



PROPOSED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: February 20, 2024

TIME: 4:03 PM

WSR 24-05-077

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

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 23-21-052 ; 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) Contractor Registration Rules. WAC 296-200A-015, What terms do I need to know to understand this chapter?, WAC 296-200A-030, How much are the surety bond or savings account amounts?, WAC 296-200A-080, How is a suit filed against a contractor?, WAC 296-200A-400, What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.040, 18.27.100, 18.27.110, 18.27.114 or 18.27.200?, WAC 296-200A-900, What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 26, 2024	9:00 a.m.	Department of Labor & Industries 7273 Linderson Way SW, Room S117 Tumwater, WA 98501 OR Join electronically: https://lni-wa.gov.zoom.us/j/82737231807?pwd=VmdmTGdkMGh2dDAybGpnbjRsOHBBUT09 Passcode: hearing1@! OR Join by phone: 253-215-8782 US Webinar ID: 827 3723 1807 Passcode: 5064095270	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 30, 2024 (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:
Other:
By (date) 5 p.m. on March 26, 2024

Assistance for persons with disabilities:

Contact Alicia Curry
Phone: 360-902-6244

Fax:
TTY:
Email: Alicia.Curry@Lni.wa.gov
Other:

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rulemaking proposes amendments to the Contractor Registration rules. The amendments affect the definitions, penalty and bond amounts, and fees for general and specialty contractors. The amendments are necessary due to the passage of legislation and to support operating expenses for the Contractor Registration Program (Program).

2023's Second Substitute House Bill 1534 (2SHB 1534) (Chapter 213, Laws of 2023) helps to strengthen protections for consumers in the construction industry. Provisions of the bill increase fines, penalties, and bond amounts for contractors. These provisions take effect July 1, 2024.

2019's Senate Bill 5795 (SB 5795) (Chapter 155, Laws of 2019) increases bond requirements for contractors. The law gives L&I the authority to require up to three times the normal bond amount if there has been one judgment against a contractor involving a residential single-family dwelling. The law took effect July 28, 2019.

The proposed rules include:

- Increasing fees by the fiscal growth factor of 6.40 percent to support operating expenses.
- Amendments for consistency with the statutory amendments under 2SHB 1534. This includes:
 - Adding a new definition to define the meaning of "due diligence" related to a successor of an entity verifying the entity is in good standing related to unsatisfied final judgment against it for work performed under chapter 18.27 RCW or owes money to L&I for assessed penalties or fees as a result of a final judgment.
 - Increasing surety bond and savings account amounts for general and specialty contractors.
 - Increasing the monetary penalty amounts that may be assessed for infractions issued for violations of chapter 18.27 RCW.
- Amendments for consistency with the statutory amendments under SB 5795. This includes:
 - Amending the number of final judgements and single-family dwelling structures involved for when a bond or savings account can be increased.
- Amendments for updates and clarification. This includes:
 - Clarifying the service fee for summons and complaints by removing the fee amount and referencing the fee schedule.
 - Clarifying the requirements for collection of penalties from a contractor and payments of restitution.

Reasons supporting proposal: L&I is amending the rules for consistency with the statutory amendments under 2SHB 1534 that take effect July 1, 2024, and SB 5795 that took effect July 28, 2019. A fee increase by the fiscal growth factor is needed, as current fee levels are not adequate to cover current Program expenses. A fee increase will ensure the Programs' revenues match expenditures.

Statutory authority for adoption: 2SHB 1534 (Chapter 213, Laws of 2023), SB 5795 (Chapter 155, Laws of 2019), and Chapter 18.27 RCW

Statute being implemented: 2SHB 1534 (Chapter 213, Laws of 2023), SB 5795 (Chapter 155, Laws of 2019), and Chapter 18.27 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:	Melissa McBride, Prog. Mgr.	Tumwater, WA	360-902-5571
Implementation:	Steve Reinmuth, Asst. Dir.	Tumwater, WA	360-902-6348
Enforcement:	Steve Reinmuth, Asst. Dir.	Tumwater, WA	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:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: The proposed amendments are exempt from the cost-benefit analysis requirement under RCW 34.05.328(5)(b)(iv), RCW 34.05.328(5)(b)(v), and RCW 34.05.328(5)(b)(vi), or not considered significant legislative rules under RCW 34.05.328(5)(c)(ii).

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 checked="" 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	This proposed rule section is not exempt - Analysis is required	This proposed rule section is exempt . Provide RCW to support this exemption.
1.	WAC 296-200A-015, What terms do I need to know to understand this chapter?	<input checked="" type="checkbox"/>	
2.	WAC 296-200A-030, How much are the surety bond or savings account amounts?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(e) because it adopts content of which is explicitly and specifically dictated by statute.
3.	WAC 296-200A-080, How is a suit filed against a contractor?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) because it makes changes that only clarify language of a rule without changing the substance or effect of requirements.
4.	WAC 296-200A-400, What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.040, 18.27.100, 18.27.110, 18.27.114 or 18.27.200?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(d) and RCW 34.05.310(4)(e) because it makes changes that only clarify language of a rule without changing the substance or effect of requirements and adopts content of which is explicitly and specifically dictated by statute.
5.	WAC 296-200A-900, What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration?	<input type="checkbox"/>	This section is exempt under RCW 34.05.310(4)(f) because it sets or adjust fees under the authority of RCW 19.02.075.

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. The portion of the proposed amendments not exempt is the addition of the definition of due diligence for consistency with the statutory amendments under 2SHB 1534. This rule sets forth the agency's interpretation of the statute and therefore, any costs associated are due to the underlying statute and not the interpretative rule. As such, the proposed rule does not impose any costs.

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 20, 2024

Name: Joel Sacks

Title: Director

Signature:

