



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 18, 2025

TIME: 3:40 PM

WSR 25-09-102

Agency: Office of Minority and Women's Business Enterprises

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR** 25-06-059 ; 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 326-20-048 Presumption of Disadvantage; and WAC-326-20-088 LGBTQ Certification Program

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 29 th . 2025	10:00 AM	Virtual	Hearing will be held virtually: https://bit.ly/LGBTQ-certification-hearing

Date of intended adoption: July 1, 2025 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name Julie Bracken

Address 1110 Capitol Way S, Ste 150, Olympia, WA

Email rules@omwbe.wa.gov

Fax 360-586-7070

Other

Beginning (date and time) The date and time of this filing

By (date and time) May 27, 2025

Assistance for persons with disabilities:

Contact Tim Kenney

Phone 1110 Capitol Way S, Ste 150, Olympia, WA

Fax 360-586-7079

TTY

Email Tim.Kenney@omwbe.wa.gov

Other

By (date) May 27, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: OMWBE proposes to amend WAC 326-20-048 to include LGBTQ individuals as presumptively socially disadvantaged. This will provide rule clarity and assure qualifications, procedures and guidelines for determining eligibility for the LGBTQ Certification is aligned with OMWBE's portfolio of programs insuring balance and equity.

OMWBE proposes to adopt WAC 326-20-088 to implement the LGBTQ certification program in accordance with SB5950.

Reasons supporting proposal: Current rules do not include LGBTQ individuals as part of the presumptive disadvantage group despite documented evidence of systemic discrimination and barriers faced by this community. This exclusion creates inequitable access to contracting and other revenue driven opportunities and perpetuates existing disparities. The proposed rule amendment seeks to address this inequity by:

- Recognizing the historical and ongoing discrimination faced by LGBTQ+ individuals
- Providing equal opportunity and access to contracting and other revenue generating opportunities.
- Promoting inclusivity and diversity within state and federal bidding process
- Aligning with the evolving landscape of social disadvantage
- Addressing disparities that exist within state and federal contracting processes and opportunities

Statutory authority for adoption: The proposed rule amendment is made possible through the authority granted to OMWBE Director by RCW 39.19.030 and WAC 326-02-010

Statute being implemented: WAC 326-20-048 and WAC 326-20-088

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: OMWBE intends to follow the state procedures for rule change/amendment, inclusive of public hearings and incorporation of comments.**Name of proponent:** (person or organization) Office of Minority & Women's Business Enterprises (OMWBE)**Type of proponent:** ☐ Private. ☐ Public. ☒ Governmental.**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting	Phyllis Martin	1110 Capitol Way S, Ste 150, Olympia WA	360-664-9750
Implementation	Phyllis Martin	1110 Capitol Way S, Ste 150, Olympia, WA	360-664-9750
Enforcement	Phyllis Martin	1110 Capitol Way S, Ste 150, Olympia, WA	360-664-9750

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 benefit analysis is not required under RCW 34.05.328 because the subject of proposed amendment does not qualify as a significant legislative amendment/rule requiring a cost benefit analysis.**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 checked="" 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. _____
- ☐ 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: April 18, 2025

Name: Julie Bracken

Title: Public Records Officer, Records Manager, Rules Coordinator

Signature:

