

WSR 24-03-087

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF COMMERCE

[Filed January 17, 2024, 9:40 a.m.]

Subject of Possible Rule Making: Rule-making activities will address the requirements [to] implement certain provisions of HB [E2SHB] 1181. HB [E2SHB] 1181 calls for the addition of a new climate element in the comprehensive plans of cities and counties conducting planning under RCW 36.70A.040, including creation of two climate subelements addressing: (1) Community resilience to climate change; and (2) greenhouse gas emission (GHG) reductions. The legislation also specifies new regulatory authority of the department of commerce (commerce) to review and approve city and county GHG reduction subelements.

Commerce plans to amend the following WAC as part of rule making related to HB [E2SHB] 1181:

- Chapter 365-196 WAC: Commerce will amend this chapter to address requirements of the climate element within comprehensive plans.

Commerce may consider amending the following WAC as part of rule making for [E2SHB] 1181:

- Chapter 365-199 WAC: Clarify the process by which commerce will review and approve GHG reduction subelements submitted to commerce.
- Chapter 365-190 WAC: Address requirements to consider climate change to identify, protect, and enhance natural areas; and to address natural hazards created or aggravated by climate change.
- Chapter 365-195 WAC: Clarify that "best available science" is applicable to the development of the climate element.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 36.70A.190 (4)(b), 36.70A.096, and 36.70A.190(8), which requires commerce to "adopt by rule guidance that creates a model climate change and resiliency element."

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Commerce is conducting rule making in order to "adopt by rule guidance that creates a model climate change and resiliency element" for cities and counties to use when developing comprehensive plan updates (RCW 36.70A.190(8)). Commerce has created guidance for local jurisdictions to comply with RCW 70A.45.120, allowing for local variation due to differences in (among other factors) geographic location, population size, and implementation capacity. Rule making will underscore this approach. Rule making will also create the process by which commerce will review and approve GHG subelements voluntarily submitted under RCW 36.70A.096.

Commerce will ensure that rules are consistent with commerce's guidance, internally consistent, and consistent with rules of other departments.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of transportation (chapter 47.80 RCW), department of health (health) (chapter 43.20 RCW; RCW 70A.125.180) and department of ecology (ecology) (RCW 86.12.200; chapter 90.58 RCW). Ecology and health will be conducting separate rule making in coordination with commerce. Commerce hosts monthly meetings with these departments as well as other aligned departments, including the department of fish and wildlife and department of natural resources.

Process for Developing New Rule: Commerce will utilize guidance documents developed to address HB [E2SHB] 1181 requirements, and will solicit feedback from local governments, tribes, community partners, and state agencies through the rule-making process. The public is encouraged to provide comments and recommendations on draft rules posted on the agency website Rulemaking - Washington State Department of Commerce [contact agency for link]. Commerce anticipates hosting focus groups or listening sessions for additional discussion on particular topics. Commerce will consider feedback from these processes before releasing the draft with the proposed rule-making notice (CR-102). The public and all stakeholders will have additional opportunities to comment on draft rules through written comment and testimony during the process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Debra Srebnik, 1011 Plum Street, phone 206-454-2253, email GMSClimate@commerce.wa.gov, website Rulemaking - Washington State Department of Commerce; or Sarah Fox, 1011 Plum Street, phone 360-725-3114, email GMSClimate@commerce.wa.gov, website Commerce Climate Program [contact agency for links].

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Amanda Hathaway
Rules Coordinator