
		Preproposal Notice CR-101	Proposed Rule CR-102 (Public Hearing) or CR-105 (Expedited)	Emergency CR-103E
182-500-0030 182-502-0002 182-502-0016 182-502-0020 182-502-0100 chapters 182-551, 182-538	Electronic visit verification for home health care services	WSR 23-10-019 Filed 4/25/2023		
182-500-0075 182-500-0085 182-502-0005 182-502-0030 182-502-0270 chapter 182-530 182-531-0250	Termination of provider enrollment—For cause	WSR 23-10-033 Filed 4/27/2023		
182-500-0010 182-500-0095 182-500-0100	Definitions—A, R, and S	<i>HCA intends to begin rule making soon</i>		
182-501-0200	Third party liability (TPL)—To align with recent amendments to Social Security Act 1902 (a)(25)(l) due to the Consolidated Appropriations Act 2022; P.L. 117-103	WSR 23-14-106 Filed 7/3/2023		
182-504-0015 182-504-0035 182-505-0210	Children continued coverage	WSR 23-14-092 Filed 6/30/2023		CR-103E WSR 23-14-090 Effective 6/30/2023
182-504-0035	Washington apple health—Renewals	WSR 23-12-049 Filed 6/1/2023		
182-503-0535 182-507-0135	Washington apple health—Citizenship and immigration status; immigration status requirement for medical assistance	WSR 23-14-014 Filed 6/23/2023		CR-103E WSR 23-14-013 Effective 6/22/2023
182-509-0300 182-509-0305 182-512-0880	SSI-related medical—Special income disregards; modified adjusted gross income (MAGI); MAGI income—Persons subject to the MAGI methodology	WSR 23-05-107 Filed 2/15/2023	CR-102 WSR 23-08-062 Public hearing scheduled for 5/9/2023. CR-102 withdrawn under WSR 23-10-020 before hearing held.	
182-513-1625 182-513-1635 182-513-1640	Tailored supports for older adults—Applications, income eligibility, and resource eligibility	WSR 22-17-082 Filed 8/17/2022		CR-103E WSR 23-14-097 Effective 7/1/2023
182-513-1100	Definitions related to long-term services and supports	<i>HCA intends to begin rule making soon</i>		
182-521-0200	Coverage after the public health emergency ends	WSR 23-08-071 Filed 4/4/2023	CR-102 WSR 23-13-005 Public hearing scheduled for 7/25/2023	
182-530-1050 182-530-7100 182-530-7250 182-530-7900 182-531-0050 182-531-1625 182-532-001 182-532-140 182-532-550	Billing requirements for fee-for-service drugs by providers subject to the 340B program requirements	WSR 23-07-015 Filed 3/3/2023		
182-531-0200 182-547-0850	Coverage for adult cochlear implants	<i>HCA intends to begin rule making soon</i>		
182-531-1850	Payment methodology for physicians-related services—General and billing modifiers	WSR 22-17-048 Filed 8/11/2022	CR-102 WSR 23-13-083 Public hearing scheduled for 7/25/2023	
182-531-2040	Enhanced reimbursement—Medication assisted treatment for opioid use disorder	WSR 23-08-060 Filed 4/3/2023	CR-102 WSR 23-13-103 Public hearing scheduled for 7/25/2023	
182-531A-0200 182-531A-0400 182-531A-0500 182-531A-0600 182-531A-0800	Applied behavior analysis	WSR 23-13-023 Filed 6/9/2023		

WAC Chapter	Rule Subject	Current Activity		
		Preproposal Notice CR-101	Proposed Rule CR-102 (Public Hearing) or CR-105 (Expedited)	Emergency CR-103E
182-532-510	Family planning only	<i>HCA intends to begin rule making soon</i>		
182-532 (New section(s)); 182-502-0002	Maternity related services—Birth doula services; Eligible provider types—Adding birth doula	<i>HCA intends to begin rule making soon</i>		
182-535-1088	Dental-related services—Covered periodontic services	WSR 23-13-022 Filed 6/9/2023		
182-535A-0040	Orthodontic treatment and orthodontic-related services—Covered, noncovered, and limitations to coverage	WSR 23-13-024 Filed 6/9/2023		
182-546 (Multiple sections)	Transportation services—Nonemergency transportation	WSR 22-24-114 Filed 12/7/2022	CR-102 WSR 23-14-121 Public hearing scheduled for 8/8/2023	
182-550-2900 182-550-3800 182-550-3830 182-550-4500 182-550-7200 182-550-7550 182-550-8000 180-550-8100	Hospital—General policy updates	WSR 23-13-104 Filed 6/20/2023		
182-550-4400 182-550-4550 182-550-4800	Exempt from DRG payment; Administrative swing day rate and swing bed day rate; Hospital payment methods—State-administered programs	WSR 23-13-105 Filed 6/20/2023		
182-550-2600	Inpatient psychiatric services	WSR 20-21-106 Filed 10/21/2020 <b>Withdrawn</b> WSR 23-12-010 Filed 5/25/2023		
182-550-1100 182-550-2750 182-550-4700 182-550-5425	Hospital rules—Correct typographical error and repealing rules no longer necessary		CR-105 WSR 23-14-023 Filed 6/23/2023 Comments due 6/9/2023	
182-558	Premium payment program	WSR 23-07-109 Filed 3/20/2023		
New chapter 182-561	Community behavioral health support services	WSR 22-09-074 Filed 4/19/2022	CR-102 WSR 23-08-048 Public hearing scheduled for 5/9/2023. CR-102 withdrawn under WSR 23-10-020 before hearing held.	
<b>WASHINGTON APPLE HEALTH (EXPANSION)</b>				
<i>New rules – number not assigned yet</i>	Rules related to ESSB 5187.SL, Section 211(83)	WSR 23-14-063 Filed 6/28/2023		

**KEY :**

**CR:** "Code reviser" on the rule-making forms produced by the office of the code reviser.

**CR-101:** Preproposal statement of inquiry filed under RCW 34.05.310.

**CR-102:** Proposed rule-making notice filed under RCW 34.05.320 or 34.05.340.

**CR-103:** Rule-making order permanently adopting a rule, and filed under RCW 34.05.360 and 34.05.380.

**CR-105:** Expedited rule-making proposal filed under RCW 34.05.353.

**RCW:** Revised Code of Washington.

**WAC:** Washington Administrative Code.

**WSR:** Washington State Register official filing reference number given by the office of the code reviser when a notice is filed.

Wendy Barcus  
Rules Coordinator