



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 08, 2019

TIME: 2:45 PM

WSR 19-17-004

Agency: Department of Natural Resources

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-13-055 ; 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) WAC 332-120-080; Memorandum of Understanding for bituminous surface treatment process. This new section under the Survey Monuments rules addresses land survey monument preservation in conjunction with county chip seal projects.

Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

October 7, 2019

1:30 pm

DNR Tumwater Compound
801 – 88th Ave. SE, Tumwater,
WA 98501-7019

Main Conference Room

Date of intended adoption: November 1, 2019 (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: 360 902-1778

Other: 360 902-1181 office

By (date) October 18, 2019

Assistance for persons with disabilities:

Contact _____

Phone:

Fax:

TTY:

Email:

Other:

By (date) _____

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To create a process for county engineers to enter into an MOU providing monument preservation during chip seal projects. This will allow for a reasonable way to be in compliance with RCW 58.24.040(8).

Reasons supporting proposal: Chip seal projects temporarily cover survey monuments but do not physically remove them. The chip seal has limited impact on access and ability to occupy those monumented positions. The MOU process will provide a cost savings to the county and DNR, and will greatly reduce paperwork.

Statutory authority for adoption: RCW 58.24.040(8)

Statute being implemented: RCW 58.24.040(8)

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:

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

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Patrick J. Beehler, PLS	1111 Washington St SE, Olympia, WA 98504	360 902-1181
Implementation:	Bob Ray Knuth, PLS	801 88 th Ave. SE, Tumwater, WA 98501-7019	360 902-1190
Enforcement:	Bob Ray Knuth, PLS	801 88 th Ave. SE, Tumwater, WA 98501-7019	360 902-1190

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: There is little added expense to comply with the proposed WAC amendment. The reports and other submittals are already required by the County Road Administration Board (CRAB).

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:

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:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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. _____
- 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:

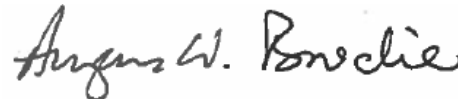
- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: 8/7/19

Name: Angus W. Brodie

Title: DNR Deputy Supervisor State Uplands

Signature:



NEW SECTION

WAC 332-120-080 Memorandum of understanding for bituminous surface treatment process. The purpose of a memorandum of understanding (MOU) is to cooperatively promote a reasonable method of survey monument preservation throughout the bituminous surface treatment process, hereinafter referred to as chip seal, in lieu of an application for permit to remove or destroy a survey monument, per WAC 332-120-030.

A state, county, or city agency, which desires to conduct a chip seal that will temporarily cover survey monuments in the roadway, may enter into an MOU in lieu of a permit. The MOU must detail the conditions and methods and require the uncovering of the survey monuments within fourteen days after completion of the chip seal project. The agency must annually provide the department with a list of proposed chip seal overlays prior to commencing work. A report must be submitted within forty-five days after completion of work.

An agency not entering into an MOU for bituminous surface treatment projects is required to submit a permit application per WAC 332-120-030.