

WSR 17-05-008**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

(Chiropractic Quality Assurance Commission)

[Filed February 2, 2017, 1:02 p.m.]

The chiropractic quality assurance commission (commission) is withdrawing the preproposal notice (CR-101) filed as WSR 15-09-027 because the commission believes it is more efficient to divide the rules work into separate rule topics that are smaller and more manageable. Additionally, by doing it this way, it may attract more public input. Furthermore, the commission intends to streamline several different rules on related subjects, such as billing, radiology, advertising, etc., to eliminate confusion and to find all the requirements on a subject within fewer rules.

If you have any questions, please contact Leann Yount, chiropractic quality assurance commission, program manager, at (360) 236-4856.

Tami Thompson
Regulatory Affairs Manager

WSR 17-05-012**PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE UNIVERSITY**

[Filed February 3, 2017, 1:09 p.m.]

Subject of Possible Rule Making: The university is updating the standards of conduct for students, chapter 504-26 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.30.150.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendments are intended to update and clarify the standards of conduct for students WAC including, but not limited to, student conduct hearings and appeals.

Process for Developing New Rule: Reviewed internally at many levels before proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Deborah L. Bartlett, Director, Office of Procedures, Records, and Forms and University Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, phone (509) 335-2005, fax (509) 335-3969, and email prf.forms@wsu.edu.

A public hearing will be held to permit comment to all proposed rules and revisions. There will be an opportunity to provide written comments to the proposed rules.

February 3, 2017
Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

WSR 17-05-015**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed February 3, 2017, 4:59 p.m.]

Subject of Possible Rule Making: WAC 246-824-010 Definitions, the department of health is considering amending the dispensing optician rules to add "personal supervision" to the definitions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.040, chapter 18.34 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The dispensing optician statute, RCW 18.34.010(1) contains an exemption allowing an unlicensed individual to work in the same way as a dispensing optician as long as they are under the personal supervision of a licensed optometrist or ophthalmologist. The term "personal supervision" is not defined in statute or in the dispensing opticians definitions in chapter 246-824 WAC, making the meaning unclear. Defining personal supervision will provide clarity regarding the extent of supervision required to allow unlicensed individuals to practice as a dispensing optician.

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

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. Stakeholders will be notified and invited to participate in an open public rules workshop and may submit written comments for consideration. Stakeholders will be notified via listserv and posting to the department of health web site. Contact Debra Mendoza, Program Manager, Department of Health, Dispensing Optician Program, P.O. Box 47852, Olympia, WA 98504-7852, email Debra.Mendoza@doh.wa.gov, phone (360) 236-4841 or fax (360) 236-2901.

February 3, 2017
John Wiesman, DrPH, MPH
Secretary

WSR 17-05-021**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 16-09—Filed February 6, 2017, 1:26 p.m.]

Subject of Possible Rule Making: Ecology proposes to amend two rules:

1. Air quality fee rule, chapter 173-455 WAC, includes most of the air quality related fees into one chapter. This chapter allows the regulated community easier access to applicable fees.

2. General regulations for air pollution sources, chapter 173-400 WAC, establishes the regulatory framework to ensure that healthy air quality exists in Washington, including meeting federal air quality standards.

The amendments will:

- Better align fees with costs of the air quality source registration program.
- Revise the fee process to create an equitable distribution of fees across all registered sources.
- Ensure alignment between chapters 173-400 and 173-455 WAC.
- Match hourly rate charge in WAC 173-455-050 and 173-455-130 with current ecology billing rates.
- Identify, and where appropriate, make needed edits in chapters 173-455 and 173-400 WAC to increase clarity and readability.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.94 RCW, RCW 70.94.151, 70.94.892.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:

- Existing registration program fees fund approximately forty-five percent of the estimated cost of operating the program. The rule making would better align fees with costs.
- The current fee process for the registration program does not equitably distribute fees across all registered sources. The rule making would increase fairness.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties can stay informed about the rule making and public involvement opportunities:

- Visit the agency web page at <http://www.ecy.wa.gov/programs/air/rules/rulemaking.html>.
- Sign up to receive email notices at <http://listserv.wa.gov/cgi-bin/wa?SUBED1=ECY-AQ-RULE-AND-SIP-UPDATES&A=1>.
- Participate in a stakeholder meeting and/or a public hearing. For details, visit the air quality program's web page at <http://www.ecy.wa.gov/programs/air/rules/wac173455/1609ov.htm>.
- Contact Margo Thompson, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6827 or margo.thompson@ecy.wa.gov.

February 2, 2017

Stuart A. Clark

Air Quality Program Manager

WSR 17-05-027

PREPROPOSAL STATEMENT OF INQUIRY UNIVERSITY OF WASHINGTON

[Filed February 7, 2017, 1:20 p.m.]

Subject of Possible Rule Making: Chapter 478-120 WAC, Student conduct code for the University of Washington.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.20.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The University of Washington's student conduct code is being considered for further amendment concerning disciplinary proceedings based on changes to federal guidance and interpretation of state law.

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. Written comments or inquiries may be directed to Rebecca Goodwin Deardorff, Director of Rules Coordination, University of Washington, Rules Coordination Office, Box 351210, Seattle, WA 98195-1210, email rules@uw.edu.

February 7, 2017

Rebecca Goodwin Deardorff

UW Director of Rules Coordination

WSR 17-05-029

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 16-12—Filed February 7, 2017, 3:40 p.m.]

Subject of Possible Rule Making: The department of ecology (ecology) plans to amend chapter 173-407 WAC, Carbon dioxide mitigation program, greenhouse gases emissions performance standard and sequestration plans and programs for thermal electric generating facilities. This rule requires power plants and units to:

- Reduce carbon dioxide emissions (CO₂ mitigation).
- Meet the greenhouse gas emissions performance standard.
- Develop plans or programs to reduce greenhouse gases as approved by ecology.

This rule making only applies to new power plants, existing power plants that change ownership or undergo modification to increase power output, and power plants making new long-term financial commitments (power purchase agreements and plant purchases).

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 80.70 and 80.80 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Ecology is proposing to amend chapter 173-407 WAC for the following reasons:

- As directed by RCW 80.80.050, the department of commerce revised the greenhouse gas emissions performance standard in WAC 194-26-020. We are proposing to adopt the revised standard. This meets the intent of the state law to periodically update the standard if necessary. These changes will also simplify future updates to the standard.
- To evaluate emission testing requirements.

- To reflect updates to chapter 80.70 RCW, Carbon dioxide mitigation and chapter 80.80 RCW, Greenhouse gas emissions—Baseload electric generation facilities, so that this rule would align with these laws.
- To make technical clarifications, correct errors, and improve readability.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: RCW 80.80.040 and [80.80.]050 allow ecology to differ from federal standards. Chapter 80.70 RCW sets up a state program with no federal counterpart.

- Energy facility site evaluation council has authority to implement both chapters 80.70 and 80.80 RCW for facilities under their jurisdiction.
- Local clean air agencies have authority to implement the chapter 80.70 RCW provisions for power plants under their jurisdiction. To see a list visit <http://www.ecy.wa.gov/programs/air/local.html>.
- Utility and transportation commission has authority to implement chapter 80.80 RCW for investor-owned utilities under their jurisdiction.
- Consumer-owned electric utilities have authority to comply with the chapter 80.80 RCW requirements for power plants and power purchase agreements.
- Department of commerce has authority under chapter 80.80 RCW to conduct a survey and adopt the average available greenhouse gas emissions output, new greenhouse gas emissions performance standard, every five years.
- Environmental Protection Agency has authority to regulate this subject under its own rules (40 C.F.R. Part 60, Subpart TTTT and UUUU). Most of the carbon dioxide emission standards under these federal rules are less stringent than the 2013 greenhouse gas emissions performance standard adopted by commerce. One possible exception is that Washington needs to develop a plan to implement the more restrictive requirements under Subpart UUUU of the federal rules. However, the United States Supreme Court stayed the requirement to develop this plan until the completion of litigation. Therefore, this plan has not been developed. In the future, the more restrictive standard could apply.

Ecology air quality program will notify these agencies to offer them opportunities to participate in the stakeholder meetings.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties can stay informed about the rule making and public involvement opportunities as described below:

- Visit the agency web page at <http://www.ecy.wa.gov/programs/air/rules/rulemaking.html>.
- Sign up to receive email notices at <http://listserv.wa.gov/cgi-bin/wa?SUBED1=ECY-AQ-RULE-AND-SIP-UPDATES&A=1>.

- Participate in a stakeholder meeting and/or a public hearing by going to <http://www.ecy.wa.gov/programs/air/rules/rulemaking.html> or <https://fortress.wa.gov/ecy/publiccalendar/>.
- Contact the rule-making lead Caroline (Ying) Sun, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, caroline.sun@ecy.wa.gov, (360) 407-7528.

Ecology will also extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

February 7, 2017

Stuart A. Clark

Air Quality Program Manager

WSR 17-05-038

PREPROPOSAL STATEMENT OF INQUIRY LIQUOR AND CANNABIS BOARD

[Filed February 8, 2017, 10:25 a.m.]

Subject of Possible Rule Making: Chapter 314-20 WAC, Beer—Brewers, holders, importers, etc.; chapter 314-24 WAC, Domestic wineries and domestic wine distributors; and chapter 314-28 WAC, Distillers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030, 66.24.145, 66.24.185, 66.24.240, 66.24.244.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As part of the liquor and cannabis board's ongoing rules review process, rules are being reviewed for relevance, clarity, and accuracy.

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

Process for Developing New Rule: Interested parties can participate in the discussions formulating this rule change by contacting or sending written comments to the agency staff listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Karen McCall, Agency Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, (360) 664-1631, fax (360) 664-9689.

February 8, 2017

Jane Rushford

Chairman

WSR 17-05-062
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY
 (Washington Apple Health)
 [Filed February 13, 2017, 8:17 a.m.]

Subject of Possible Rule Making: WAC 182-516-0100 Trusts, and other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160, 21st Century Cures Act, Title V - Savings, Sec. 5007 Fairness in Medicaid supplemental needs trusts (Section 1917 (d)(4)(A) of the Social Security Act/42 U.S.C. 1396p (d)(4)(A)).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The WAC needs to be amended to implement Title V, Sec. 5007 the 21st Century Cures Act to allow for a person to create his or her own D4A special needs trust. The agency also needs to revise references to incorrect WAC citations in WAC 182-516-0100. During the course of this review, the agency may identify additional changes that are required in order to improve clarity or update policy.

Process for Developing New Rule: The agency welcomes the public to take part in developing this rule. If interested, contact the person identified below to receive an early rule draft to review. After the early review, the agency will send a notice of proposed rule making (CR-102) to everyone receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Amy Emerson, P.O. Box 42716, Olympia, WA 98504-2716, fax (360) 586-9727, TTY 1-800-848-5429, email amy.emerson@hca.wa.gov.

February 10, 2017
 Wendy Barcus
 Rules Coordinator

WSR 17-05-075
PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION
 [Filed February 14, 2017, 8:14 a.m.]

Subject of Possible Rule Making: WAC 260-70-640 Permitted medication.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To consider amending the threshold levels for permitted nonsteroidal antiinflammatory drugs to the Association of Racing Commissioners International recommended model rules.

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 Douglas L. Moore, Executive Secretary,

Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, doug.moore@whrc.state.wa.us.

February 14, 2017
 Douglas L. Moore
 Executive Secretary

WSR 17-05-076
PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION
 [Filed February 14, 2017, 8:14 a.m.]

Subject of Possible Rule Making: WAC 260-70-545 Prohibited practices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update and amend prohibited practices as recommended by the Association of Racing Commissioners International model rules.

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 Douglas L. Moore, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, doug.moore@whrc.state.wa.us.

February 14, 2017
 Douglas L. Moore
 Executive Secretary

WSR 17-05-084
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY
 (Washington Apple Health)
 [Filed February 14, 2017, 10:05 a.m.]

Subject of Possible Rule Making: WAC 182-531-1675 Washington apple health—Gender dysphoria treatment program, and other related rules, as necessary.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.021, 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is revising these rules to:

- Simplify and clarify language, including but not limited to removing repetitive or unnecessary language, such as language that is located in other WAC and thus does not need to be duplicated in this WAC.

- Add information on medical necessity for prior authorization.
- Remove references to centers of excellence.
- Remove unnecessary administrative processes for the client and provider, including but not limited to multiple attestation forms.

During the course of this review, the agency may identify additional changes that are required in order to improve clarity or update policy.

Process for Developing New Rule: The agency welcomes the public to take part in developing this rule. If interested, contact the person identified below to receive an early rule draft to review. After the early review, the agency will send a notice of proposed rule making (CR-102) to everyone receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Amy Emerson, P.O. Box 42716, Olympia, WA 98504-2716, fax (360) 586-9727, TTY 1-800-848-5429, email amy.emerson@hca.wa.gov.

February 14, 2017
Wendy Barcus
Rules Coordinator

WSR 17-05-087
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
(Board of Boiler Rules)
[Filed February 14, 2017, 10:40 a.m.]

Subject of Possible Rule Making: Fee increase to boiler rules, WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.79 RCW, Boilers and unfired pressure vessels.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board of boiler rules is planning to increase fees by the fiscal-growth factor of 4.16 percent for fiscal year 2018 (office of financial management's maximum allowable fiscal growth rate). The boiler program's budget and projected revenue indicate a fee increase is necessary to cover the program's operating expenses.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no other federal and/or state agencies regulating this subject that required coordination of the rules.

Process for Developing New Rule: Interested parties can participate in the decision to adopt the new rules and formulation of the proposed rules before publication by contacting the individual listed below. The public can also participate, after amendments are proposed by providing written comments and/or testimony during the public hearing and comment process.

For more information on this rule making, visit the department of labor and industries (L&I) web site at

<http://www.lni.wa.gov/TradesLicensing/Boilers/LawRules/> or interested parties can sign up for email updates at <http://www.lni.wa.gov/Main/Listservs/Boilers>.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Alicia Curry, Management Analyst, L&I, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6244, fax (360) 902-5292, email Alicia.Curry@Lni.wa.gov.

February 14, 2017
Terry Chapin, Chair
Board of Boiler Rules

WSR 17-05-088
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed February 14, 2017, 11:14 a.m.]

Subject of Possible Rule Making: Chapter 16-08 WAC, Practice and procedure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.17.060 and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department proposes to amend chapter 16-08 WAC to improve language clarity, to update the department's procedure for conducting brief adjudicative proceedings and to list additional actions that the department may review in a brief adjudicative proceeding.

Under RCW 34.05.482 of the Administrative Procedure Act, an agency may use a brief adjudicative proceeding if:

- Use of those proceedings in the circumstances does not violate any provision of law;
- The protection of the public interest does not require the agency to give notice and an opportunity to participate to persons other than the parties;
- The matter is within a category the agency has identified by rule for use of a brief adjudicative proceeding; and
- The issue and interests involved in the controversy do not warrant use of a formal adjudicative proceeding.

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

Process for Developing New Rule: Affected stakeholders will 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 Henri Gonzales, Rules Coordinator, Administrative Regulations Program, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1802, fax (360) 902-2092, email hpotwin@agr.wa.gov.

February 10, 2017
Kirk Robinson
Deputy Director

WSR 17-05-099

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed February 15, 2017, 7:52 a.m.]

Subject of Possible Rule Making: Chapter 16-54 WAC, Animal importation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.36.040 and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is considering amending chapter 16-54 WAC to:

1. Change the requirement that rams must be tested negative on an ELISA test for *Brucella ovis* within thirty days before entering Washington state to sixty days;
2. Repeal WAC 16-54-101(4);
3. Remove the equine infectious anemia test exemption for equine moving to Washington from Idaho and Oregon; and
4. Remove the *M. bovis* test requirement for old world primates, gibbons, and great apes.

Changing the requirement from thirty days to sixty days for rams to be tested negative for *Brucella ovis* will allow for more flexibility for producers to attend multiple sales and shows prior to retesting. The Washington State Sheep Producers petitioned the department to repeal the requirement that black face sheep imported for breeding purposes must be genetic tested before entry to be QR or RR at the 171 codon. This repeal is necessary because most sheep producers are no longer breeding QQ. Washington, Idaho, and Oregon have identified equine infectious anemia horses in all three states and collectively have chosen to remove the test exemption in all three states. Old world primates, gibbons, and great apes are not subject to *M. bovis* testing because *M. bovis* is not seen in nonhuman primates.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: We will discuss the proposed changes with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services who have regulations in place for sheep. We will also be discussing with our Idaho and Oregon state animal health officials the removal of the equine infectious anemia test exemption.

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 Jodi Jones, Washington State Department of Agriculture, P.O. Box 42577, Olympia, WA 98504, phone (360) 902-1889, fax (360) 902-2087, email jjones@agr.wa.gov.

February 15, 2017
Lynn M. Briscoe
Assistant Director

WSR 17-05-101

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 15, 2017, 9:04 a.m.]

Subject of Possible Rule Making: The department is proposing to amend WAC 388-492-0040 May I choose whether I get WASHCAP food benefits or basic food benefits?, 388-492-0070 How are my WASHCAP food benefits calculated?, and other related rules as may be required related to the Washington combined application project (WASHCAP) in order to ensure that the project remains cost-neutral with supplemental nutrition assistance program (SNAP) benefits provided under the Washington basic food program or basic food.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 7 C.F.R. 282.1.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As required by the demonstration project waiver with the United States Department of Agriculture Food and Nutrition Service (FNS), the department will review the cost-neutrality between WASHCAP and basic food. Based on the findings of this evaluation, the department may amend WAC 388-492-0040, 388-492-0070, and other related rules as may be required to ensure that WASHCAP benefits are cost-neutral to SNAP.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, FNS enforces the provisions of the federal SNAP as enacted in the 2008 Food and Nutrition Act and codified in the Code of Federal Regulations. The department will develop amendments to WASHCAP rules that are consistent with the act, federal regulations, and our approved WASHCAP demonstration project waiver while ensuring cost-neutrality of the program.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Holly St. John, Program Manager, Economic Services Administration, Community Services Division, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 725-4895, fax (360) 725-4905, email Holly.St.John@dshs.wa.gov.

February 14, 2017
Katherine I. Vasquez
Rules Coordinator

WSR 17-05-102

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)**

[Filed February 15, 2017, 9:14 a.m.]

Subject of Possible Rule Making: The department is proposing to amend WAC 388-410-0030 How does the department calculate and set up my basic food, FAP, or WASHCAP overpayment?, 388-410-0033 How and when does the department collect a basic food, FAP, or WASHCAP overpayment?, and other related rules as may be required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20A.550, 43.20B.630, 74.04.050, 74.04.-055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and 7 C.F.R. 273.18.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The United States Department of Agriculture, Food and Nutrition Service (FNS) has approved the department's cost-effectiveness plan for pursuing overpayment claims. The department is proposing to amend WAC 388-410-0030, 388-410-0033, and other related rules as may be required to reflect the approved cost-effectiveness plan.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, FNS enforces the provisions of the federal supplemental nutrition assistance program (SNAP) as enacted in the 2008 Food and Nutrition Act and codified in the Code of Federal Regulations. The department will amend rules that are consistent with the act, federal regulations, and FNS administrative notices and formal guidance.

The state legislature authorizes the department to administer SNAP and food assistance program for legal immigrants under RCW 74.04.500, 74.04.510, and 74.08A.120.

DSHS incorporates regulations from the federal agencies, exercises state options, and implements approved waivers of federal regulatory requirements by adopting administrative rules for food assistance programs administered under the Washington basic food program.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file a proposal with the office of the code reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ezra Paskus, Program Manager, Economic Services Administration, Community Services Division, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 725-4611, fax (360) 725-4905, email paskuet@dshs.wa.gov.

February 14, 2017
Katherine I. Vasquez
Rules Coordinator

WSR 17-05-110

**PREPROPOSAL STATEMENT OF INQUIRY
ATTORNEY GENERAL'S OFFICE**

[Filed February 15, 2017, 11:14 a.m.]

Subject of Possible Rule Making: Mandatory inflation adjustment to civil penalties imposed for violation of the Medicaid False Claims Act, chapter 74.66 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.66.020 (1) and (5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislature, in enacting the False Claims Act (FCA), chapter 74.66 RCW, imposed civil penalties in RCW 74.66.020(1) of "not less than \$5,500 and not more than \$11,000, plus three times the amount of damages which the government entity sustains because of the act of that person ..." for violation of RCW 74.66.020 (1)(a) through (g). In RCW 74.66.020(5), the legislature required that the attorney general enact a rule to "... annually adjust the civil penalties established in subsection (1) of this section so that they are equivalent to the civil penalties provided under the federal false claims act and in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Justice (DOJ) enforces the federal FCA 31 U.S.C. § 3730(a). Section 1909 of the Social Security Act, 42 U.S.C. 1396h, provides that if a state enacts a substantially identical FCA, which includes having consistent penalty provisions, it can receive an additional ten percent of medicaid fraud recoveries which are typically split between federal and state.

Pursuant to Section 701 of the Bipartisan Budget Act of 2015, Public Law 114-74, titled the Federal Civil Penalties Inflation Adjustment Act Improvements Act (FCPIAAIA), congress required inflationary adjustments to the federal FCA penalty provisions. DOJ has made adjustments to the federal FCA penalty provisions and Washington's FCA penalties are not consistent. Pursuant to RCW 74.66.050(2), Washington must adopt regulations to be consistent.

Process for Developing New Rule: Effective February 3, 2017, DOJ, in accordance with FCPIAAIA, adjusted for inflation civil monetary penalties assessed or enforced by the department. This is the second time since enactment of the Washington medicaid FCA in May 2012 that the federal government has adjusted the civil penalties for the federal FCA. The new range is \$10,957.38 to \$21,916. See 31 U.S.C. 3729 (a), 28 C.F.R. 85.3 (a)(9)*. This triggers the process required under RCW 74.66.020(5) to adjust Washington's FCA penalties to keep pace with federal inflation adjustments. *<https://www.federalregister.gov/documents/2017/02/03/2017-01306/civil-monetary-penalties-inflation-adjustment-for-2017>.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting or submitting written comments to Douglas D. Walsh, Senior Assistant Attorney General, Director Medicaid Fraud Control Unit, Office of the Attorney General, P.O. Box 40114, Olympia, WA 98504, email DougW@atg.wa.gov, phone (360) 586-8872.

Interested parties can also use the email or mailing address above to request to be added to the stakeholder email list for this anticipated rule making. Rule-making information for interested parties will also be posted on the attorney general's office web site at www.atg.wa.gov.

February 15, 2017
Bob Ferguson
Washington State
Attorney General

WSR 17-05-111
PREPROPOSAL STATEMENT OF INQUIRY
ATTORNEY GENERAL'S OFFICE

[Filed February 15, 2017, 11:17 a.m.]

Subject of Possible Rule Making: WAC 44-10-200 (1)(d) and (6), 44-10-010(c), 44-10-180(5), 44-10-050(2), 44-10-100(3), and 44-10-110.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.118.080(2) and 19.118.061.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These proposed revisions will update, streamline, and enhance the efficiency of communications, recordkeeping, and procedures regarding vehicle arbitrations under this act. The revisions will also remove redundant provisions and enhance equity and fairness between the participants.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department of licensing has statutory direction regarding the proper titling, branding, or notification of corrected nonconformity of vehicles administered pursuant to RCW 19.118.061 (4)(a), (b), (c).

Process for Developing New Rule: The legislature, in enacting the Motor Vehicle Warranty Act, RCW 19.118.-080(2) directed that, "The attorney general shall adopt rules for the uniform conduct of the arbitrations by the boards whether conducted by an entity or by the attorney general pursuant to RCW 19.118.160"

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting or submitting written comments to G. Marc Worthy, Assistant Attorney General, Office of the Attorney General, 800 5th Avenue, Suite 2000, TB-14, Seattle, WA 98104, email marcw@atg.wa.gov, phone (206) 464-6388.

Interested parties can also use the email or mailing address above to request to be added to the stakeholder email list for this anticipated rule making. Rule-making information for interested parties will also be posted on the attorney general's office web site at www.atg.wa.gov.

February 15, 2017
Bob Ferguson
Washington State
Attorney General