



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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STATE OF WASHINGTON
FILED

DATE: September 21, 2021

TIME: 8:12 AM

WSR 21-19-124

Agency: Department of Labor & Industries (L&I)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-17-071 ; 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 296-150I WAC, Manufactured Home Installer Training and Certification Program, and chapter 296-150M WAC, Manufactured Homes.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 27, 2021	9:00 a.m.	Virtual and telephonic hearing only. Please join on your computer or mobile app (Microsoft Teams) Click here to join the meeting or visit: https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGRhOGMyMTUtM2I0My00M2Y4LTg5NzUtM2NhMDQ4NjEwNzkw%40thread.v2/0?context=%7b%22id%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22oid%22%3a%22acb1df6f-3588-43aa-b503-63aebce21ddc%22%7d	The virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.
		Or call in (audio only) 1-253-372-2181 Phone Conference ID: 616 416 458# (pound sign must be entered)	

Date of intended adoption: December 21, 2021 (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 October 27, 2021

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) October 13, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: L&I is proposing amendments to the FAS rules that apply to manufactured homes, installations, and installer training and certification. The purpose of this rulemaking is to update the existing rules for consistency with U.S. Department of Housing and Urban Development (HUD) regulations.

In 2017, SEBA Professional Services, LLC (SEBA), a contractor for HUD Office of Manufactured Housing, reviewed and audited the FAS installer program rules and standards to ensure the state's compliance with HUD regulations. The SEBA report identified six findings in the FAS rules and standards for manufactured homes, three of which require changes to the rules for L&I to meet its contractual obligations and be fully compliant with HUD regulations. This rulemaking addresses those findings to ensure the rules are consistent with the federal regulations.

In addition, L&I is proposing updates, clarification, housekeeping, and other changes to the rules under chapter 296-1501 WAC, to bring the rules up-to-date and improve public safety.

The proposed rules will:

- Amend rules to address HUD findings from the 2017 audit report. This includes, but is not limited to:
 - Adds requirements that homeowners installing their own manufactured or mobile home must become an "approved homeowner" and meet other requirements to do their own installation work in the state of Washington. This also includes, but is not limited to:
 - Making homeowners attend and pass an installer training class to become "approved" prior to starting the installation work;
 - Making homeowners purchase "installer certification tags" for use on their home and responsible for complying with security, use, and reporting requirements;
 - Adding a new definition to define the meaning of "approved homeowner"; and
 - Adding homeowners to the fees payable to L&I for testing and approval.
 - Adds requirements that certified installers must verify and acknowledge site preparations for new manufactured homes before commencing any installation work; and
 - Replaces the American National Standards Institute (ANSI) A225.1 standard with the Model Manufactured Home Installation 24 Code of Federal Regulations (C.F.R.) Part 3285 standards that are used to federally regulate all manufactured home installations in the United States.
- Amend rules to adopt new 2021 HUD codes for mobile and manufactured housing and to align with state building codes, for example:
 - Adds requirements that carbon monoxide detectors must be installed in some relocated manufactured homes and allowing the devices to be battery operated;
 - Eliminates the ability of local jurisdictions to impose regulations on carbon monoxide detectors, as this is regulated by the federal standards; and
 - Adds requirements for manufactured homes designed to support an "attached accessory building or structure".
- Amend rules for general updates, for example:
 - Adds requirements that manufactured homes in storage or on display for more than ninety days must have support under the floor to prevent damage to the home prior to installation;
 - Adds requirements that installers must provide an affidavit to L&I when the federal installation standard is used in lieu of the manufacturer's installation manual to assist building inspectors with installation inspections;
 - Clarifies that local jurisdictions can impose the installation of fire sprinklers for manufactured homes if they require sprinklers for all homes in their jurisdiction;
 - Adds requirements that Design Approval Primary Inspection Agency (DAPIA) design plans used for repairs must be submitted to L&I for plan review to verify the repair work is being done correctly;
 - Adds requirements that drainage systems must be installed to divert groundwater from the underside of the home if a home is pit set; and
 - Allows an alternative location to place installer certification tags where the tag will be better protected from long-term weather exposure.
- Amend rules pertaining to permit requirements, for example:

- Prohibits manufactured home installation work without the issuance of a permit by the local building department to allow for consistency with building code requirements and for process improvement; and
- Eliminates the requirement for L&I permits when re-leveling a home, installing new skirting and other work for inspections that is the jurisdiction of the local building department.
- Amend the fees payable to L&I, for example:
 - Creates a new fee for L&I manufactured home installation inspection permits that applies to local enforcement agencies and cities and counties with L&I inspection contracts;
 - Removes “training” from the existing fees to allow for online training that is now available to the public free of charge; and
 - Clarifies the existing fees that apply to manufactured home installers and inspectors for testing and certification.
- Amend rules to incorporate L&I’s existing policies and practices into rule, for example:
 - Removes the ability for local enforcement agencies to sell installer certification tags, as this process is no longer in use;
 - Removes the ability of manufactured home retailers to issue installer certification tags to certified manufactured home installers, as this process is no longer in use;
 - Clarifies that L&I may investigate complaints about “installer certification tag” usage, when enforcing compliance with the installer certification rules;
 - Clarifies that relocated manufactured homes must be installed according to the manufacturer’s installation instructions; and
 - Clarifies that installer certification tags must be placed on a home upon completion of each installer’s portion of the work, so it is available to local Authorities Having Jurisdiction (AHJ) when doing inspections.
- Amend rules for consistency with statute, for example:
 - Clarifies that L&I has the discretion to revoke installer certification based on the severity of infractions;
 - Creates new definitions for clarity of terms used throughout the chapter, such as “notice of infraction”, “mobile homes”, and “local enforcement agency”; and
 - Creates a new section to clarify that L&I monitors the installation and inspection of manufactured homes in Washington State to assure compliance with statute and federal regulations.
- Amend, repeal, and create new definitions to the chapter, for example:
 - Defines “approved homeowner” for consistency with federal regulations;
 - Defines “DAPIA”, “HUD”, and “IBTS” for clarity of acronyms used throughout the chapter;
 - Defines “installation” to provide clarity on the process of installation;
 - Amends “manufactured/mobile home dealer” for consistency with Department of Licensing (DOL) law;
 - Repeals “compliance inspector”, as this is one of several persons who may be issuing corrections and infractions; and
 - Repeals “extension of the pressure relief valve for the water heater” and “mobile or manufactured home installation”, as these are requirements and not definitions.
- Amend rules for clarity, simplicity, and to streamline the rules, for example:
 - Replaces “mobile or manufactured home” with “manufactured or mobile home” and “manufactured home” throughout the chapter for consistency with current industry terminology;
 - Replaces “on-site work and equipment installation” for use of the newly defined term of “installation” under the definitions, which serves as a global term that is clearer;
 - Eliminates the “Washington installer code” throughout the chapter, as the installation requirements are not installation code; and
 - Clarifies that on-site structures are only those that are adjacent structures.
- Amend rules for general housekeeping, such as punctuation, amending the chapter title, eliminating the question and answer format in section titles, relocating requirements to other rules, typographical and reference corrections, formatting, removal of obsolete language, etc.

Reasons supporting proposal: L&I contracts with HUD to administer several parts of the federal manufactured home program within Washington State. In addition to installer and factory inspection functions, L&I also administers the consumer complaint program for Washington manufactured home owners. As part of L&I’s contract with HUD, their subcontractors regularly audit the various functions of the FAS program. This rulemaking is necessary to address HUD’s findings from the 2017 audit that require revisions to the rules to ensure consistency with the federal standards. This rulemaking is also necessary to update rules to improve public safety.

Statutory authority for adoption: Chapter 43.22 RCW, Department of Labor and Industries, and chapter 43.22A RCW, Mobile and Manufactured Home Installation.

Statute being implemented: Chapter 43.22 RCW, Department of Labor and Industries, and chapter 43.22A RCW, Mobile and Manufactured Home Installation.

Is rule necessary because of a:

Federal Law? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes No

If yes, CITATION: Titles 24 CFR 3282, 24 CFR 3285 and 24 CFR 3286.

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

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Shane Daugherty, Prog. Mgr.	Tumwater, Washington	360-902-5218
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 Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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: Titles 24 CFR 3282, 24 CFR 3285 and 24 CFR 3286. If these rules are not adopted, then Washington State will not be in conformance with preemptive federal regulations regarding manufactured housing and its installation.

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 checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" 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 checked="" 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 ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated. Most of the proposed rule changes are exempt from the Small Business Economic Impact Analysis (SBEIS) requirements under RCW 19.85.025. For those changes that are not exempt L&I assessed those significant legislative rule amendments for their potential cost implication to impacted businesses. This includes:

- Adding a new definition for "approved homeowner";
- Requiring a homeowner to pass the installer training class to become "approved" to install their own manufactured home;
- Requiring certified manufactured home installers to verify and acknowledge the adequacy of site preparations for new manufactured homes prior to installation of the home;
- Removing the allowance for local cities and counties to sell installer certification tags;
- Making "approved homeowners" purchase an "installer certification tag" for use on their home;
- Making "approved homeowners" who purchase an "installer certification tag" responsible for complying with security, use and reporting requirements;
- Requiring "approved homeowners" to send an application to L&I in order to purchase an installer certification tag;
- Removing the allowance for applications for installer certification tags to be sent to cities and counties;
- Clarifying that manufactured home retailers do not issue certification tags to certified installers;
- Revising the locations for placement of installer tags;
- Adding "approved homeowners" to the requirements that local building departments cannot issue final approval of an installation until the installer certification tags have been affixed to the home;
- Requiring "approved homeowners" to send a monthly report to L&I of installer certification tag usage;
- Clarifying that L&I may investigate complaints about "installer certification tag" usage;
- Adding fire sprinklers to the list of requirements that jurisdictions can impose on manufactured homes;
- Replacing the American National Standards Institute (ANSI) A225.1 standard for manufactured home installations with the Model Manufactured Home Installation Standards (MMHI) Title 24 CFR Part 3285;
- Requiring the installation of carbon monoxide (CO) alarms in some relocated manufactured homes in accordance with HUD requirements and allowing CO alarms to be battery operated;
- Requiring that manufactured homes being stored or displayed for longer than 90 days to have additional support under the floor;
- Requiring homeowners to be "approved" in order to install their own manufactured home;
- Disallowing manufactured home installation work to start until the local building department has issued the permit;
- Requiring an installer provide an affidavit to the local building inspector stating which installation instructions have been used when the original instructions are not available for a secondary installation;
- Requiring that repair plans approved by the manufacturer's DAPIA be sent to L&I plan review for verification when a home is damaged during transit or set-up;
- Making the installer "training" fee applicable to "installer testing and certification";
- Making the fee for "training only for 10 hours" applicable to "homeowner testing and approval"; and
- Making the "manufactured/mobile home installation inspector training" fee applicable to "manufactured home installation inspector testing and certification".

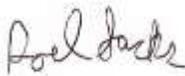
To calculate costs, the cost to small businesses were first estimated for the cost of site verification by determining the number of installations, and the time and cost required to complete a site verification. Second, L&I estimated the cost to support homes on display and homes in storage for 90 days or more by determining the number of homes that would be subject to this requirement and the cost to support each home. Third, L&I allocated the assumed share of each cost to the

respective industries. Currently, there is a lack of specific information on how many installations are completed by businesses within NAICS 321991 and those in NAICS 453930. In addition, there is some overlap in installations where some manufactured home dealers also engage in installation work. Without knowing this exact ratio, L&I relies upon best knowledge and reasonable assumptions to estimate the per-business-cost to businesses in these cost-bearing industries. When compared to the minor-cost threshold (1% of annual payroll), this clearly indicates the average per-business cost of the proposed rule amendments [for each respective industry] is far below the threshold for businesses in any of the affected industries identified in the SBEIS as potentially impacted by the rule. As such, L&I is exempt from conducting a Small Business Economic Impact Statement (SBEIS) 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 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: September 21, 2021	Signature: 
Name: Joel Sacks	
Title: Director	