



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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FILED

DATE: February 28, 2023
TIME: 2:32 PM

WSR 23-06-067

Agency: Department of Labor & Industries

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 22-17-071 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) Proposed changes to the Factory Assembled Structures (FAS) rules under Chapter 296-150C WAC, Commercial Coaches; Chapter 296-150F, Factory-built housing and commercial structures; Chapter 296-150P WAC, Recreational park trailers; Chapter 296-150R WAC, Recreational vehicles; and Chapter 296-150V WAC, Conversion vendor units and medical units.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 4, 2023	9:00 a.m.	Department of Labor & Industries 7273 Linderson Way SW Tumwater, WA 98501 OR Join by Zoom meeting at: https://lni-wa.gov.zoom.us/j/86477040744?pwd=aHIWbGt5WFcyMHIbWlnK0VaVElvUT09 Passcode: FASPH@1! OR Join by phone: 1-253-215-8782 Meeting ID: 864 7704 0744 Passcode: 87842912	The in-person and virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of intended adoption: April 11, 2023 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Alicia Curry
Address: Department of Labor & Industries
Field Services & Public Safety Division
PO Box 44400
Olympia, WA 98504-4400
Email: Alicia.Curry@Lni.wa.gov
Fax: 360-902-5292
Other:
By (date) 5 p.m. on April 4, 2023

Assistance for persons with disabilities:

Contact Alicia Curry
Phone: 360-902-6244

Fax: 360-902-5292
TTY:
Email: Alicia.Curry@Lni.wa.gov
Other:
By (date) March 20, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: L&I is proposing amendments to the factory assembled structures rules for review and approval of design plans by licensed professional

engineers, architects, and firms for commercial coach trailers, factory-built housing and commercial structures, recreational park trailers (also known as park model recreational vehicles and park trailers), recreational vehicles, and conversion vendor units.

Since 2021, L&I has adopted emergency rules allowing third party reviews by approved licensed professionals to reduce a backlog of design plans for review and approval in the Factory Assembled Structures (FAS) Program. The emergency rule clarifies the procedures for review and approval of design plans for commercial coaches and factory-built and commercial structures by licensed professional engineers, architects, or firms under chapters 296-150C and 296-150F WAC. The emergency rules also allow licensed professionals or firms to review and approve design plans for recreational park trailers, recreational vehicles, and conversion vendor units under chapters 296-150P, 296-150R, and 296-150V WAC. This rulemaking proposes the adoption of permanent rules.

The proposed amendments to the rules are in two parts. The first part, proposes amendments to update and clarify existing rules for review and approval of design plans for commercial coaches (chapter 296-150C WAC) and factory-built housing and commercial structures (chapter 296-150F WAC). The proposed amendments:

- Allow L&I to suspend or revoke a licensed professional's approval to review plans for submittal of substandard plans or a conflict of interest. This also includes, but is not limited to:
 - Adds new requirements for suspending and revoking a licensed professional authorization for substandard plans. For example:
 - Requires that plans must first be audited and found to be incomplete or contain multiple violations of the building code and other codes.
 - Establishes a minimum threshold that allows suspension or revocation if three or more approved plans are found during audit to be incomplete or contain multiple code violations in a one year period.
 - Adds new language to establish what constitutes as an "incomplete plan".
 - Establishes administrative processes and timeline for a licensed professional to reapply to regain their authorization to approve plans and a remedy to hear appeals of a suspension or revocation.
 - Establishes the actions L&I will take if a licensed professional's authorization to approve plans is revoked or suspended.
- Adopt current FAS procedures allowing for electronic submittal of plans and for engineer/architects stamping of plans in accordance with Department of Licensing (DOL) and Engineers Board of Registration requirements.
- Clarify the requirements for accepting plans to reflect the existing practice of the FAS program. This includes, but is not limited to:
 - Allows licensed professionals 90 days to correct design plans and information and resubmit the plan to L&I for acceptance, unless under an audit.
 - Clarifies that audits may be random or for noncompliance and subjects licensed professionals or firms to fees for L&I's review and approval of plans that do not comply with the requirements of the chapter.
 - Clarifies the existing procedures that audits include determining whether a plan complies with the program's written guidelines, as well as, the provisions of the chapter.
 - Clarifies that L&I will notify the applicant that submitted the design plan approved by the licensed professional for plans that do not comply with requirements, rather than the licensed professional plan reviewer.
- Clarify that a professional includes professional engineers, architects, or firms.
- Clarify that a professional engineer, architect, or firm cannot approve plans submitted for multistate approval under a reciprocal agreement.
- Remove obsolete fees for electronic plan submittal.
- Create new hourly fees for resubmittal of design plans approved by a professional or firm.
- Modify rules for general housekeeping and clean-up, such as punctuation, relocating requirements to other rules, typographical and reference corrections, formatting, section title changes, etc.

The second part, proposes amendments by adding new requirements for review and approval of design plans for recreational park trailers (chapter 296-150P WAC), recreational vehicles (chapter 296-150R WAC), and conversion vending units and medical units (chapter 296-150V WAC), among other changes. The proposed amendments:

- Modify the definition of "recreational park trailer" to further clarify its meaning.
- Allow licensed professionals or firms to review and approve design plans for recreational park trailers and recreational vehicles, excluding design plans for quality control manuals which must be reviewed and approved by L&I.
- Allow licensed professionals or firms to review and approve design plans for conversion vendor units, excluding design plans for medical units which must be reviewed and approved by L&I.
- Establish the licensed professionals or firms authorized to approve design plans and specifies the restrictions on authorization to approve plans.
- Establish requirements for the information that licensed professionals and firms must provide to L&I to become authorized to approve design plans.
- Establish requirements for notices of approval and denial for requests for authorization from licensed professionals and firms.

- Establish the timeframe that licensed professionals or firms are authorized to review and approve plans and the requirements for maintaining authorization. This also includes, but is not limited to:
 - Allows L&I to suspend or revoke a licensed professional's approval to review plans for submittal of substandard plans or a conflict of interest.
 - Adds new requirements for suspending and revoking a licensed professional authorization for substandard plans. For example:
 - Requires that plans must first be audited and found to be incomplete or contain multiple violations of the building code and other codes.
 - Establishes a minimum threshold that allows suspension or revocation if three or more approved plans are found during audit to be incomplete or contain multiple code violations in a one year period.
 - Adds new language to establish what constitutes as an "incomplete plan".
 - Establishes administrative processes and timeline for a licensed professional to reapply to regain their authorization to approve plans and a remedy to hear appeals of a suspension or revocation.
 - Establishes the actions the agency will take if a licensed professional's authorization to approve plans is revoked or suspended.
- Establish requirements for information that manufacturers must provide to L&I when submitting design plans approved by licensed professionals or firms.
- Adopt current FAS procedures allowing for electronic submittal of plans and for engineer/architects stamping of plans in accordance with Department of Licensing (DOL) and Engineers Board of Registration requirements.
- Establish requirements for the design plan approval process to reflect the existing practice of the FAS program. This includes, but is not limited to:
 - Allows licensed professionals 90 days to correct design plans and information and resubmit the plan to L&I for acceptance, unless under an audit.
 - Clarifies that audits may be random or for noncompliance and subjects licensed professionals or firms to fees for L&I's review and approval of plans that do not comply with the requirements of the chapter.
 - Clarifies the existing procedures that audits include determining whether a plan complies with the program's written guidelines, as well as, the provisions of the chapter.
 - Clarifies that L&I will notify the applicant that submitted the design plan approved by the licensed professional for plans that do not comply with requirements, rather than the licensed professional plan reviewer.
- Establish that L&I maintains a list of authorized licensed professionals and firms that approve design plans.
- Require addendums to a design plan to be approved by the professional or firm that initially approved the plan and if they are no longer on the list of professionals or firms then L&I will approve the addendum.
- Remove obsolete fees for electronic plan submittal.
- Create new fees for plans approved by licensed professionals.
- Create new hourly fees for resubmittal of design plans approved by a professional or firm.
- Modify rules for general housekeeping and clean-up, such as adding new section headers, section title changes, etc.

Reasons supporting proposal: Due to staffing shortages, the FAS Program developed a backlog of design plans for review and approval. Since 2021, L&I has filed emergency rules (WSR 22-01-190, WSR 22-09-063, WSR 22-17-070, WSR 23-01-038) to allow for third party reviews by licensed professionals, which has successfully reduced the backlog of design plans for review and approval in the FAS Program. A CR-101 Preproposal Statement of Inquiry (WSR 22-17-071) was filed on August 16, 2022, to initiate the permanent rulemaking process.

This rulemaking proposes the adoption of permanent rules and is necessary to continue allowing manufacturers an alternative method to obtain approved plans in a timely manner.

Statutory authority for adoption: Chapter 43.22 RCW

Statute being implemented: Chapter 43.22 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Labor & Industries

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Dale Partin, Prog. Mgr.	Tumwater, Washington	360-575-6933

Implementation: Steve Reinmuth, Asst. Dir. Tumwater, Washington 360-902-6348

Enforcement: Steve Reinmuth, Asst. Dir. Tumwater, Washington 360-902-6348

Is a school district fiscal impact statement required under [RCW 28A.305.135?](#) Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328?](#)

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Alicia Curry
Address: Department of Labor & Industries
Field Services & Public Safety Division
PO Box 44400
Olympia, WA 98504-4400
Phone: 360-902-6244
Fax: 360-902-5292
TTY:
Email: Alicia.Curry@Lni.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: See explanation in section 2 below.

(2) Scope of exemptions: Check one.

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

	Proposed WAC Sections and Title	This proposed rule section is <u>not exempt</u>- Analysis is required	This proposed rule section is <u>exempt</u>. Provide RCW to support this exemption.
1.	WAC 296-150C-0310, Who can approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
2.	WAC 296-150C-0420, Who can be authorized to approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
3.	WAC 296-150C-0430, What information must a professional or firm provide to be authorized to approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
4.	WAC 296-150C-0450, How long is a licensed professional or firms authorization effective?	<input checked="" type="checkbox"/>	This section is partially exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
5.	WAC 296-150C-0460, What information must a manufacturer provide when a professional or firm does the design-plan approval?	<input checked="" type="checkbox"/>	This section is partially exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
6.	WAC 296-150C-0480, Do you have a list of professionals or firms that are authorized to approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
7.	WAC 296-150C-3000, Commercial coach fees.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) and RCW 34.05.310(4)(f) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements and sets or adjusts fees or rates according to legislative standards pursuant to RCW 43.22.
8.	WAC 296-150F-0310, Who can approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
9.	WAC 296-150F-0420, Who can be authorized to approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
10.	WAC 296-150F-0430, What information must a professional or firm provide to be authorized to approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
11.	WAC 296-150F-0450, How long is a licensed professional or firms authorization effective?	<input checked="" type="checkbox"/>	This section is partially exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
12.	WAC 296-150F-0460, What information must a manufacturer provide when a professional or firm does the design-plan approval?	<input checked="" type="checkbox"/>	This section is partially exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
13.	WAC 296-150F-0480, Do you have a list of professionals or firms that are authorized to approve design plans?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
14.	WAC 296-150F-3000, Factory-built housing and commercial structure fees.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) and RCW 34.05.310(4)(f) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements and sets or adjusts fees or rates.
15.	WAC 296-150P-0020, What definitions apply to this chapter?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
16.	WAC 296-150P-3000, Recreational park trailer fees.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) and RCW 34.05.310(4)(f) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements and sets or adjusts fees or rates.
17.	WAC 296-150R-3000, Recreational vehicle fees.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) and RCW 34.05.310(4)(f) because it adopts changes that clarify language of the

			rule without changing the substance or effect of requirements and sets or adjusts fees or rates.
18.	WAC 296-150V-0800, What codes apply to conversion vendor units or medical units?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements.
19.	WAC 296-150V-3000, Conversion vendor units and medical units – Fees.	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) and RCW 34.05.310(4)(f) because it adopts changes that clarify language of the rule without changing the substance or effect of requirements and sets or adjusts fees or rates.

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. According to the Regulatory Fairness Act (RFA) under RCW 19.85.030, an agency shall prepare a small business economic impact statement (SBEIS): (i) If the proposed rule will impose more than minor costs on businesses in an industry; or (ii) if requested to do so by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rulemaking under RCW 34.05.320. The proposed rule does not impose additional costs on affected entities and individuals; rather the proposed rule generates a cost savings by providing an alternative for obtaining design plan approval. As such, L&I is exempt from conducting a Small Business Economic Impact Statement for this rulemaking.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: February 28, 2023

Name: Joel Sacks

Title: Director

Signature:

