

**WSR 22-13-148**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed June 21, 2022, 8:48 a.m.]

Subject of Possible Rule Making: Implementation of labor standard certification requirements for clean and renewable energy tax incentives under 2022's 2SHB 1988 and ESSB 5714, and chapter 296-140 WAC, Clean energy labor standards certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 7, chapter 185, Laws of 2022 (2SHB 1988); section 6, chapter 161, Laws of 2022 (ESSB 5714); RCW 82.08.962 and 82.12.962.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the 2022 legislative session, the Washington state legislature passed 2SHB 1988 and ESSB 5714. 2SHB 1988 allows for tax deferrals on investment projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage when the project meets certain labor standards and is certified by the department of labor and industries (L&I). ESSB 5714 allows for tax deferrals on large-scale commercial parking lots and other similar areas when the project meets certain labor standards and is certified by L&I. L&I is required to adopt rules to define and set minimum requirements for all labor standards associated with the certification for tax deferral; set requirements for all good faith efforts; and set other requirements regarding documentation and the certification process.

The development of these rules will address at a minimum:

- Standards for certification for:
  - Procurement from and contracts with women-owned, minority-owned, and veteran-owned businesses, which will include a requirement that the recipient of the deferral consult with the office of minority and women's business enterprises (OMWBE) and the department of veterans affairs (DVA) to develop a plan to meet the standards or good faith efforts;
  - Procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;
  - Apprenticeship utilization;
  - Preferred entry for workers living in the area where the project is being constructed;
  - Payment of prevailing wages; and
  - Project labor agreements and community workforce agreements.
- Requirements for and processes related to application, records and documentation, and certification.

This rule will be adopted under chapter 296-140 WAC, Clean energy labor standards certification.

Additional changes to the clean energy labor standards certification rules will also be considered, to align the requirements for clean and renewable energy tax incentive programs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Applicants are required to work with OMWBE and DVA on plan development and plan review. L&I is also required to consult with OMWBE, DVA, and the Washington state apprenticeship and training council (WSATC) on standards.

L&I will coordinate with OMWBE, DVA, and WSATC on the rule development, as well as coordinate with the department of revenue.

Process for Developing New Rule: L&I will develop the rule language with input from stakeholders. Interested parties may participate in the formulation of the amended rules before the proposed rules are filed by contacting the individual below. The public may also participate after amendments are proposed by providing written comments and/or testimony during the public hearing and comment period.

For more information on this rule making, visit L&I's rule-making activity website at <https://www.Lni.wa.gov/rulemaking-activity/> or contact the individual below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Christina Summers, L&I, Clean Energy Program, P.O. Box 44274, Olympia, WA 98504-4274, phone 360-902-5772, email [FPLSRULES@Lni.wa.gov](mailto:FPLSRULES@Lni.wa.gov).

June 21, 2022  
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Director