



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: October 05, 2021

TIME: 1:46 PM

WSR 21-20-127

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 20-15-112 ; 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).

Proposal is exempt under RCW .

Title of rule and other identifying information: (describe subject) Chapter 246-100 WAC, Communicable and Certain Other Diseases. The State Board of Health (Board) is proposing amending this chapter to implement changes made by Engross Substitute House Bill (ESHB) 1551 (chapter 76, Laws of 2020) as it relates to HIV/AIDS. The Board is also proposing other technical or editorial changes as needed.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
11/10/2021	1:30 PM	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead. You can register in advance for this meeting at: https://us02web.zoom.us/webinar/register/WN_S8YQaN8HQY2TIXVHX7SFtQ	

Date of intended adoption: 11/10/2021 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Samantha Pskowski

Address: P.O. Box 47990, Olympia, WA 98504-7990

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: N/A

Other: None

By (date) 10/28/2021

Assistance for persons with disabilities:

Contact Melanie Hisaw

Phone: (360) 236-4104

Fax:

TTY: 711

Email: CommunicableDisease@sboh.wa.gov

Other:

By (date) 10/22/2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rulemaking is to revise chapter 246-100 WAC to assure consistency with the statutory requirements and protect public health and safety. Revisions include, but are not limited to: (1) Establishing reporting requirements and procedures for investigations for sexually transmitted diseases; (2) Specifying behavior that endangers the public health; (3) Defining specimens that can be obtained and tests that can be administered for sexually transmitted diseases, blood-borne pathogens, and other infections; (4) Determining categories of employment that are at risk of substantial exposure to a blood-borne pathogen; and (5) Defining what constitutes an exposure that presents a possible risk of transmission of a blood-borne pathogen.

Reasons supporting proposal: During the 2020 legislative session, the legislature passed ESHB 1551, modernizing the control of certain communicable diseases. This bill modernized the state's control of communicable disease laws by ending statutory HIV/AIDS exceptionalism, reducing HIV-related stigma, defelonizing HIV exposure, and removing barriers to HIV testing. The bill took effect June 11, 2020.

The Board's CR-101, Preproposal Statement of Inquiry, identified potential revisions to both chapter 246-100 WAC, Communicable and Certain Other Diseases, and chapter 246-101 WAC, Notifiable Conditions. Proposed changes related to ESHB 1551 for chapter 246-101 WAC were adopted under a separate rulemaking process, as revisions to the Notifiable Conditions chapter were already underway at the time of filing the CR-101 to implement ESHB 1551. Amendments to chapter 246-101 WAC were adopted by the Board at its March 2021 public meeting and were limited to minor editorial revisions consistent with the changes in ESHB 1551. These changes can be found in WSR 21-11-040.

Statutory authority for adoption: RCW 43.20.050, RCW 70.24.130

Statute being implemented: ESHB 1551 (Chapter 76, Laws of 2020)

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: N/A

Name of proponent: (person or organization) Washington State Board of Health

Private

Public

Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Samantha Pskowski	101 Israel Road SE, Tumwater, WA, 98504-7990	(360) 789-2358
Implementation:	Alexandra Montaño	101 Israel Road SE, Tumwater, WA, 98504-7990	(360) 236-4205
Enforcement:	Alexandra Montaño	101 Israel Road SE, Tumwater, WA, 98504-7990	(360) 236-4205

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: Samantha Pskowski

Address: P.O. Box 47990, Olympia, WA, 98504-7990

Phone: (360) 789-2358

Fax: N/A

TTY: 711

Email: CommunicableDisease@sboh.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:

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)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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. The proposed rule does not impose more-than-minor cost to regulated entities, including enhanced service facilities and adult family homes, as well as local public health jurisdictions. The cost threshold for nursing homes/residential care facilities and public administration is \$10,276.98 and \$57,636.38 respectively. The Board assumes potential one-time costs for enhanced service facilities and adult family homes to comply with the proposed rules to range between \$0 and \$300. The Board assumes potential costs for local health jurisdictions to comply with the proposed rules to range between \$226 to \$907.

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: 10/05/2021	Signature: 
Name: Michelle A. Davis	
Title: Executive Director	