

# CONCISE EXPLANATORY STATEMENT

## Factory Assembled Structures Rules

**Chapter 296-150C WAC, Commercial Coaches, Chapter 296-150F WAC, Factory-built housing and commercial structures, Chapter 296-150P WAC, Recreational park trailers, Chapter 296-150R WAC, Recreational vehicles, Chapter 296-150V WAC, Conversion vendor units and medical units**

Public Hearing: April 4, 2023

Adoption: April 11, 2023

Effective: April 11, 2023

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## **I. Purpose of Rulemaking**

The purpose of this rulemaking is to adopt 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.

### **A. Background**

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 clarified 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 allowed 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 adopts the standards in the emergency rules as permanent rules.

### **B. Summary of the rulemaking activities**

The rule development process includes an opportunity for review and recommendations from stakeholders and interested parties, the FAS Advisory Board, and through the public hearing process.

Stakeholders receive notices about rulemaking via the Program's interested party distribution lists, agency's website, and FAS Advisory Board.

L&I adopted emergency rules ([WSR 22-01-190](#), [WSR 22-09-063](#), [WSR 22-17-070](#), [WSR 23-01-038](#)) in 2021 and 2022, to help reduce the backlog of design plans and address recruitment and retention of plans examiners, while considering adopting permanent rules.

L&I filed a CR-101 Preproposal Statement of Inquiry ([WSR 22-17-071](#)) on August 16, 2022.

Notice to solicit preliminary comments on the draft proposed rules were sent to stakeholders and interested parties. Stakeholders had the opportunity to comment on the draft proposed rules from December 7 through December 21, 2022.

L&I seeks the advice of the FAS Advisory Board for all rule changes, which consists of multiple representatives in the industry. The draft proposed rules were shared with the board at the November 17, 2022, meeting. The board has not provided any recommendations for changes.

L&I filed the CR-102 Proposed Rulemaking ([WSR 23-06-067](#)) on February 28, 2023.

## **II. Changes to the Rules**

There are no differences between the rules as proposed and adopted.

## **III. Comments on proposed rule**

The purpose of this section is to respond to the oral and written comments received through the public comment period and at the public hearing.

### **A. Comment Period**

The public comment period for this rulemaking began on February 28, 2023. L&I received one (1) written comment.

### **B. Public Hearing**

A public hearing was held on April 4, 2023, at 9:00 a.m. at the Department of Labor & Industries, 7273 Linderson Way SW, Tumwater, Washington. A virtual and telephonic option was also provided. Six (6) L&I staff and twelve (12) other persons attended the public hearing. Five (5) persons provided testimony.

### **C. Summary of Comments Received and Department Response**

Below is a summary of the comments the department received and the department’s response.

General Comments	Department Response
<p><b>Comment #1</b></p> <p>As the Director of Government Affairs for the Modular Building Institute, the international trade association of the modular industry, I support the adoption of CR-102 and the use of third-party agencies for plan reviews in Washington.</p> <p>I began working closely with the L&amp;I leadership team including Annette Taylor and Dale Partin in 2021 when plan reviews were delayed as much as 6 months. I worked directly with the L&amp;I team to help them incorporate the use of third-party agencies as used by many states across the country. This process increased efficiencies in the department and quickly reduced plan review times to an acceptable turnaround time of just a few weeks.</p> <p>The modular construction industry is highly involved in construction of affordable housing in Washington. By adopting CR-102, it will allow our industry to continue to provide high quality affordable housing to support the states housing needs.</p> <p>Additionally, I recommend L&amp;I to consider the adoption of ANSI 1200 and ANSI 1205, which would further increase efficiencies in the department by allowing these same third-party agencies doing plan reviews to also assist in inspections for the modular industry. We have companies outside of the state who have ceased doing business and building affordable housing in Washington until there is a more efficient process in place to complete inspections. We respectfully request this process to be considered by the L&amp;I team.</p>	<p><b>Response #1</b></p> <p>Thank you for your testimony and for your support in favor of adopting these proposed rules.</p> <p>And thank you for your suggestion we use ANSI 1200 and 1205 for the regulation of off-site construction. Though we will review the two referenced ICC standards, Building Analysis is reviewed as part of the plan submittal process for modular construction, and 1205 is a reference to off-site construction already reflected in statute and associated rule verbiage.</p> <p>If you have any questions, please feel free to contact Chris Rarig at <a href="mailto:FAS1@Lni.wa.gov">FAS1@Lni.wa.gov</a>.</p>
<p><b>Comment #2</b></p>	<p><b>Response #2</b></p>

<p>I am representing Tagueria Los Chilangos. We are in the business of a food truck and restaurant, Mexican food. And I am for the proposed amendment to create this -- to have a licensed professional to be permanent. I would propose for L&amp;I to make the proposed amendment be permanent. We recently did use the service, and we can feel – and previously it's been -- it's taking longer with the backlog, and costly, and we feel the benefit of proceeding so we can actually do a service -- do our business rather than waiting for the truck to get approved. I hope that is sufficient for testifying? The point is we feel that if we can make this permanent, it's going to be supportive in cutting the backlog.</p>	<p>Thank you for your testimony and for your support in favor of adopting these proposed rules.</p> <p>If you have any questions, please feel free to contact Chris Rarig at <a href="mailto:FAS1@Lni.wa.gov">FAS1@Lni.wa.gov</a>.</p>
<p><b>Comment #3</b></p>	<p><b>Response #3</b></p>
<p>We're a factory-direct supplier of commercial modular buildings serving anything from public and private schools, medical facilities, Native American building needs, government building needs, and have enjoyed a great relationship with Washington L&amp;I in our 52-year history. I'm testifying today to urge you to make permanent the use of licensed professionals and a third party for plan reviews. Our industry sells speed, and school districts rely on us to perform and provide building space on very tight turns, and everything we do in our integrated business line requires efficiency and speed. And plan reviews sometimes can last longer than the whole construction process that we do in design engineering, procurement production, shipping and installation. Back in '21 or '20, whenever the program basically screeched to a halt, it drastically affected our business as well as our clients, which were a lot of public schools that waited months and months and months longer for buildings, and planned on having those buildings ready for them for the start of school, and it did not happen.</p> <p>My cousin, who is our CFO, we just recently did a lookback on those affected projects during that time period before a third party was authorized and the dam of plan reviews was finally released. It was</p>	<p>Thank you for your testimony and for your support in favor of adopting these proposed rules.</p> <p>If you have any questions, please feel free to contact Chris Rarig at <a href="mailto:FAS1@Lni.wa.gov">FAS1@Lni.wa.gov</a>.</p>

<p>north of \$500,000 of cost impacts to our -- straight to our bottom line during that time period as we sat and waited and waited for a solution and being able to move forward on these projects. That was during a time of great inflation of building materials, wages, and whatnot. And so we are very concerned that if this option, this extra tool that L&amp;I can provide to its clients is not there, that those type of times could hit again if there's another staffing shortage or -- and we're left hanging waiting for these plan reviews.</p> <p>I also serve as secretary of the Modular Building Institute. We're an international trade association that represents prefabricated structures across the country. And across the country, we see this model used by a lot of states - the closest one being California, uses this – and it's very effective, it serves the state of California well, it serves us well, and it serves our common clients well, meaning school districts and other government agencies that use our products.</p> <p>So, again, I urge you to allow licensed professionals, using a third party option to continue forward for plan reviews with the state of Washington.</p>	
<p><b>Comment #4</b></p>	<p><b>Response #4</b></p>
<p>I'm with Blazer Industries, and we're a modular manufacturer, and we've been submitting and working with Washington for over 40 years. We build primarily commercial buildings but also some residential. I'd like to just voice my support for making the licensed professional option a permanent option as written up. And it has been valuable as the staffing of the L&amp;I FAS plan review has dropped down to one sometimes and currently seems to be two that we currently work with, having licensed professionals when we're submitting multiple plans. Like right now I have eight plans for schools that I'll be submitting in the next three weeks, and if there's only one or two people reviewing, that could</p>	<p>Thank you for your testimony and for your support in favor of adopting these proposed rules.</p> <p>If you have any questions, please feel free to contact Chris Rarig at <a href="mailto:FAS1@Lni.wa.gov">FAS1@Lni.wa.gov</a>.</p>

<p>drastically affect our backlog.</p> <p>As Alan mentioned, we are in the business of providing quick turnarounds. And, historically, when things were three or four weeks, that was great, but then they moved to six, eight, 10, 12-plus weeks, and that drastically hurt us, as we could have built the whole building in the time we were waiting for plan review.</p> <p>So having the option for licensed professionals provides more ability for FAS to service the needs of our whole industry. And we're only -- Alan and I are only two drops in the larger bucket of companies that are submitting to your Department. So, again, I'd just like to voice our Support. Thank you.</p>	
<p><b>Comment #5</b></p>	<p><b>Response #5</b></p>
<p>I represent Tagueria Los Chilangos also. I would like to testify that I also support the legislation being approved to make this permanent. I have helped with our company getting two food truck plans approved; one is already approved, and one is in the process.</p> <p>The first one we went through the traditional process of sending it to L&amp;I, and we found that, in addition for it taking quite a while because of backlog, when we moved over to using the emergency rule use licensed professional, it was much faster. We had a much better experience. They were able to focus a lot more on us. And, overall, we believe that the experience overall is very beneficial, not just to save time but also to ensure that we're doing everything correct, and we were able to get our food trucks out to sell quickly.</p> <p>I would also like to request a clarification in WAC 296-150R-0520. It states in subsection 2 that "a professional engineer licensed in another state." I was wondering if this could be clarified to the extent if</p>	<p>Thank you for your testimony and for your support in favor of adopting these proposed rules.</p> <p>In regards to your question about using Licensed Professionals from other countries such as Canada and Mexico; we are limited by the provisions in Washington state law which state: <i>RCW 43.22.360 (3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.</i> Based on the wording in the RCW we do not have the authority to accept plans reviewed and approved by out of country engineers.</p> <p>In regards to your question about "quality control plans"; the WAC 296-150R-0520 that is cited is for Recreational Vehicles.</p>

<p>international engineers, for example, accredited in countries such as Canada or Mexico, would also qualify under "a professional engineer," and also clarify the verbiage on quality control plans. That is all I have.</p>	<p>Under our rules RV manufacturers must submit a Quality Control (QC) plan for approval. The QC plan details how the manufacturer will assure the RV units they build will meet the national RV standard. This QC manual requirement only applies to RV's and to Park Model RVs built under chapter 296-150P WAC. There is no requirement in chapter 296-150V WAC that vendor manufacturers submit a QC plan to build food trucks and trailers.</p> <p>If you have any questions, please feel free to contact Chris Rarig at <a href="mailto:FAS1@Lni.wa.gov">FAS1@Lni.wa.gov</a>.</p>
<p><b>Comment #6</b></p>	<p><b>Response #6</b></p>
<p>We've been working with Washington on and off over the years. The most recent time is currently, actually. We're working with them building some ADUs - accessory dwelling units – that are being located in the greater Seattle area, but we've had some experience that I think would be relevant here, so...The plans are being repeated, the units are being built from approved plans, but we did need a revision upfront when we started building with Washington -- in Washington a few -- probably year and a half ago. And what would have been a simple revision with a third party that's similar to other states we worked in was just a Herculean effort by the L&amp;I staff. And I wanted to point out that the L&amp;I staff is full of really good people who really work hard, and the gentleman that was helping us was very, very helpful. He said, "Listen, there's a queue. There's a line. There's this, "and all we had to do was change the name on the plan from one factory to ours at the request our client. So it was a simple thing, but it still took him probably three weeks to get everything done, and he just had a mountain of work on him.</p>	<p>Thank you for your testimony and for your support in favor of adopting these proposed rules.</p> <p>If you have any questions, please feel free to contact Chris Rarig at <a href="mailto:FAS1@Lni.wa.gov">FAS1@Lni.wa.gov</a>.</p>



So what I wanted to point out was that in the use of third-party agencies, the burden of staffing and timing is removed -- or lessened, I should say, in the government --in the government bureau. The third party has -- being in the private sector, has freedom to grow, to shrink, and outsource, and to adapt to the marketplace, whereas government bureaus can't. They're strictly limited in personnel, in head counts, in hours.

And I just noticed, over my 25 years of building modularly, that the personnel in these departments are so stretched out when they're trying to do it all themselves, whereas if a third party is there, then they become a regulator of the regulator. So rather than being the plan checker and having to fill the customer inquiries and doing all the legwork, they work on the higher level of regulating the third party. And the third parties are very good at managing client flow, managing ups and downs, and it just works better for everyone: fees are lower, head counts are lower, everyone is happier.

And I think the other gentleman, Rock, and the other gentleman could agree on this too, is it seems to be a lot happier state of affairs when a third party is taking the brunt of all that stress, and you can really have a happier group of employees in the Department.