



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: December 20, 2023

TIME: 1:21 PM

WSR 24-02-002

Agency: Department of Natural Resources

- Original Notice
- Supplemental Notice to WSR 23-15-106
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 23-11-070 ; 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) Land Survey Monument Preservation WAC 332-120
Clarification of application process and revision of requirements for creating a public record.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
Thursday, February 15, 2024	10:00 am	DNR Tumwater Compound 801 – 88 th Ave. SE Tumwater, WA 98501-7019	DNR Black Hills District Conference Room. Participate in person or contact David Icenhower to attend online via Teams.

Date of intended adoption: February 22, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Patrick J. Beehler, PLS
 Address: 1111 Washington St. SE, MS 47030, Olympia, WA 98504-7030
 Email: pat.beehler@dnr.wa.gov
 Fax: (360) 902-1178
 Other:
 By (date) February 15, 2024

Assistance for persons with disabilities:

Contact David Icenhower, PLS
 Phone: 360-902-1197
 Fax:
 TTY:
 Email: david.icenhower@dnr.wa.gov
 Other:
 By (date) February 14, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Revision to the monument removal and replacement rules to make the process more efficient and lower the cost to the applicant.

Reasons supporting proposal: Makes clear that only a licensed professional land surveyor is authorized to participate in the monument preservation process.

Statutory authority for adoption: RCW 58.24.030(2), RCW 58.24.040(8), RCW 58.09.130

Statute being implemented: RCW 58.24.030(2), RCW 58.24.040(8), RCW 58.09.130

Is rule necessary because of a:

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

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Natural Resources

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Patrick J. Beehler, PLS	Engineering Division Natural Resources Building 1111 Washington St. SE Olympia, WA 98504-7030	(360) 902-1181
Implementation:	David Icenhower, PLS	Public Land Survey Office DNR Tumwater Compound 801 – 88 th Ave SE Tumwater, WA 98501-7019	(360) 902-1197
Enforcement:	David Icenhower, PLS	Public Land Survey Office DNR Tumwater Compound 801 – 88 th Ave SE Tumwater, WA 98501-7019	(360) 902-1197

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: A cost savings is anticipated due to setting up reporting systems and requiring a better system for completion reports. This revision will make the monument removal process more efficient and lower participants' cost.

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 type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input 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:

(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](#)):
- 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. A cost savings is anticipated due to setting up reporting systems and requiring a better system for completion reports. This revision will make the monument removal permit process more efficient and lower participants' cost.
- 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: 12/19/2023

Name: Todd Welker

Title: DNR Deputy Supervisor State Uplands

Signature:

Todd Welker

AMENDATORY SECTION (Amending WSR 20-10-003, filed 4/23/20, effective 5/24/20)

WAC 332-120-020 Definitions. The following definitions shall apply to this chapter:

Covering: The physical covering of a survey monument such that the physical structure is no longer visible or readily accessible.

Department: The department of natural resources.

Engineer: Any person authorized to practice the profession of engineering under the provisions of chapter 18.43 RCW (~~who also has authority to do land boundary surveying pursuant to RCW 36.75.110, 36.86.050, 47.36.010 or 58.09.090~~).

Geodetic control point: Points established to mark horizontal or vertical control positions that are part of the National Geodetic Survey Network.

Land boundary survey corner: A point on the boundary of any easement, right of way, lot, tract, or parcel of real property; a controlling point for a plat; or a point which is a General Land Office or Bureau of Land Management survey corner.

Land corner record: The record of corner information form as prescribed by the department of natural resources pursuant to chapter 58.09 RCW.

Land surveyor: Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

Local control point: Points established to mark horizontal or vertical control positions that are part of a permanent government control network other than the National Geodetic Survey network.

Parcel: A part or portion of real property including but not limited to GLO segregations, easements, rights of way, aliquot parts of sections or tracts.

Pavement preservation treatment: Asphalt light bituminous applications such as slurry, micro seal, cape and chip seal treatments that are typically less than 5/8 inch thick.

Removal or destruction: The physical disturbance of a monument such that the physical structure no longer marks the location of the land boundary position.

Survey monument: The physical structure, along with any references or accessories thereto, used to mark the location of a land boundary survey corner, geodetic control point, or local control point.

Survey Recording Act: The law as established and designated in chapter 58.09 RCW.

AMENDATORY SECTION (Amending WSR 94-06-034, filed 2/25/94, effective 3/28/94)

WAC 332-120-050 Application process. (1) Whenever a survey monument needs to be removed or destroyed the application required by this chapter shall be submitted to the department.

It shall be completed, signed and sealed by a land surveyor (~~or engineer~~) as defined in this chapter.

(2) Upon receipt of a properly completed application, the department shall promptly issue a permit authorizing the removal or destruction of the monument; provided that:

(a) In extraordinary circumstances, to prevent hardship or delay, a verbal authorization may be granted, pending the processing and issuance of a written permit. A properly completed application shall be submitted by the applicant within fifteen days of the verbal authorization.

(b) Applications received by the department concerning local or geodetic control points will be referred to the appropriate agency for action. The applicant will be notified when such action is taken.

(3) One application may be submitted for multiple monuments to be removed or destroyed as part of a single project; however, there shall be separate attachments to the application form detailing the required information for each monument removed or destroyed.

AMENDATORY SECTION (Amending WSR 20-10-003, filed 4/23/20, effective 5/24/20)

WAC 332-120-060 Project completion—Perpetuation of the original position. (1) After completion of the activity that caused the removal or destruction of the monument, a land surveyor (~~or engineer shall~~) must, unless specifically authorized otherwise:

(a) Reset a suitable monument at the original survey point or, if that is no longer feasible;

(b) Establish permanent witness monuments easily accessible from the original monument to perpetuate the position of the preexisting monument.

(2) Land boundary survey monumentation required by this chapter shall meet the requirements of the RCW 58.09.120 and 58.09.130.

(3) After completion of the remonumentation, the land surveyor (~~or engineer shall~~) must complete the report form required by this chapter and forward it to the department.

(4) A record of survey (~~or land corner record shall~~) may be (~~completed as~~) required by (~~the Survey Recording Act to document the remonumentation in the public record~~) RCW 58.09.040(1).

(5) When the remonumentation involves a general land office corner, and a record of survey is not required, a Land Corner Record must be completed as required by RCW 58.09.040(2).

AMENDATORY SECTION (Amending WSR 10-09-011, filed 4/9/10, effective 5/10/10)

WAC 332-120-070 (~~Application/permit form~~) Application and completion report forms. All applications and completion reports must be (~~completed~~) on forms provided by the department and following instructions provided by the department. Completed (~~applications~~) forms shall be filed at the department.