

**WSR 12-18-008**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed August 23, 2012, 2:42 p.m.]

Subject of Possible Rule Making: Recreational fishing rules for the 2013 season.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department must amend recreational fishing rules on an annual basis to respond to fish population changes, fish and wildlife commission assignments, housekeeping needs, and conservation issues. This year the department also received proposals from the public. Amendments to these rules will perpetuate fish and shellfish resources while maximizing recreational fishing opportunity.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lori Preuss, WDFW Enforcement, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail Lori.Preuss@dfw.wa.gov. Contact by October 12, 2012. Expected filing date on October 24, 2012.

August 23, 2012  
 Lori Preuss  
 Rules Coordinator

**WSR 12-18-014**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**FOREST PRACTICES BOARD**

[Filed August 24, 2012, 8:48 a.m.]

Subject of Possible Rule Making: WAC 222-16-080 Critical habitat (state) of threatened and endangered species.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040 and 76.09.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The forest practices board (board) is considering rule making to amend this forest practices rule to clarify that wildlife plans involving critical habitats (state) of threatened and endangered species are to be reviewed under the State Environmental Policy Act (SEPA). The board will also consider amendments to this rule's critical habitat definition of gray wolf, based on upcoming recommendations from the Washington department of fish and wildlife (WDFW). WDFW has recommended review of the board's critical habitat definition for the gray wolf, based on their wolf conservation and management plan.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Fish and Wildlife Service is the lead management authority over wolves where they remain federally listed in the state: The western two-thirds of Washing-

ton. The WDFW is the lead authority where wolves have been federally delisted: The eastern third of the state. WDFW, through the wildlife working group and with the United States Fish and Wildlife Service is facilitating the development of critical habitat (state) wolf rule amendments. The board and WDFW will work together in the rule-making process to incorporate into rule the critical habitat (state) wolf criteria as developed by the wildlife working group.

Process for Developing New Rule: Interested stakeholders will participate in the development of rule language. Rule changes relating for [to] critical habitat for the wolf will be developed through WDFW's wildlife working group.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Mail, fax, or e-mail comments to Patricia Anderson, Forest Practices Board, Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, fax (360) 902-1428, e-mail forest.practicesboard@dnr.wa.gov.

August 15, 2012  
 L. S. Young  
 Chair

**WSR 12-18-022**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed August 27, 2012, 10:12 a.m.]

Subject of Possible Rule Making: For hire program cost recovery adjustments, update WAC 308-89-060.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.72.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESHB 2190, section 208 (20) states, "Consistent with RCW 43.135.055 and 43.24.-086, during the 2011-2013 fiscal biennium, the legislature authorizes the department to adjust the business and vehicle fees for the for hire licensing program in amounts sufficient to recover the costs of administering the for hire licensing program."

Process for Developing New Rule: Fiscal analysis and forecasting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting James Dick, P.O. Box 9024, Olympia, WA 98507-9024, fax (360) 570-7053, (360) 664-0213, e-mail jdick@dol.wa.gov.

August 27, 2012  
 Damon Monroe  
 Rules Coordinator

**WSR 12-18-031****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed August 28, 2012, 2:18 p.m.]

Subject of Possible Rule Making: Chapter 16-101 WAC, Washington state milk and milk products standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.36.021 and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington state department of agriculture (DOA) has been petitioned by two major dairy product producers and the Washington State Dairy Federation to establish more stringent standards for somatic cell counts in milk from individual producers than the current standards established by FDA in the Grade A Pasteurized Milk [Milk] Ordinance (PMO). New stricter quality standards being implemented and proposed by global customers require milk and milk products produced in Washington state to meet these new standards. This request is to ensure continued sales in export markets for milk and milk products produced in Washington state.

For states to be in compliance with FDA rules governing the interstate shipment and sales of milk and milk products, states must adopt the most current (2011) Grade A PMO. Compliance under the PMO is critical in allowing milk and milk products produced in our state to be transported and sold outside Washington state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Food and Drug Administration (FDA):

- FDA develops regulations for quality standards of milk and milk products. Once established these regulations are adopted by DOA in rule under the authority of chapters 16.36 and 34.05 RCW.

Washington state department of health (DOH):

- DOH conducts investigations of illnesses related to foodborne illnesses. DOH provides comments and assistance to DOA in the development of regulations related to food quality standards.

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Julie Carlson, Division Coordinator Food Safety and Consumer Services Division, DOA, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, office (360) 902-1880, fax (360) 902-2087, e-mail jcarlson@agr.wa.gov.

August 28, 2012

Kirk Robinson  
Assistant Director**WSR 12-18-056****PREPROPOSAL STATEMENT OF INQUIRY  
WASHINGTON STATE LOTTERY**

[Filed August 30, 2012, 2:30 p.m.]

Subject of Possible Rule Making: The lottery commission is considering technical and correctional updates to Title 315 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040 (1), (3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To accomplish technical and correctional updates necessary for operational procedures. The lottery wishes to update WAC 315-10-020 to include language to add play symbols to the front and/or back of an instant ticket as the lottery deems necessary for creative purposes.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jana Jones, Director of Legal Services, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 664-4833; Jennifer McDaniel, Legal Assistant, phone (360) 664-4834.

August 30, 2012

Jana Jones

Director of

Legal Services

**WSR 12-18-061****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

(Occupational Therapy Practice Board)

[Filed August 31, 2012, 8:55 a.m.]

Subject of Possible Rule Making: Chapter 246-847 WAC, Occupational therapists, amend existing rules to identify continuing education and training requirements for suicide assessment, treatment, and management.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.70 RCW as amended by ESHB 2366 (chapter 181, Laws of 2012).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESHB 2366 (chapter 181, Laws of 2012) directs the occupational therapy practice board (board) to adopt rules to implement continuing education and training requirements for suicide assessment, treatment, and management for occupational therapists and occupational therapy assistants. The board may also define when exceptions or exemptions to the training and education requirements may be appropriate.

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

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by providing comments to Janette Benham, Program Manager, Health Professions and Facilities, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4857, or e-mail [janette.benham@doh.wa.gov](mailto:janette.benham@doh.wa.gov). Interested parties can participate in the rule-making process by providing comments on proposed language and/or attending a rules workshop. Notices will be sent to interested parties through listserv and e-mail. Information will also be posted on the program's web site.

August 31, 2012

Karin Schulze, Chair  
Occupational Therapy Practice Board

### WSR 12-18-066

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF FISH AND WILDLIFE

[Filed September 4, 2012, 9:04 a.m.]

Subject of Possible Rule Making: Recreational clam and oyster fishing season rules (WAC 220-56-350 and 220-56-380).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department must annually amend recreational clam and oyster season rules on some public tidelands in response to shellfish population changes, shifts in recreational effort, conservation issues, and negotiations with treaty tribes and other state agencies. Such amendments are designed to perpetuate shellfish resources while maximizing recreational fishing opportunity.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington department of health (DOH). Washington department of fish and wildlife (WDFW) works closely with DOH to close beaches to recreational clam and oyster harvest if there is a risk to public health.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lori Preuss, WDFW Enforcement, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail [Lori.preuss@dfw.wa.gov](mailto:Lori.preuss@dfw.wa.gov). Contact by December 10, 2012. Expected proposal filing will be on or after December 19, 2012.

September 4, 2012

Lori Preuss  
Rules Coordinator

### WSR 12-18-071

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF REVENUE

[Filed September 4, 2012, 11:29 a.m.]

Subject of Possible Rule Making: WAC 458-40-540 Forest land values—2013 and 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.33.096, 82.32.300, and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 84.33.140 requires that forest land values be adjusted annually by a statutory formula contained in RCW 84.33.140(3). WAC 458-40-540 Forest land values, adjusts the table of forest land values in Washington as required by statute. County assessors will use these published land values for property tax purposes in 2013. RCW 84.33.091 requires the department of revenue to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The department anticipates amending WAC 458-40-660 to provide valuations for the first half of 2013.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the United States Forest Service and Washington state department of natural resources both regulate forest practices, neither is involved in valuation for taxation purposes. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there should be no need to involve them in the valuation revisions provided in this rule.

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. A preliminary draft of possible rule changes will be available upon request shortly before the public meeting.

Written comments may be submitted by mail and should be directed to Mark E. Bohe, e-mail [markbohe@dor.wa.gov](mailto:markbohe@dor.wa.gov), or Mark Bohe, ITA Division, P.O. Box 47453, Olympia, WA 98504-7453.

Written and oral comments will be accepted at the public meeting.

Public Meeting Location: Capital Plaza Building, Fourth Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on October 16, 2012, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Carol LaPalm, (360) 725-7499, or Renee Cosare, (360) 725-7514, no later than ten days before the meeting date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

September 4, 2012

Alan R. Lynn  
Rules Coordinator

**WSR 12-18-072**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed September 4, 2012, 1:15 p.m.]

Subject of Possible Rule Making: Chapter 296-17 WAC, General reporting rules, audit, and recordkeeping, rates and rating system, and chapter 296-17A WAC, Classifications for Washington workers' compensation insurance.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.020 and 51.16.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Labor and industries is required by law to establish and maintain a workers' compensation classification plan that classifies all occupations or industries in accordance with their degree of hazard (RCW 51.16.035) and adopt rules governing the administration of this rule (RCW 51.04.020). A department study identified a need to change the current practices for classifying retail product demonstrators.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: In Washington state, no other state, local or federal agency regulates workers' compensation rates.

Process for Developing New Rule: Agency study; and appropriate rates require that industries with similar exposures and risks be classified together. A department study found disparate application of classifications for product demonstrators. Rule making to maintain the integrity of the classification plan is being proposed. Interested parties may contact the individual listed below. The public may also participate by commenting after amendments are proposed, by providing written comments and/or testimony during the public hearing and comment process. Public hearings will be held after the proposal is filed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments can be submitted to Richard Bredeson, P.O. Box 44140, Olympia, WA 98504-4140, e-mail Richard.Bredeson@lni.wa.gov, phone (360) 902-4985, fax (360) 902-4988.

September 4, 2012  
 Judy Schurke  
 Director

**WSR 12-18-074**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Docket TC-121328—Filed September 5, 2012, 8:46 a.m.]

Subject of Possible Rule Making: The utilities and transportation commission (commission or UTC) commences this inquiry to consider amending chapter 480-30 WAC to allow flexibility in setting rates and promote competition in the auto transportation industry.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 81.04.160, 81.04.250, 81.68.030, and 81.68.-

040. The UTC believes the executive order and the office of financial management instructions allow this rule making because it is in response to industry requests for rate flexibility.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 81.04.250 allows the commission to use any standard, formula, method, or theory of valuation reasonably calculated to arrive at the objective of prescribing and authorizing just and reasonable rates. RCW 81.68.040 allows the commission to issue a certificate to a company if it meets the public convenience and necessity standard. If there is an incumbent, the commission may only issue a certificate to the applicant if the incumbent company does not object, or the commission determines that the incumbent will not provide service to the satisfaction of the commission. The auto transportation companies have requested that the commission provide more flexibility to the companies in setting rates. Given the level of competition among passenger transportation providers in the state; the commission believes that the current method of strict economic regulation of rates and entry of auto transportation providers may no longer be effective or efficient in serving the public. The commission proposes to develop a rule that will authorize rate flexibility in concert with opening the market to increased competition.

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

Process for Developing New Rule: Negotiated rule making; and the commission will ask for initial comments and will provide the opportunity to provide additional comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested persons may file comments with the Executive Director and Secretary, UTC, P.O. Box 47250, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, phone (360) 664-1174, fax (360) 586-1150, e-mail records@utc.wa.gov, or through the UTC web portal www.utc.wa.gov/e-filing by Monday, October 8, 2012.

**WRITTEN COMMENTS:** Written comments may be submitted to the commission at the address given above and should be filed with the commission no later than 5:00 p.m., Monday, October 8, 2012.

The commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted via the commission's web portal www.utc.wa.gov/e-filing or by electronic mail to the commission's records center records@utc.wa.gov. Please include:

- The docket number of this proceeding: TC-121328.
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 1/2 inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The commission will post on the commis-

sion's web site all comments that are provided in electronic format. The web site is located at <http://www.utc.wa.gov/121328>. If you are unable to file your comments electronically or to submit them on a disk, the commission will always accept a paper document.

Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rule making, including comments, will be posted on the commission's web site as it becomes available. If you wish to receive further information on this rule making you may (1) call the commission's records center at (360) 664-1234, (2) e-mail the commission at <[records@utc.wa.gov](mailto:records@utc.wa.gov)>, or (3) mail written comments to the address above to the attention of David W. Danner, executive director and secretary. When contacting the commission, please refer to Docket TC-121328 to ensure that you are placed on the appropriate service list. Questions may be addressed to Ann Rendahl at (360) 664-1144 or via e-mail at [arendahl@utc.wa.gov](mailto:arendahl@utc.wa.gov).

#### NOTICE

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING** — The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket TC-121328, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket TC-121328, and the words "Please keep me on the mailing list" to [records@utc.wa.gov](mailto:records@utc.wa.gov). Please note that all information in the mailings will be accessible through the commission's internet web site <http://www.utc.wa.gov/121328>. **THOSE INTERESTED PERSONS WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

September 5, 2012

David W. Danner  
Executive Director and Secretary

#### WSR 12-18-076

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed September 5, 2012, 10:04 a.m.]

Subject of Possible Rule Making: The department is considering initiating a quarantine that would place restrictions on the importation of hazelnut plants into Washington state in response to eastern filbert blight.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 17.24 and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The highly economically damaging plant disease eastern filbert blight, caused by the fungus *Anisogramma anomala*, was discovered here in 1973.

To date, development of resistant varieties has allowed the Pacific Northwest growers to manage damage from the disease. However, the industry is now threatened by a new, more virulent strain of eastern filbert blight that attacks commercial varieties of hazelnut that are resistant to the local strain of the disease. Members of the Washington industry have requested that the department consider a rule to protect the local crop.

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

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Plant Protection Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail [mtoohey@agr.wa.gov](mailto:mtoohey@agr.wa.gov); or Tom Wessels, Program Manager, Plant Protection Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail [twessels@agr.wa.gov](mailto:twessels@agr.wa.gov).

September 4, 2012

Mary A. Martin Toohey  
Assistant Director

#### WSR 12-18-080

##### PREPROPOSAL STATEMENT OF INQUIRY SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 5, 2012, 11:47 a.m.]

Subject of Possible Rule Making: WAC 392-101-010, to give the office of superintendent of public instruction (OSPI) the authority to send appeals through [through] the office of administrative hearing[s] (OAH) for the national school lunch program (NSLP), school breakfast program (SBP), and the special milk programs (SMP). These are federally funded child nutrition programs that are administered by OSPI, child nutrition services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28A.235 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current WAC does not include the NSLP, the SBP, or the SMP. The current WAC only includes the child and adult care food program and the summer food service program. We need the authority to send all child nutrition program appeals through OAH.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture sets the appeal procedures for all of the child nutrition programs.

However, they refer only to "an independent review official" and we want to be sure that we have regulatory authority for the OAH to oversee all appeals involving the child nutrition programs.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Donna Parson, 600 Washington Street, Olympia, WA, Donna.parsons@k12.wa.us.

September 5, 2012

Randy Dorn  
State Superintendent