

## WSR 23-18-006

## PERMANENT RULES

## DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed August 23, 2023, 3:38 p.m., effective September 23, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The pharmacy quality assurance commission (commission) is repealing continuing education (CE) requirements established in chapter 246-861 WAC and WAC 246-901-061, as such requirements are also in practice in more current sections of rule, WAC 246-945-178 and 246-945-220.

The commission completed a major rules consolidation project in 2020 in which various sections and chapters in Title 246 WAC were either repealed or consolidated into new chapter 246-945 WAC. The new CE requirements in chapter 246-945 WAC require pharmacists whose licenses expire on or after December 1, 2021 to complete the equivalent of 3.0 continuing pharmacy education units (CPE) administered by an Accreditation Council for Pharmacy Education (ACPE) accredited provider prior to renewing their license. Pharmacy technicians whose licenses expire on or after December 1, 2021, must complete the equivalent of 2.0 CPE administered by an ACPE accredited provider. Additionally, the license renewal cycle for both licensee groups is increased from one year to two years.

Transitioning all licensees onto the new renewal cycle took one year from December 1, 2021, because everyone had to have one renewal cycle to get onto the two-year cycle. In other words, updated CE requirements did not take effect for pharmacists and pharmacy technicians whose licenses expired before December 1, 2022, because the new CE rules correspond with a two-year license cycle and a change in license fees to match that cycle. This required the older sections of rule establishing CE standards, WAC 246-861-090 and 246-901-061, be maintained until the one-year license cycle for those pharmacists and pharmacy technicians ended on December 1, 2022. The commission issued a guidance document (G001) that went into effect on July 1, 2020, and was updated on December 3, 2020, for the purpose of retaining the older sections of rule until the December 1, 2022, expiration date. Now that the expiration date has passed, the commission is repealing these rules.

Citation of Rules Affected by this Order: Repealing WAC 246-861-010, 246-861-020, 246-861-040, 246-861-050, 246-861-055, 246-861-060, 246-861-090, 246-861-095, 246-861-105, and 246-901-061.

Statutory Authority for Adoption: RCW 18.64.005, 18.64A.020.

Adopted under notice filed as WSR 23-05-010 on February 2, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 10.

Date Adopted: August 23, 2023.

Kenneth Kenyon, PharmD, BCPS, Chair  
Pharmacy Quality Assurance Commission

**OTS-4230.1**

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 246-901-061 Pharmacy technician—Continuing education requirements.

**OTS-4229.1**

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 246-861-010 Definitions.
- WAC 246-861-020 Renewal requirements.
- WAC 246-861-040 Applications for approval of continuing education program—Post-approval of continuing education program.
- WAC 246-861-050 Continuing education program approved providers.
- WAC 246-861-055 Continuing education program.
- WAC 246-861-060 Instructors' credit toward continuing education unit.
- WAC 246-861-090 Amount of continuing education.
- WAC 246-861-095 Pharmacists licensed in other health professions.
- WAC 246-861-105 Suicide prevention education.

## WSR 23-18-019

## PERMANENT RULES

## GAMBLING COMMISSION

[Filed August 25, 2023, 1:00 p.m., effective September 25, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The amended rule would increase the maximum wagering limit for house-banked card games from \$300 to \$400 for a single wager.

Citation of Rules Affected by this Order: Amending WAC 230-15-140 Wagering limits for house-banked card games.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 23-09-065 on April 19, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 25, 2023.

Lisa C. McLean  
Legislative and Policy Manager

OTS-4274.1

## OPTION C

AMENDATORY SECTION (Amending WSR 21-11-057, filed 5/14/21, effective 6/14/21)

**WAC 230-15-140 Wagering limits for house-banked card games.** (1) A single wager must not exceed (~~three hundred dollars~~) \$400.

(2) A player may make a single wager for each decision before the dealer deals or reveals additional cards. Wagers must be placed on the table layout on an approved betting spot, except for:

- (a) In Blackjack games, players may place an additional wager next to their original wager when doubling down or splitting pairs; or
- (b) Tip wagers made on behalf of a dealer; or
- (c) As authorized in approved card games rules.

[Statutory Authority: RCW 9.46.070. WSR 21-11-057, § 230-15-140, filed 5/14/21, effective 6/14/21; WSR 08-20-025 (Order 631), § 230-15-140, filed 9/19/08, effective 1/1/09; WSR 07-09-033 (Order 608), § 230-15-140, filed 4/10/07, effective 1/1/08.]

**WSR 23-18-025**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed August 25, 2023, 2:43 p.m., effective September 25, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To make changes to comply with recent legislation to add a new Roth option to the deferred compensation plan and with the federal SECURE Act 2.0.

Citation of Rules Affected by this Order: New WAC 415-501-418; and amending WAC 415-02-177, 415-02-178, 415-501-110, 415-501-315, 415-501-400, 415-501-410, 415-501-415, 415-501-416, 415-501-420, 415-501-430, 415-501-435, 415-501-475, 415-501-480, 415-501-485, 415-501-510, and 415-501-600.

Statutory Authority for Adoption: RCW 41.50.050, 41.50.770; and Section 603 of the SECURE Act 2.0.

Adopted under notice filed as WSR 23-15-122 on July 19, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 16, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 16, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 16, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 16, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 25, 2023.

Tracy Guerin  
Director

**OTS-4567.1**

AMENDATORY SECTION (Amending WSR 18-01-020, filed 12/8/17, effective 1/8/18)

**WAC 415-02-177 May I purchase additional service credit? (1)**

**What is the option for purchasing additional service credit?** The following statutes provide an option for eligible members to purchase additional service credit that provides a guaranteed, lifetime increase to their monthly retirement benefit:

- (a) RCW 41.26.199 for LEOFF Plan 1 members;
- (b) RCW 41.26.432 for LEOFF Plan 2 members;
- (c) RCW 41.40.034 for PERS Plan 1, 2, and 3 members;
- (d) RCW 41.37.265 for PSERS Plan 2 members;
- (e) RCW 41.35.183 for SERS Plan 2 and 3 members;
- (f) RCW 41.32.066 for TRS Plan 1, 2, and 3 members; and
- (g) RCW 43.43.233 for WSPRS Plan 1 and 2 members.

(2) **Am I eligible to purchase additional service credit?**

(a) You may purchase additional service credit if you are eligible to retire from one or more of the following plans and you elect a monthly benefit rather than a lump sum payment:

- (i) LEOFF Plan 1 or 2 under RCW 41.26.090 or 41.26.430;
- (ii) PERS Plan 1, 2, or 3 under RCW 41.40.180, 41.40.630, or 41.40.820;
- (iii) PSERS Plan 2 under RCW 41.37.210;
- (iv) SERS Plan 2 or 3 under RCW 41.35.420 or 41.35.680;
- (v) TRS Plan 1, 2, or 3 under RCW 41.32.480, 41.32.765, or 41.32.875; or
- (vi) WSPRS Plan 1 or 2 under RCW 43.43.250.

(b) If you retire as a result of a disability, you may purchase additional service credit if you meet the requirements in (a) of this section.

(3) **How much additional service credit may I purchase?** If you are eligible, you may purchase from one to (~~sixty~~) 60 months of additional service credit in whole month increments.

(4) **May I use the additional purchased service credit to qualify for normal retirement or an early retirement?** No. You may not use the purchased service credit to qualify for normal retirement or to qualify for an early retirement.

(5) **When must I apply to purchase additional service credit?** You must submit your request to purchase additional service credit to the department at the same time you submit your application for retirement.

(6) **How much will my monthly retirement benefit increase if I purchase additional service credit?** The increase in your monthly retirement benefit will be calculated using the benefit formula for your system and plan, with a reduction for early retirement, if applicable.

**Example 1 (PERS Plan 2):** John is a member of PERS Plan 2. He applies for retirement, effective the first month after his 62nd birthday and chooses to purchase an additional (~~sixty~~) 60 months (five years) of service credit. His average final compensation (AFC) is \$4,000 per month. For illustration purposes in this example only, we will use .7240000 as the corresponding early retirement factor (ERF) for retiring three years early (actuarial factors change periodically). As a result, John's monthly benefit will increase by \$289.60 per month, calculated as follows:

$$\begin{aligned}
 \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{AFC} \times \text{ERF} \\
 &= 2\% \times 5 \text{ years} \times \$4,000 \times .7240000 \\
 &= \$289.60
 \end{aligned}$$

**Example 2 (TRS Plan 3):** Jane is a member of TRS Plan 3. She applies for retirement, effective the first month after her 62nd birthday and chooses to purchase an additional (~~sixty~~) 60 months (five years) of service credit. Her AFC is \$4,000 per month. For illustration purposes in this example only, we will use .7240000 as the corresponding ERF for retiring three years early (actuarial factors change periodically). As a result, Jane's monthly retirement benefit will increase by \$144.80 per month, calculated as follows:

$$\begin{aligned}
 \text{Amount of increase} &= 1\% \times \text{additional service credit years} \times \text{AFC} \times \text{ERF} \\
 &= 1\% \times 5 \text{ years} \times \$4,000 \times .7240000 \\
 &= \$144.80
 \end{aligned}$$

**Example 3 (LEOFF Plan 2):** Jim is a member of LEOFF Plan 2. He applies for retirement, effective the first month after his 53rd birth-

day and chooses to purchase an additional ((sixty)) 60 months (five years) of service credit. His final average salary (FAS) is \$4,000 per month. No ERF is needed for this calculation as Jim has already reached normal retirement age for LEOFF Plan 2. Jim's monthly retirement benefit will increase by \$400 per month, calculated as follows:

$$\begin{aligned} \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{FAS} \\ &= 2\% \times 5 \text{ years} \times \$4,000 \\ &= \$400 \end{aligned}$$

(7) **How is the cost of the additional purchased service credit calculated?** The cost to purchase additional service credit is calculated by dividing the amount of the increase in subsection (6) of this section by the age-based annuity factor in effect at the time of retirement. (See WAC 415-02-340 for more information.)

**Example.** In subsection (6) of this section, Example 1, it was determined that John's retirement benefit would increase by \$289.60 per month. For illustration purposes in this example only, we will use .0065016 as the annuity factor for John's retirement date (actuarial factors change periodically). As a result, John's cost to purchase the five years of additional service credit would be \$44,542.88, calculated as follows:

$$\begin{aligned} \text{Cost} &= \text{Amount of increase} \div \text{age-based annuity factor} \\ &= \$289.60 \div .0065016 \\ &= \$44,542.88 \end{aligned}$$

(8) **How and when do I pay for the additional service credit?** The department will generate a bill to you for the cost of the additional service credit.

(a) Payment may be made with an eligible rollover, a direct rollover or a trustee-to-trustee transfer, if allowed by the transferring plan. Payment may also be made with after-tax dollars, such as money from a personal savings account. (~~However, IRS regulations limit the amount of after-tax dollars you may use to purchase additional service credit.~~)

(b) DRS can accept a rollover of pretax dollars from your DCP account. To purchase additional service credit with Roth dollars, you must request a distribution first, then pay the bill with a check.

(c) Payment must be made in full within ((ninety)) 90 days after the bill issue date.

(9) **When will my benefit increase be effective?** The increase in your benefit will be effective the day after the department receives your full payment.

**Example 1:** If your full payment is received on August 31st, your benefit increase will be effective for the entire month of September and every month thereafter.

**Example 2:** If your full payment is received August 13th, your August benefit payment will be prorated to provide an increase for the days from August 14th through August 31st. Your September benefit and future monthly payments will reflect the entire monthly increase from purchasing the additional service credit.

(10) **If I choose a benefit option with a survivor feature, will my survivor's monthly benefit reflect the additional purchased service credit?** Yes. Depending upon the rules for your retirement system and plan and the benefit option you choose at retirement, your survivor's monthly benefit will be a percentage of the gross monthly retirement benefit you were receiving at the time of your death. Since the addi-

tional service you purchased is included in the calculation of your monthly benefit, the survivor option you designate for your monthly benefit will also be applied to the benefit from the purchased service credit. You cannot choose a different survivor. If you choose a benefit option with a survivor feature and your survivor dies before you, your monthly retirement benefit will increase to the amount it would have been had you not selected a survivor option.

**(11) Will I receive a cost of living adjustment (COLA) on the portion of my benefit that is based on the additional purchased service credit?**

(a) For all systems and plans, except as noted in (b) of this subsection, your COLA will be based on your gross monthly retirement benefit, including the increase due to the purchased service credit.

(b) If you retire from PERS Plan 1 or TRS Plan 1 and you do not elect the optional auto COLA, you will not receive a COLA on the additional purchased service credit amount.

**(12) If I purchase additional service credit and then return to work, how will my retirement benefit be affected?** Your entire retirement benefit, including the amount attributable to purchased service credit, is subject to the return to work provisions of your system and plan. The following rules describe the impact on your benefit if you return to work as a retiree of the referenced systems and plans:

PERS Plans 1, 2, and 3:	WAC 415-108-710
TRS Plan 1:	WAC 415-112-541
TRS Plans 2 and 3:	WAC 415-112-542
SERS Plans 2 and 3:	WAC 415-110-710
PSERS Plan 2:	WAC 415-106-700
LEOFF Plan 2:	WAC 415-104-111

**(13) If I retire and purchase less than ((sixty)) 60 months of additional service credit, may I purchase more at a later time?** No. You may not purchase additional months of service credit from the same plan unless you return to membership and retire again from the same system and plan. You must meet the eligibility requirements provided in subsection (2) of this section at the time you retire again. You may not purchase more than a total of ((sixty)) 60 months of service credit regardless of how many times you retire again from the same system and plan.

**(14) May I purchase service credit from more than one retirement plan?**

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and you combine service credit to retire as a dual member, you may purchase up to ((sixty)) 60 months of additional service credit from each of your dual member plans.

(b) If you retire from more than one plan, but are not a dual member under chapter 415-113 WAC, you may purchase up to ((sixty)) 60 months of additional service credit from each plan in which you meet the eligibility requirements in subsection (2) of this section.

**(15) How are the funds I paid to purchase the additional service credit treated upon my death (and the death of my survivor, if applicable)?**

(a) Plans 1 and 2. The amount paid to purchase the additional service credit is credited to your individual account as part of your accumulated contributions. Distribution of accumulated contributions



after your death (and the death of your survivor, if any) is governed by the statutes and rules applicable to your plan. See:

- (i) WAC 415-108-326 for PERS Plan 1 and 2;
- (ii) WAC 415-112-504(9) for TRS Plan 1;
- (iii) WAC 415-112-505(7) for TRS Plan 2;
- (iv) WAC 415-110-610(7) for SERS Plan 2;
- (v) WAC 415-106-600(7) for PSERS Plan 2;
- (vi) WAC 415-103-215 for WSPRS Plan 1;
- (vii) WAC 415-103-225(7) for WSPRS Plan 2;
- (viii) WAC 415-104-202 for LEOFF Plan 1; or
- (ix) WAC 415-104-215(7) for LEOFF Plan 2.

(b) Plan 3. If you and your survivor (if you selected a survivor option) die before the amount of your purchased service credit has been paid back to you in your monthly retirement benefit, the difference will be refunded to your designated beneficiary.

[Statutory Authority: RCW 41.50.050. WSR 18-01-020, § 415-02-177, filed 12/8/17, effective 1/8/18. Statutory Authority: RCW 41.50.050(5). WSR 16-04-048, § 415-02-177, filed 1/27/16, effective 2/27/16; WSR 13-18-034, § 415-02-177, filed 8/28/13, effective 10/1/13; WSR 13-06-025, § 415-02-177, filed 2/27/13, effective 4/1/13; WSR 10-16-086, § 415-02-177, filed 7/30/10, effective 9/1/10. Statutory Authority: RCW 41.50.050(5), 2006 c 214, and RCW 41.26.432. WSR 06-16-043, § 415-02-177, filed 7/26/06, effective 8/26/06.]

AMENDATORY SECTION (Amending WSR 21-22-047, filed 10/28/21, effective 11/28/21)

**WAC 415-02-178 May I purchase an annuity? (1) Am I eligible to purchase an annuity?** You are eligible to purchase a defined benefit plan annuity at the time of retirement if you are a member of TRS (RCW 41.32.067), WSPRS (RCW 43.43.315), LEOFF Plan 1 (RCW 41.26.105), LEOFF Plan 2 (RCW 41.26.463), PERS (RCW 41.40.131), SERS (RCW 41.35.235), or PSERS Plan 2 (RCW 41.37.295). This annuity provides a lifetime increase to your monthly benefit. (For purchasing an annuity from your Plan 3 defined contribution account, refer to WAC 415-111-320.)

(2) **Can I purchase an annuity if I take a lump sum payment?** You may not purchase an annuity if you elect a lump sum payment instead of a monthly benefit.

(3) **Are there limits to the annuity amount I may purchase?** There is no maximum limit on the purchase amount. If you are a LEOFF or WSPRS member the minimum purchase amount is \$25,000. If you are a PERS, SERS, or PSERS member, the minimum purchase amount is \$5,000. There is no minimum required for TRS members.

(4) **When can I apply to purchase an annuity?** You must submit your request to purchase an annuity to the department at the time you apply for retirement.

(5) **How much will my monthly benefit increase if I purchase an annuity?** The increase in your monthly benefit will be calculated using the following formula:

Purchase Annuity Amount x Annuity Factor = Increase to Monthly Benefit

The annuity factor is determined by your age on the later of your retirement date or the date your retirement application is submitted to the department.

**Example:** John is a member of LEOFF Plan 2. He applies for retirement and requests to purchase an annuity for \$45,000. For illustration purposes in this example only, we will use 0.0051025 as the corresponding annuity factor (factors change periodically). John's monthly benefit will increase by \$229.61 per month, calculated as follows:

$$\begin{aligned} \text{Purchase Annuity Amount} \times \text{Annuity Factor} &= \text{Increase to Monthly Benefit} \\ \$45,000 \times 0.0051025 &= \$229.61 \end{aligned}$$

(6) **How and when do I pay for the annuity?** The department will generate a bill to you for the cost of the annuity after we receive your request to purchase.

(a) For all TRS members, payment may be made by making a one-time personal payment (however, IRS regulations limit the amount of after-tax dollars you may use); ~~((€))~~ and you may roll over funds from another tax-deferred retirement account. To purchase the annuity with Roth dollars, you must request a distribution first, then pay the bill with a check.

(b) For LEOFF, WSPRS, PERS, SERS, and PSERS members, the annuity must be purchased by rolling over funds from an "eligible retirement plan" which is a tax qualified plan offered by a governmental employer (like the state of Washington's deferred compensation program) or rolling over tax-deferred funds that originated with a governmental employer. You cannot use a Roth balance (if applicable) for this payment. You can only use dollars from your pretax balance. The annuity payment is taxable income when you receive it.

(c) For PERS Plan 1 or TRS Plan 1 members, ~~((post-thirty))~~ Post-30 year contributions withheld under the provisions of RCW 41.40.191 or 41.32.4986 respectively, may not be used to purchase the annuity.

(d) Payment must be made in full by ~~((ninety))~~ 90 days after the later of your retirement date or bill issue date. Your annuity will begin once your payment is received and your retirement is processed. The effective date for the start of this benefit is the later of your retirement date or the payment in full date plus one day.

(7) **What are the survivor options for my annuity?** The survivor option you designate for your retirement benefit will also be used for your annuity purchase, with the exception of WSPRS Plan 1 Option A and LEOFF Plan 1.

If you are a WSPRS Plan 1 member who chose Option A or you are a LEOFF Plan 1 member, your annuity will be paid for your lifetime only. Under these two survivor options, even though the retirement benefit may be paid over two lifetimes, there is no actuarial reduction. No actuarial reduction can be applied to the annuity, therefore the annuity can only be treated as if a single life option was chosen.

If you choose a benefit option with a survivor feature and your survivor dies before you, your monthly annuity payment will increase to the amount it would have been had you not selected a survivor option.

(8) **Will I receive a cost of living adjustment (COLA) on the portion of my benefit that is based on the purchased annuity?** If you are eligible for an annual COLA adjustment on your monthly benefit, you will receive the same COLA percentage on this annuity.

(9) **If I purchase an annuity and then return to work, how will the annuity portion of my benefit be affected?** You will continue to receive the annuity portion of your monthly benefit payment even if you return to work, or return to membership.

(10) **If I retire then return to membership and reretire, may I purchase another annuity?** Yes. You may purchase another annuity when you reretire provided you are reretiring from an eligible plan that allows an annuity purchase.

(11) **May I purchase an annuity from more than one retirement plan?**

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and you combine service credit to retire as a dual member, you may purchase an annuity from each dual member plan that allows an annuity purchase.

(b) If you are not a dual member and retire separately from more than one plan you may purchase an annuity from each eligible plan that allows an annuity purchase.

(12) **What happens to my annuity upon my death (and the death of my survivor, if applicable)?**

System Plan	Benefit Option	Annuity Payment Upon Death
TRS 1	Maximum Option	At the time of your death the annuity payment stops.
TRS 1, TRS 2, TRS 3, LEOFF 2, WSPRS 2, PERS 1, PERS 2, PERS 3, SERS 2, SERS 3, and PSERS 2 WSPRS 1 LEOFF 1	Option 1 (single life)  Option A Automatic Survivor	At the time of your death the annuity payments stop. The original amount you paid for your annuity, less any payments you have received, will be paid to your designated beneficiary.
TRS 1, TRS 2, TRS 3, LEOFF 2, WSPRS 2, PERS 1, PERS 2, PERS 3, SERS 2, SERS 3, and PSERS 2 WSPRS 1	Option 2, 3, 4 (joint life)  Option B (joint life)	At the time of your death, payments will continue to your survivor. At the time of your survivor's death, the original amount you paid for your annuity, less any payments you and your survivor have received, will be paid to your designated beneficiary.

[Statutory Authority: RCW 41.50.050. WSR 21-22-047, § 415-02-178, filed 10/28/21, effective 11/28/21; WSR 20-01-145, § 415-02-178, filed 12/17/19, effective 1/17/20. Statutory Authority: RCW 41.50.050(5). WSR 17-07-021, § 415-02-178, filed 3/7/17, effective 4/7/17; WSR 16-04-048, § 415-02-178, filed 1/27/16, effective 2/27/16.]

**OTS-4568.4**

AMENDATORY SECTION (Amending WSR 16-24-013, filed 11/28/16, effective 1/1/17)

**WAC 415-501-110 Definitions.** (1) **Accumulated deferrals.** Compensation deferred under the plan, adjusted by income received, increases or decreases in investment value, fees, and any prior distributions made.

(2) **Automatic enrollment.** A process of enrolling newly hired full-time employees as of January 1, 2017. See WAC 415-501-400 for details.

(3) **Beneficiary.** The person or entity entitled to receive benefits under the plan after the death of a participant.

(4) **Compensation.** All payments made to a participant by the employer as remuneration for services rendered.

(5) **Contributions.** The amount of deferred compensation that you contribute monthly, which can be pretax, taxed, or a combination of both.

(6) **Deferred compensation.** The amount of the participant's compensation that is deferred. Pretax and taxed contributions are both considered deferred compensation. See WAC 415-501-400, 415-501-410, and 415-501-450.

~~((6))~~ (7) **Deferred compensation program or plan.** A plan that allows employees of the state of Washington and approved political subdivisions of the state of Washington to defer a portion of their compensation according to the provisions of Section 457(b) of the Internal Revenue Code.

~~((7))~~ (8) **Department.** The department of retirement systems created by RCW 41.50.020 or its designee.

~~((8))~~ (9) **Eligible employee.** Any person who is employed by and receives any type of compensation from a participating employer for whom services are provided, and who is:

(a) A full-time, part-time, or career seasonal employee of Washington state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service;

(b) An elected or appointed official of the executive branch of the government, including a full-time member of a board, commission, or committee;

(c) A justice of the supreme court, or a judge of the court of appeals or of a superior or district court; or

(d) A member of the state legislature or of the legislative authority of a county, city, or town.

~~((9))~~ (10) **Eligible rollover distribution.** A distribution to a participant of any or all funds from an eligible retirement plan unless it is:

(a) One in a series of substantially equal annuity payments;

(b) One in a series of substantially equal installment payments payable over ~~((ten))~~ 10 years or more;

(c) Required to meet minimum distribution requirements of the plan; or

(d) Distributed for hardship or unforeseeable emergency from a 457 plan.

~~((10))~~ (11) **Employer.**

(a) The state of Washington; and

(b) Approved political subdivisions of the state of Washington.

~~((11))~~ (12) **In-plan conversion.** Allows you to take all or a portion of the funds in your pretax account and convert it to a Roth account.

(13) **Normal retirement age.** An age designated by the participant for purposes of the three-year catch-up provision described in WAC 415-501-430(2). The participant may choose a normal retirement age between:

(a) The earliest age at which an eligible participant has the right to receive retirement benefits without actuarial or similar reduction from his/her retirement plan with the same employer; and

(b) Age ~~((seventy and one-half))~~ 70 1/2.

~~((12))~~ (14) **Participant.** An eligible employee who:

(a) Is currently deferring compensation under the plan; or

(b) Has previously deferred compensation and has not received a distribution of his/her entire benefit under the plan.

~~((13))~~ (15) Participation agreement. The agreement executed by an eligible employee to enroll in the plan through methods established by the department. Includes the participant's authorization to defer compensation through payroll deductions pursuant to WAC 415-501-410 and 415-501-450.

~~((14))~~ (16) Qualified distribution. A distribution of funds from a designated Roth account that is not subject to further taxation. A qualified distribution may only occur:

(a) After a five-taxable-year period of participation in the Roth account; and

(b) If the distribution is made: (i) On or after attainment of age 59 1/2, (ii) becoming permanently disabled, or (iii) death.

(17) Roth account. A form of deferred compensation in which funds are subject to federal income tax at the time of contribution.

(18) You, as used in this chapter, means a participant as defined in subsection ~~((12))~~ (14) of this section.

[Statutory Authority: RCW 41.50.050(5). WSR 16-24-013, § 415-501-110, filed 11/28/16, effective 1/1/17; WSR 16-12-050, § 415-501-110, filed 5/25/16, effective 6/25/16; WSR 14-10-045, § 415-501-110, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 05-15-045, § 415-501-110, filed 7/11/05, effective 8/11/05; WSR 04-22-053, § 415-501-110, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-110, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-110, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-504-010, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 16-24-013, filed 11/28/16, effective 1/1/17)

**WAC 415-501-315 What are my employer's responsibilities?** An employer has responsibilities including, but not limited to, determining employees' eligibility to participate, reporting and paying deferrals to the department, and monitoring for deferral limits. Employer contributions must be reported to the department separately from employee contributions.

The department's administration of the plan does not replace the employer's responsibilities.

[Statutory Authority: RCW 41.50.050(5). WSR 16-24-013, § 415-501-315, filed 11/28/16, effective 1/1/17. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-315, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, § 415-501-315, filed 5/18/00, effective 6/18/00.]

AMENDATORY SECTION (Amending WSR 16-24-013, filed 11/28/16, effective 1/1/17)

**WAC 415-501-400 What is automatic enrollment?** Effective January 1, 2017, state agencies and higher education employers must automatically enroll new full-time employees into the deferred compensation program (DCP). Students who work at a college or university and retirees who return to employment are exempt from automatic enrollment. Local employers, including school districts, may use the automatic enrollment provisions by submitting a resolution to the department.

For state employees and some higher education employees, full-time status is defined in WAC 357-01-174. For employees not covered under WAC 357-01-174, the definition of "full time" is at the employer's discretion.

The default deferral amount is pre-tax with a rate of three percent of your taxable compensation (~~(, but)~~). You may change (~~(your deferral amount)~~) these at any time (see WAC 415-501-450 for details).

The default investment is the Retirement Strategy Fund that assumes (~~(retirement)~~) you will retire at age (~~(sixty-five)~~) 65. You may change your investments at any time (see WAC 415-501-475 for details).

If you are automatically enrolled in DCP, you will receive a mailed notification of automatic enrollment. If you want to alter your automatic enrollment, here are some actions you can take:

(1) Opt out: To prevent the three percent deferral from being deducted from your paycheck, opt out within (~~(thirty)~~) 30 days of the date on the automatic enrollment notification. To do so, change the three percent default deduction to zero through your established on-line account or by contacting the DCP record keeper.

(2) Suspend enrollment and remove your contributions: Following your automatic enrollment, you may withdraw DCP deferrals that have been taken from your paycheck. To do so, change the three percent default deduction to zero and request a permissible withdrawal request form. The completed withdrawal request must be received by the DCP record keeper within (~~(ninety)~~) 90 days of your first payroll contribution under this section. You will receive a distribution of your contributions, plus or minus earnings. These distributions are not eligible for rollover. If you do not request a permissible withdrawal within (~~(ninety)~~) 90 days from your first payroll contribution, your contributions will be subject to the provisions for distributions described in WAC 415-501-485.

(3) Change your contribution: Adjust your contributions to a smaller or larger whole percentage or select a specific whole dollar amount. With DCP, you may change your contribution amount at any time. Changing your contribution within the first (~~(ninety)~~) 90 days of automatic enrollment verifies your participation in the program, making you no longer eligible for permissible withdrawal.

(4) Change your investment selection: Select another DCP investment option. With DCP, you can change your investment options at any time.

(5) Reenroll: If you opt out, you may reenroll in DCP at any time (see WAC 415-501-410).

[Statutory Authority: RCW 41.50.050(5). WSR 16-24-013, § 415-501-400, filed 11/28/16, effective 1/1/17.]

AMENDATORY SECTION (Amending WSR 16-12-050, filed 5/25/16, effective 6/25/16)

**WAC 415-501-410 How do I enroll in the plan?** (1) As an eligible employee, you may enroll in the plan by executing a participation agreement according to methods established by the department.

(2) By executing the participation agreement, you authorize your employer to reduce your gross compensation each month by a specific amount. This amount will be contributed to your deferred compensation account. Your employer will reduce your compensation by the specified amount until you change the amount (WAC 415-501-450).

(3) Deferrals from your compensation will start during the calendar month after the month your participation agreement is approved by the department.

(4) Reenrollment. If you transfer from a state agency to another state agency without a separation of employment, your deferred compensation program (DCP) enrollment will be automatically transferred to the new state agency. Your contributions will automatically continue. For nonstate participants, if you separate from employment with a DCP employer (break in service) and return to employment with a DCP employer, you must reenroll in the program if you want to resume contributions to DCP. Depending on the employer you return to, you may be subject to the automatic enrollment under WAC 415-501-400.

[Statutory Authority: RCW 41.50.050(5). WSR 16-12-050, § 415-501-410, filed 5/25/16, effective 6/25/16; WSR 14-10-045, § 415-501-410, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-410, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-410, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-010, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 20-24-108, filed 12/1/20, effective 1/1/21)

**WAC 415-501-415 May I move funds into the plan from an eligible retirement plan?** (1) **Rollover.** If you established your deferred compensation account through your own employment with a participating employer, you may roll pretax contributions into the plan from an individual retirement account (IRA) or from another eligible retirement plan. Your DCP account also accepts rollovers-in from designated Roth accounts within eligible retirement plans, but not from Roth IRAs. If your account was established as a beneficiary following the original account owner's death, or as a result of a domestic relations order as described in WAC 415-501-495, you are not eligible to roll additional funds into the account.

(a) The plan will keep a separate accounting of all funds rolled into the plan.

(b) Distributions of money rolled into the plan may be subject to an additional (~~ten~~) 10 percent tax on early distributions.

(2) **Plan-to-plan transfer.** You may transfer money into the plan from another eligible governmental Section 457(b) plan maintained by a political subdivision, subject to the following conditions:

- (a) The political subdivision also participates in DCP;
- (b) The transferor plan allows direct plan-to-plan transfers; and
- (c) You are employed by the political subdivision at the time of the transfer.

(3) **Rollover/transfer application.** You must complete the appropriate form to transfer or roll money into your deferred compensation account. Forms are available through the department or on its website.

[Statutory Authority: RCW 41.50.050. WSR 20-24-108, § 415-501-415, filed 12/1/20, effective 1/1/21. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-415, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-415, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-415, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. WSR 98-20-047, § 415-512-015, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-015, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 04-22-053, filed 10/29/04, effective 11/29/04)

**WAC 415-501-416 May I move funds from the plan into another eligible retirement plan?** (1) **Rollover.** Subject to the rules of the receiving plan, you may roll pretax contributions into an individual retirement account (IRA) or another eligible retirement plan after separation from service. You also have the option of rolling out dollars from your Roth 457(b) account to a Roth IRA or another employer plan with designated Roth accounts (such as a 457, 401(k), or 403(b) that accepts Roth rollovers).

(2) **Plan-to-plan transfer.** You may transfer money:

(a) Through a plan-to-plan transfer into another eligible governmental Section 457(b) plan after you terminate employment, if the receiving plan allows the transfer and you are employed by the sponsor of the receiving plan.

(b) Through a plan-to-plan transfer into another eligible governmental Section 457(b) plan maintained by a political subdivision if the receiving plan allows the transfer and you are employed by the political subdivision both before and after the transfer.

(c) Through a plan-to-plan transfer to purchase service credit in a governmental Section 401(a) plan.

Transferred funds are governed by the rules of the receiving plan.

(3) Subject to the rules of the receiving plan, if your spouse becomes eligible to receive a distribution as beneficiary, your spouse may roll an eligible rollover distribution from his/her deferred compensation account into an eligible retirement plan in which he or she is a member.

(4) **Rollover/transfer application.** You or your spouse must complete the appropriate form to transfer or roll money over from your deferred compensation account. Forms are available through the department or on its website.



[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-416, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-416, filed 12/19/01, effective 1/1/02.]

NEW SECTION

**WAC 415-501-418 May I transfer pretax and Roth balances within the plan?** An in-plan conversion allows you to convert your pretax balance to your Roth account within the plan. This conversion results in the amount being reported as income in the year of conversion which may result in a tax liability for you. There are no taxes withheld by the recordkeeper at the time of the in-plan conversion. Once it is completed, the in-plan conversion cannot be reversed. There is no limit to the number of times an in-plan conversion can be done.

[ ]

AMENDATORY SECTION (Amending WSR 16-24-013, filed 11/28/16, effective 1/1/17)

**WAC 415-501-420 What are the deferral limits?** (1) The minimum deferral for DCP is:

(a) Thirty dollars per month ((~~or one percent~~)); or

(b) A whole percentage of monthly compensation for each deferral type (Roth and pretax). This means if you were contributing to both options, you would be contributing at least one percent to Roth and one percent to pretax, or at least \$30 as a combined minimum for both.

(2) Except as provided in WAC 415-501-430 (catch-up provisions) and WAC 415-501-435 (uniformed service make-up contributions), the maximum annual deferral limit is the smaller of:

(a) One hundred percent of your (~~includible~~) includable compensation as defined in IRC Section 457 (e) (5), and Treasury Regulation 1.457.2(g), and determined without regard to community property laws; or

(b) The annual deferral limit established each year by the Internal Revenue Service. The annual deferral limit is published on the department's deferred compensation program website.

[Statutory Authority: RCW 41.50.050(5). WSR 16-24-013, § 415-501-420, filed 11/28/16, effective 1/1/17; WSR 14-10-045, § 415-501-420, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-420, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-420, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-420, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. WSR 98-20-047, § 415-512-020, filed

9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-020, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 14-10-045, filed 4/30/14, effective 6/1/14)

**WAC 415-501-430 Are there exceptions to the annual deferral limits?** As allowed by the Internal Revenue Service, you may defer more than the annual deferral limit if you qualify to use one of the "catch up" provisions described in this section. You may not use both catch-up provisions during the same taxable year. The same annual limits apply for both Roth and pretax deferrals. These limits are combined to-tals even if you contribute to both.

(1) **Age (~~(fifty)~~) 50 and over:** You may defer a higher amount (~~(during)~~) in any year ((in which)) that you are age ((fifty)) 50 or older. The maximum you may defer each year is the sum of the annual deferral amount for the current taxable year plus the ((over fifty)) age 50 and over catch up amount established by the IRS under 26 U.S.C. Section 414(v). Beginning January 2024, the catch-up amounts must be contributed to a Roth account if you made more than \$145,000 in wages from your DCP employer in the prior calendar year. If you made \$145,000 or less in wages from your DCP employer in the prior calendar year, then you have the option to contribute the catch-up amounts as Roth deferrals. Beginning January 2025, the \$145,000 amount will be adjusted annually for inflation.

(2) **Three years before normal retirement age:** You may defer a higher amount during a period of three consecutive years immediately preceding the taxable year in which you reach normal retirement age as defined in WAC 415-501-110 (10). The maximum you may defer during each of the three years is the lesser of:

(a) Twice the annual deferral limit; or

(b) The sum of the annual deferral limit for the applicable years, plus the portion of the annual deferral limit for any prior taxable year that you have not previously used.

(i) For years prior to 2002, amounts you deferred under certain other plans must be considered in determining the unused amount, consistent with Treasury Regulation 1.457-4 (c) (3) (iv).

(ii) A prior taxable year may be taken into account only if:

(A) It begins after December 31, 1978;

(B) You were eligible, during any portion of the taxable year, to participate in the plan; and

(C) Compensation deferred under the plan during that year, if any, was subject to a deferral limit under WAC 415-501-420.

Three-year catch-up example one: At age 64, Pat, a PERS 2 member, declares their normal retirement age of 66 and begins deferring the higher annual limit. Pat's intention is to retire at age 65 so that they can use the higher catch-up amounts in their final year of employment.

After a year, at age 65, Pat decides that they would like to work another year until age 66. Since Pat already declared age 66, the higher limit amount cannot be used beyond the year they turn 65. They cannot change their declared normal retirement age to 67 and continue with the higher deferral amounts for a third year.

Though Pat cannot change the normal retirement age once declared, there is no issue with working beyond the normal retirement age. They will only be able to defer the standard limit amount for their age, not the special three-year catch-up amounts in the year of their declared normal retirement age or beyond.

Three-year catch-up example two: At age 60, Alex has 30 years of service and declares their normal retirement age of 63 and begins to defer the higher annual limit. At age 62, they decide to retire and at the time of retirement defer their vacation leave cash out. This is acceptable as long as their deferrals for the year are not in excess of the catch-up limit. The declared age of 63 allows for catch-up deferrals in the calendar years that Alex was 60, 61, and 62; retiring prior to age 63 does not affect the years the higher deferral amounts are allowed.

[Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-430, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-430, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-430, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-430, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. WSR 98-20-047, § 415-512-030, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-030, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 14-10-045, filed 4/30/14, effective 6/1/14)

**WAC 415-501-435 May I make deferrals that were missed during periods of uniformed service?** (1) **Does the plan have a military make-up provision?** Participants meeting certain eligibility requirements are allowed to make up contributions that were missed during periods of absence from employment due to uniformed service, based on federal laws and regulations of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA, 38 U.S.C. Sections 4301 through 4335).

(2) **What constitutes uniformed service?** For the purposes of this rule, uniformed service includes: The Army, Navy, Air Force, Marines, Coast Guard, the commissioned corps of the Public Health Service, the reserve components of the foregoing services, the National Guard, the National Disaster Medical System, and any other category of persons designated as such by the President in a time of war or emergency. Service includes active duty, active duty for training, initial active duty for training, inactive duty training, examination to determine fitness for duty, funeral honors duty, and full-time National Guard duty. Service may be voluntary or involuntary.

(3) **What is the time limit for making up missed deferrals?** Make-up deferrals must be made within a period not exceeding three times the period of uniformed service, but in no case more than five years. This is referred to as the statutory period. The period begins the day you return to work. Missed deferrals can only be made while you are

employed by your original employer. If you leave that employer but return to that employer within the statutory period, you may continue to make up deferrals until the end of the statutory period.

(4) **What is the limit on military make-up contributions?** You may contribute up to the maximum contributions for each calendar year that included absence from employment for uniformed service. In addition, you may contribute up to the maximum for the current calendar year.

**EXAMPLE:**

John is employed from January to June 2008, and defers \$5,000 into his DCP account during that time. John is on leave for uniformed service from July 2008 through December 2009, one and one-half years. He returns to employment with this original employer in January 2010.

The deferral limits for this period are as follows: **2008** - \$15,500; **2009** - \$16,500; **2010** - \$16,500; **2011** - \$16,500; **2012** - \$17,000; **2013** - \$17,500; and **2014** - \$17,500. John's statutory period for make-up contributions is four and one-half years (through June 2014).

**Upon his return to employment, during 2010:** For 2010, John may defer \$16,500 out of his regular salary (subject to limitations for includable compensation). During 2010, he may also defer:

- Up to \$10,500 allocable to 2008 (\$15,500 less \$5,000 previously deferred); and
- Up to \$16,500 allocable to 2009.

He decides to contribute \$16,500 for 2010, and \$5,000 for 2008.

**During 2011.** For 2011, John may defer \$16,500 out of his regular salary. During 2011, he may also defer:

- Up to \$5,500 for 2008 (\$15,500 less \$10,000 total previously deferred).
- Up to \$16,500 for 2009.

(5) **How are make-up deferrals made?** Make-up deferrals are made through payroll deductions after you return to employment. Make-up contributions may ~~((not))~~ be paid using ~~((after-tax payments))~~ pretax or Roth dollars.

(6) **What conditions must be met to qualify for this provision?** You must not have been released from the uniformed service under dishonorable or other punitive conditions, as set forth in 38 U.S.C. Section 4304. In addition, you must return to employment with your original employer within the time frame specified in USERRA (38 U.S.C. Section 4312) based on your length of service.

[Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-435, filed 4/30/14, effective 6/1/14.]

AMENDATORY SECTION (Amending WSR 16-24-013, filed 11/28/16, effective 1/1/17)

**WAC 415-501-475 How will my deferred compensation be invested?**

(1) When you enroll, you may select one or more of the investment options offered. Initially, you will need to select the same investment option(s) for both Roth and pretax if you contribute to both at enrollment. After you have enrolled, you may select different invest-

ments for your Roth and pretax contributions through your online account.

(2) The department will invest (~~(one hundred)~~) 100 percent of your future contributions in the Retirement Strategy Fund that assumes you will retire at age (~~(sixty-five)~~) 65 if any of the following occurs during the enrollment process.

(a) An investment option is not selected.

(b) The total does not equal (~~(one hundred)~~) 100 percent when multiple investment options are selected.

(c) You are automatically enrolled into DCP.

(3) In general, you may change the investment of your accumulated deferrals, the investment of your future deferrals, or both, through the methods established by the department. However, if necessary to protect the performance results of the DCP program, the department has the right to:

(a) Limit the number of times you change investment options;

(b) Limit the frequency of the changes;

(c) Limit the manner of making changes; or

(d) Impose other restrictions.

In addition, changes must be consistent with any restrictions on trading imposed by the investment options involved.

(4) Beneficiaries over age (~~(eighteen)~~) 18 and former spouses may change the investment options through the methods established by the department once a separate account has been established for them. The guardian of a minor beneficiary may change the investment options on the minor's account if authorized by the order of guardianship.

[Statutory Authority: RCW 41.50.050(5). WSR 16-24-013, § 415-501-475, filed 11/28/16, effective 1/1/17; WSR 16-12-050, § 415-501-475, filed 5/25/16, effective 6/25/16; WSR 14-10-045, § 415-501-475, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10). WSR 05-22-109, § 415-501-475, filed 11/2/05, effective 12/3/05. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-475, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-475, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. WSR 98-20-047, § 415-512-075, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-075, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 16-24-013, filed 11/28/16, effective 1/1/17)

**WAC 415-501-480 How do I designate my beneficiaries?** You have the right to designate a beneficiary or beneficiaries to receive your accumulated deferrals in the event of your death. You may change your beneficiary designation at any time online, or by filing a beneficiary change form with the department. The change will take effect upon the department's receipt of the beneficiary change form. Your designated beneficiary or beneficiaries must be the same for your entire DCP account (both pretax and Roth balances).

You may name:

(1) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifi-

cally designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(2) Your estate.

(3) An existing trust or a trust that is to be established under your last will. For an existing trust, you must provide a copy of the trust document and the name, address and telephone number of the current trustee.

You may name contingent beneficiaries in addition to primary beneficiaries.

[Statutory Authority: RCW 41.50.050(5). WSR 16-24-013, § 415-501-480, filed 11/28/16, effective 1/1/17. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-480, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-480, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. WSR 98-20-047, § 415-512-080, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-080, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 22-17-049, filed 8/11/22, effective 9/11/22)

**WAC 415-501-485 How do I obtain a distribution?** Distribution from the plan is governed by Internal Revenue Code Sections 401 (a) (9) and 457(d); the treasury regulations interpreting these sections; and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are available from the department's recordkeeper.

(1) **Date of distribution.** You may choose the date on which to begin distribution from your deferred compensation account, subject to the requirements in (a) through (c) of this subsection; however, in order for earnings on Roth contributions to be tax-free at time of distribution, the requirements for a qualified distribution must be satisfied.

(a) **Earliest date.** You may not begin distribution prior to your termination of employment, with the following exceptions:

(i) A distribution for an unforeseeable emergency under WAC 415-501-510;

(ii) A voluntary in-service distribution under subsection (4) of this section;

(iii) A distribution from funds that were rolled into the deferred compensation account (may be subject to tax penalties); or

(iv) An in-service distribution in any calendar year in which you will reach age 70.5 or more.

(b) **Latest date.** You must begin distribution on or before April 1st of the calendar year following the latter of:

(i) The calendar year in which you reach age 72; or

(ii) The calendar year in which you retire.

(c) If you do not choose a distribution date, the department will begin distribution according to the minimum distribution requirements in IRC Section 401 (a) (9).

(2) **Method of distribution.** Payment options include a lump sum payment, partial lump sum payment, or installment payments.

Beginning at age 72 or when you terminate employment, whichever comes later, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a) (9).

(3) **Voluntary in-service distribution at any age.** You may choose to withdraw the total amount payable to you under the plan while you are employed if the following three requirements are met:

(a) Your entire account value does not exceed \$5,000;

(b) You have not previously received an in-service distribution; and

(c) You have made no deferrals during the two-year period ending on the date of the in-service distribution.

(4) **Unforeseeable emergencies.** See WAC 415-501-510.

(5) **Rehire.** If you submit an immediate lump sum or partial distribution request and the request is received in good order prior to being rehired, your distribution will be processed even if you become rehired with a DCP employer. If you are receiving installment payments or have requested to receive installment payments and then return to employment with a DCP employer, your payments from your DCP account will cease. You may request a distribution when you are again eligible consistent with these rules.

[Statutory Authority: RCW 41.50.050. WSR 22-17-049, § 415-501-485, filed 8/11/22, effective 9/11/22. Statutory Authority: RCW 41.50.030 and 41.50.050. WSR 21-07-044, § 415-501-485, filed 3/11/21, effective 4/11/21. Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-485, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-485, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.780(10). WSR 06-04-058, § 415-501-485, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-485, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-485, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-485, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.]

AMENDATORY SECTION (Amending WSR 22-17-049, filed 8/11/22, effective 9/11/22)

**WAC 415-501-510 May I withdraw some or all of my accumulated deferrals in the event of an unforeseeable emergency?** (1) Notwithstanding any other provisions in this chapter, you may request all or a portion of your accumulated deferrals if:

(a) You are terminally ill. The department's recordkeeper will arrange for payment to you within 10 business days following application. To be eligible, the department's recordkeeper must receive documentation verifying your terminal illness along with your application.

(b) You have a qualifying unforeseeable emergency. The department's recordkeeper will distribute payment to you typically within 60 business days following application. To be eligible, the department's recordkeeper must receive documentation verifying your unforeseeable emergency, along with your application. The amount paid will be limi-

ted strictly to that amount reasonably necessary to satisfy the emergency need.

(c) If you have Roth deferrals, you may be taxed on earnings if the Roth withdrawal does not meet the definition of a qualified distribution (see WAC 415-501-110(16)).

(2) For purposes of this plan, an unforeseeable emergency is severe financial hardship resulting from:

(a) A personal illness or accident or the illness or injury of a spouse or dependent who meets the definition in Section 152(a) of the Internal Revenue Code;

(b) Loss of your property due to casualty, including the need to rebuild a home following damage not otherwise covered by homeowner's insurance, e.g., as a result of natural disaster; or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control, such as:

(i) The imminent foreclosure of or eviction from your primary residence due to circumstances that were beyond your control;

(ii) The need to pay medical expenses, including nonrefundable deductibles as well as the cost of prescription drug medication; or

(iii) The need to pay funeral expenses of a participant's or beneficiary's spouse or dependent (as defined in Section 152(a) of the Internal Revenue Code without regard to Sections 152 (b) (1), (2), and (d) (1)).

(3) The circumstances that constitute an unforeseeable emergency depend upon the facts of each case, but, in no case will the (~~department~~) department's recordkeeper approve a distribution request if the financial hardship is or may be relieved:

(a) Through reimbursement or compensation by insurance or otherwise; or

(b) By liquidation of your assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(c) By cessation of deferrals under the plan.

(4) Examples: The following types of occurrences are not considered unforeseeable emergencies: Sending your child to college or purchasing a home.

(5) If the (~~department~~) department's recordkeeper denies your request for distribution, you may request a review of that decision according to the provisions of WAC 415-08-015.

[Statutory Authority: RCW 41.50.050. WSR 22-17-049, § 415-501-510, filed 8/11/22, effective 9/11/22; WSR 20-17-006, § 415-501-510, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5). WSR 14-10-045, § 415-501-510, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-510, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.770 and 41.50.780. WSR 02-02-059, § 415-501-510, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-510, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. WSR 98-20-047, § 415-524-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-524-010, filed 7/29/96, effective 7/29/96.]



AMENDATORY SECTION (Amending WSR 04-22-053, filed 10/29/04, effective 11/29/04)

**WAC 415-501-600 Is my employer allowed to contribute to my deferred compensation account?** The employer may, pursuant to WAC 415-501-450, add additional deferred compensation for services you provided to the employer during any calendar month, provided:

(1) You elected to have such additional compensation deferred pursuant to this plan, prior to the calendar month in which the compensation is earned; ~~((and))~~

(2) Such additional deferred compensation, when added to all other deferred compensation under the plan, does not exceed the maximum deferral permitted by this chapter; and

(3) Your employer's contributions will be pretax.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-600, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-600, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-600, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-556-010, filed 7/29/96, effective 7/29/96.]

## WSR 23-18-028

## PERMANENT RULES

## DEPARTMENT OF AGRICULTURE

[Filed August 28, 2023, 10:03 a.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: This rule-making order amends WAC 16-390-240 USDA audit verification and terminal market inspection fees, to adopt fees identical to, and not less than, fees adopted by the United States Department of Agriculture, Agricultural Marketing Service (USDA-AMS) as published in the Federal Register (Vol. 88, No. 98) on May 22, 2023, under the "Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table with an effective date of October 1, 2023. These changes are necessary to comply with the department's cooperative agreement with USDA-AMS for services the department provides as a "federal-state inspection agency.["

Citation of Rules Affected by this Order: Amending WAC 16-390-240.

Statutory Authority for Adoption: RCW 15.17.030, [15.17].140(2), [15.17].150, and [15.17].270.

Other Authority: RCW 15.17.150 and [15.17].270.

Adopted under notice filed as WSR 23-13-126 on June 21, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 28, 2023.

Derek I. Sandison  
Director

**OTS-4691.1**

AMENDATORY SECTION (Amending WSR 22-22-063, filed 10/28/22, effective 12/1/22)

**WAC 16-390-240 USDA audit verification and terminal market inspection fees.** WSDA performs audit and inspection services requested by customers under a "cooperative agreement" with the United States Department of Agriculture's Agricultural Marketing Service (USDA/AMS). Under USDA/AMS rules, WSDA provides these services as a "federal-state inspection agency." Under USDA/AMS regulations and the cooperative agreement, the fees that WSDA charges for these services must be no less than the current USDA/AMS fees for these services. The applicable current USDA/AMS fees were published in the Federal Register in Vol.

(~~87, No. 114 on June 14, 2022~~) 88, No. 98 on May 22, 2023, under the "Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table and, for the mileage fee related to terminal market inspection, for incorporation in the USDA/AMS "General Market Manual" at Appendix II, "Schedule of User Fees." In conformity with the cooperative agreement, WSDA adopts the same applicable fees for these services as set forth in this section.

(1) Mileage related to audit verification services is charged at the rate established by the Washington state office of financial management at the time the service was performed.

(2) Specialty crop fees/audit and terminal market fees:

Quality and Condition Inspections for Whole Lots	(( <del>\$225.00</del> ) <u>\$242.00</u> per lot		
Quality and Condition Half Lot or Condition-Only Inspections for Whole Lots	(( <del>\$186.00</del> ) <u>\$200.00</u> per lot		
Condition Half Lot	(( <del>\$172.00</del> ) <u>\$185.00</u> per lot		
Quality and Condition or Condition-Only Inspections for Additional Lots of the Same Product	(( <del>\$103.00</del> ) <u>\$110.00</u> per lot		
Dockside Inspections - Each Package Weighing <30 lbs.	\$0.044 per pkg.		
Dockside Inspections - Each Package Weighing >30 lbs.	\$0.068 per pkg.		
Charge per Individual Product for Dockside Inspection	(( <del>\$225.00</del> ) <u>\$240.00</u> per lot		
Charge per Each Additional Lot of the Same Product	(( <del>\$103.00</del> ) <u>\$110.00</u> per lot		
Inspections for All Hourly Work	Regular	Overtime	Holiday
	(( <del>\$100.00</del> ) <u>\$116.00</u>	(( <del>\$137.00</del> ) <u>\$153.00</u>	(( <del>\$175.00</del> ) <u>\$190.00</u>
Audit Services - Federal	(( <del>\$132.00</del> ) <u>\$155.00</u> per audit		
Audit Services - State	(( <del>\$132.00</del> ) <u>\$155.00</u> per audit		
GFSI Certification Fee <sup>2</sup>	\$250.00 per audit		

<sup>2</sup> Global Food Safety Initiative (GFSI) Certification Fee—\$250 per GFSI audit to recoup the costs associated with attaining technical equivalency to the GFSI benchmarking requirements.

(3) The mileage fee related to terminal market inspection services is \$1.96 per mile. Round trip mileage will be charged from an inspector's assigned location to the inspection site.

[Statutory Authority: RCW 15.17.030, [15.17].140(2), [15.17].150, and [15.17].270. WSR 22-22-063, § 16-390-240, filed 10/28/22, effective 12/1/22; WSR 19-18-047, § 16-390-240, filed 8/30/19, effective 9/30/19. Statutory Authority: RCW 15.17.030, [15.17].140(2), [15.17].150, [15.17].270 and chapter 34.05 RCW. WSR 18-21-167, § 16-390-240, filed 10/23/18, effective 11/23/18; WSR 17-24-077, § 16-390-240, filed 12/5/17, effective 1/5/18. Statutory Authority: RCW 15.17.140(2), 15.17.040 [15.17.030], chapters 17.24 and 34.05 RCW. WSR 14-24-086, § 16-390-240, filed 12/1/14, effective 1/1/15. Statutory Authority: RCW 15.17.050, 2012 2nd sp.s. c 7, and chapter 34.05 RCW. WSR 12-19-040, § 16-390-240, filed 9/12/12, effective 10/13/12. Statutory Authority: Chapters 15.17 and 34.05 RCW. WSR 07-16-084, § 16-390-240, filed 7/30/07, effective 8/30/07. Statutory Authority: Chapters 15.17, 34.05 RCW, and 2003 1st sp.s. c 25. WSR 04-11-078, § 16-390-240, filed 5/18/04, effective 6/18/04.]

**WSR 23-18-034**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed August 29, 2023, 12:42 p.m., effective September 29, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These changes to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's (DDA) home and community-based services waivers as approved by the federal Centers for Medicare and Medicaid Services. Substantive changes remove the prohibition to receive employment services and community inclusion services concurrently and remove "consecutive" to align with RCW 71A.12.290. These permanent rules supersede emergency rules currently enacted on these sections.

Citation of Rules Affected by this Order: Amending WAC 388-845-0603, 388-845-0610, and 388-845-2110.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.120 and 71A.12.290.

Adopted under notice filed as WSR 23-14-001 on June 21, 2023.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-845-0603 (2) (a) was revised to remove the requirement that the employment support services were received from DDA. This change aligns with RCW 71A.12.290 and would allow for greater variety in supported employment experience (e.g., out-of-state employment support services).

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: August 29, 2023.

Lisa N. H. Yanagida  
Chief of Staff

**SHS-4958.4**

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

**WAC 388-845-0603 Who is eligible to receive community inclusion services?** You are eligible for community inclusion services if you are enrolled in the basic plus or core waivers and:

- (1) You are (~~sixty-two~~) 62 or older; or
- (2) You meet age requirements under WAC 388-845-2110(1) and:
  - (a) You have participated in (~~developmental disabilities administration (DDA)~~) supported employment services for at least nine (~~consecutive~~) months; or
  - (b) DDA has determined that you are exempt from the nine-month (~~DDA~~) supported employment service requirement because:
    - (i) Your medical or behavioral health records document a condition that prevents you from completing nine (~~consecutive~~) months of (~~DDA~~) supported employment services; or
    - (ii) You were referred to and were available for (~~DDA~~) supported employment services, but the service was not delivered within (~~ninety~~) 90 days of the referral.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0603, filed 6/20/18, effective 7/21/18. Statutory Authority: RCW 71A.12.030. WSR 17-12-002, § 388-845-0603, filed 5/24/17, effective 6/24/17. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0603, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-0603, filed 8/1/12, effective 9/1/12.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

**WAC 388-845-0610 Are there limits to community inclusion services you may receive?** (~~(1) You must not receive community inclusion services if you are receiving prevocational or supported employment services.~~

~~(2))~~ The maximum hours of community inclusion services you may receive are determined by the developmental disabilities administration (~~DDA~~) assessment under WAC 388-828-9310.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-0610, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c) (4)-(5). WSR 18-03-174, § 388-845-0610, filed 1/23/18, effective 2/23/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0610, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-0610, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0610, filed 9/22/08, effective 10/23/08. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0610, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 22-01-216, filed 12/22/21, effective 1/22/22)

**WAC 388-845-2110 Are there limits to the supported employment services you may receive?** The following limits apply to your receipt of supported employment services:

- (1) To receive supported employment services, you must be age:
  - (a) ~~((Twenty))~~ 20 and graduating from high school before your July or August ~~((twenty-first))~~ 21st birthday~~((+))~~;
  - (b) ~~((Twenty-one))~~ 21 and no longer eligible to enroll in high school; or
  - (c) ~~((Twenty-two))~~ 22 or older.
- (2) Payment for ~~((individual))~~ supported employment services excludes the supervisory activities rendered as a normal part of the business setting.
- ~~(3) ((You will not be authorized to receive supported employment services in addition to community inclusion services.~~
- ~~(4))~~ Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325 and might not equal the number of hours you spend on the job or in job related activities.

[Statutory Authority: RCW 71A.12.030 and 71A.12.040. WSR 22-01-216, § 388-845-2110, filed 12/22/21, effective 1/22/22. Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c) (4)-(5). WSR 18-03-174, § 388-845-2110, filed 1/23/18, effective 2/23/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2110, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-2110, filed 9/22/08, effective 10/23/08. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2110, filed 12/13/05, effective 1/13/06.]

**WSR 23-18-035**  
**PERMANENT RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed August 29, 2023, 12:47 p.m., effective September 29, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These amendments to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's (DDA) home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: Adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service from all waivers except the community protection waiver; amend the definition of the specialized evaluation and consultation service; amend the definition of community engagement; add teleservice as a service delivery method; add remote supports to multiple waivers; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS. These permanent rules supersede emergency rules currently enacted on these sections.

Citation of Rules Affected by this Order: New WAC 388-845-0113, 388-845-0945, 388-845-0950, 388-845-0955, 388-845-2141, 388-845-2142 and 388-845-2143; repealing WAC 388-845-0501 and 388-845-0506; and amending WAC 388-845-0001, 388-845-0005, 388-845-0010, 388-845-0030, 388-845-0041, 388-845-0045, 388-845-0050, 388-845-0070, 388-845-0100, 388-845-0105, 388-845-0110, 388-845-0111, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0415, 388-845-0425, 388-845-0500, 388-845-0505, 388-845-0510, 388-845-0515, 388-845-0525, 388-845-0650, 388-845-0660, 388-845-0800, 388-845-0805, 388-845-0810, 388-845-0820, 388-845-0900, 388-845-0910, 388-845-0940, 388-845-1030, 388-845-1040, 388-845-1163, 388-845-1190, 388-845-1192, 388-845-1195, 388-845-1197, 388-845-1600, 388-845-1607, 388-845-1620, 388-845-1660, 388-845-1800, 388-845-1805, 388-845-1810, 388-845-1865, 388-845-1870, 388-845-1880, 388-845-1890, 388-845-2000, 388-845-2005, 388-845-2010, 388-845-2130, 388-845-2150, 388-845-2155, 388-845-2200, 388-845-2205, 388-845-2210, 388-845-2260, 388-845-2270, 388-845-2283, 388-845-2285, 388-845-2290, 388-845-3055, 388-845-3056, 388-845-3065, 388-845-3075, 388-845-3080, 388-845-4000, and 388-845-4005.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.120.

Other Authority: 42 C.F.R. 441.301 (c)(6).

Adopted under notice filed as WSR 23-12-078 on June 6, 2023.

Changes Other than Editing from Proposed to Adopted Version: In response to stakeholder feedback, DDA revised the definition of integrated setting in WAC 388-845-0001 to better align with the federal definition.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, Amended 72, Repealed 2.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 72, Repealed 2.

Date Adopted: August 29, 2023.

Lisa N. H. Yanagida  
Chief of Staff

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 23-19 issue of the Register.



**WSR 23-18-038**  
**PERMANENT RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed August 30, 2023, 10:13 a.m., effective September 30, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state liquor and cannabis board has adopted amendments to WAC 314-40-040 that allow private clubs to add additional membership drives and host consecutive membership drives.

Citation of Rules Affected by this Order: Amending WAC 314-40-040.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.450.

Adopted under notice filed as WSR 23-14-121 on July 5, 2023.

A final cost-benefit analysis is available by contacting Daniel Jacobs, Rules Coordinator, 1025 Union Avenue S.E., Olympia, WA 98501, phone 360-480-1238, fax 360-664-3208, email rules@lcb.wa.gov, website www.lcb.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 30, 2023.

David Postman  
Chair

**OTS-4661.1**

AMENDATORY SECTION (Amending WSR 17-16-072, filed 7/26/17, effective 8/26/17)

**WAC 314-40-040 Guest and courtesy cards—Visitors.** (1) Guest cards are intended for invited guests residing outside of the immediate area.

(a) Guest cards shall be issued no more than three times per year for a period not to exceed (~~fourteen~~) 14 consecutive days, and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(b) Contestants in golf or tennis tournaments conducted on the grounds of a licensed club will be considered a visitor for the day(s) of the event.

(2) Visitors may be introduced when accompanied at all times by a member, who is not an on duty employee, and may remain as long as such

member is present in the club. Any such visitor may only enjoy the privileges of the club six times in any one calendar year unless a different number of times is allowed in the club by-laws.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold a public membership function for ~~((one))~~ two days per calendar quarter where club liquor may be given or sold to those attending as a part of the membership drive activities. The function must be advertised as a membership drive. ~~((Membership drives may not be held on consecutive days.))~~ A membership drive may be held on two consecutive days per calendar year. There must be at least seven days between membership events.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce visitors into the club provided:

(a) The visitors are accompanied at all times by the sponsoring guest card holder;

(b) The visitors remain in the club only as long as the sponsoring guest card holder is present; and

(c) The house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club.

[Statutory Authority: RCW 66.24.450. WSR 17-16-072, § 314-40-040, filed 7/26/17, effective 8/26/17. Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 11-23-048, § 314-40-040, filed 11/9/11, effective 12/10/11; WSR 10-16-056, § 314-40-040, filed 7/28/10, effective 8/28/10. Statutory Authority: RCW 66.08.030. WSR 95-16-030, § 314-40-040, filed 7/21/95, effective 8/21/95; WSR 88-07-060 (Order 239, Resolution No. 248), § 314-40-040, filed 3/16/88; WSR 88-01-016 (Order 235, Resolution No. 244), § 314-40-040, filed 12/8/87; WSR 86-07-013 (Order 177, Resolution No. 186), § 314-40-040, filed 3/11/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-06-020 (Order 152, Resolution No. 161), § 314-40-040, filed 2/27/85; WSR 82-04-028 (Order 92, Resolution No. 101), § 314-40-040, filed 1/27/82; Rule 106, filed 6/13/63.]

## WSR 23-18-045

## PERMANENT RULES

## DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed August 30, 2023, 1:14 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: Health equity continuing competency training for occupational therapy in WAC 246-847-065.

RCW 43.70.613 (3) (b) directed the rule-making authority for each health profession licensed under Title 18 RCW that is subject to continuing competency to adopt rules requiring a licensee to complete health equity continuing competency training at least once every four years. The statute also directed the department of health (department) to create model rules establishing the minimum standards for health equity continuing education (CE) programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed by the occupational therapy practice board (board) must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The board adopted rule amendments to the continued competency section, WAC 246-847-065, to implement ESSB 5229 (chapter 276, Laws of 2021). The board is adopting the health equity model rules, WAC 246-12-800 through 246-12-830, for occupational therapy practitioners to comply with RCW 43.70.613. The adopted rule adds two hours of health equity education, as required in the model rules, to be completed as part of the current continuing competency requirements every four years.

The adopted rule does not change the total CE hours but requires two hours in health equity CE every four years which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Citation of Rules Affected by this Order: Amending WAC 246-847-065.

Statutory Authority for Adoption: RCW 18.59.130, 18.130.040, 43.70.040, and 43.70.613.

Adopted under notice filed as WSR 23-12-094 on June 6, 2023.

Changes other than editing from proposed to adopted version: The board amended the rule at the hearing to clarify where the model rules are located. The revision included the addition of the following language regarding the training, stating it must "comply with WAC 246-12-800 through 246-12-830."

A final cost-benefit analysis is available by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, fax 360-236-2901, TTY 711, email kathy.weed@doh.wa.gov, website www.doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: July 14, 2023.

Mary Spores, Chair  
Occupational Therapy Practice Board

## OTS-4547.2

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

**WAC 246-847-065 Continued competency.** Licensed occupational therapists and licensed occupational therapy assistants must complete (~~thirty~~) 30 hours of continued competency every two years in the form of continuing education and professional development. The licensee must submit documentation upon request as required by chapter 246-12 WAC.

(1) Beginning January 1, 2014, as part of their continued competency, occupational therapists and occupational therapy assistants are required to obtain at least three hours of training every six years in suicide assessment as specified in WAC 246-847-066. The licensee must keep documentation for six years.

(a) Except as provided in (b) of this subsection, an occupational therapist or occupational therapy assistant must complete the first training required by this section during the first full continued competency reporting period after January 1, 2014, or the first full continued competency reporting period after initial licensure, whichever occurs later.

(b) An occupational therapist or occupational therapy assistant applying for initial licensure on or after January 1, 2014, may delay completion of the first training required by this section for six years after initial licensure if:

(i) He or she can demonstrate successful completion of a three-hour training program in suicide assessment that was completed no more than six years prior to the application for initial licensure; and

(ii) The training meets the qualifications listed in WAC 246-847-066.

(2) As of January 1, 2024, occupational therapists and occupational therapy assistants are required to obtain at least two hours in health equity continuing education training every four years. The continuing education course must meet the minimum standards under RCW 43.70.613 and comply with WAC 246-12-800 through 246-12-830. These hours can be counted towards the total required 30 hours of continuing education.

(3) The (~~thirty~~) 30 hours of continuing education and professional development must be obtained through two or more of the activities listed in this subsection. A minimum of (~~twenty~~) 20 hours must directly relate to the practice of occupational therapy as defined in RCW 18.59.020 and WAC 246-847-010. Any remaining hours may be in professional development activities that enhance the practice of the licensed occupational therapist or licensed occupational therapy assis-

tant. Documentation for all activities must include licensee's name, date of activity, and number of hours. Additional specific documentation is defined below:

(a) Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance.

(b) Employer sponsored in-service training or professional study groups. The required documentation for this activity is a certificate or documentation of attendance. A maximum of (~~fifteen~~) 15 hours is allowed per reporting period for this category.

(c) Attendance at a professional conference or workshop presented by a professional organization. The required documentation for this activity is a certificate or documentation of attendance.

(d) Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript. One course credit is equal to five hours. A maximum of (~~fifteen~~) 15 hours is allowed per reporting period for this category.

(e) Interactive online courses and webinars. The required documentation for this activity is a certificate or documentation of completion.

(f) Presentation to professionals, including poster presentations. One hour of preparation time may be counted per hour of presentation time. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period. A maximum of (~~ten~~) 10 hours is allowed per reporting period for this category.

(g) Guest lecturing on an occupational therapy-related topic in an academic setting. The occupational therapist or occupational therapy assistant must not be primarily employed in academia to submit credit for this activity. The required documentation for this activity is a letter or other documentation from the course instructor. A maximum of (~~ten~~) 10 hours is allowed per reporting period for this category. One hour of preparation time may be counted per hour of lecture time.

(h) Authoring a publication. The required documentation for this activity is a copy of the publication. For a peer reviewed journal article or chapter in a textbook a maximum of (~~ten~~) 10 hours is allowed per reporting period for this category. For nonpeer reviewed professional publication a maximum of five hours is allowed per reporting period for this category.

(i) Development of instructional materials incorporating alternative media such as: Video, audio and/or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media/software materials must be available if requested during audit process. A maximum of (~~ten~~) 10 hours is allowed per reporting period for this category.

(j) Professional manuscript review. The required documentation for this activity is a letter from the publishing organization verifying review of manuscript. One hour of continuing education may be counted per hour of review time. A maximum of (~~ten~~) 10 hours is allowed per reporting period for this category.

(k) Service on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of (~~ten~~) 10 hours is allowed per reporting period for this category.

(l) Self-study of peer reviewed, role-related professional journal articles, textbooks or chapters, or professionally developed multimedia and digital media educational materials. The required documentation for this activity is a typed, one-page synopsis of each item written by the licensee or a certificate from OT practice continuing education article. A maximum of (~~ten~~) 10 hours is allowed per reporting period for this category. Time spent writing synopsis is not reportable.

(m) Direct supervision of an occupational therapy student or occupational therapy assistant student. The required documentation for this activity is a name of student(s), letter of verification from school, and dates of fieldwork. Forty hours of supervision per student is equal to one hour of continued competency. A maximum of (~~twelve~~) 12 hours per supervisor is allowed per reporting period for this category.

(n) Mentoring. Mentoring in this section means a relationship in which a more experienced or more knowledgeable person helps to guide a less experienced or knowledgeable person for the informal transmission of knowledge and support relevant to professional development. The required documentation for this activity is a written report of goals, objectives and analysis of mentee performance signed by both mentor and mentee. Mentoring credits do not count towards the requirement of (~~twenty~~) 20 hours directly related to the practice of occupational therapy. A maximum of five hours is allowed per reporting period for this category.

(o) Attending a Washington occupational therapy practice board meeting. A maximum of two credits per reporting period is allowed.

[Statutory Authority: RCW 18.59.130. WSR 18-09-032, § 246-847-065, filed 4/11/18, effective 8/1/18. Statutory Authority: RCW 43.70.442 and 18.59.130. WSR 14-05-016, § 246-847-065, filed 2/10/14, effective 2/15/14. Statutory Authority: RCW 18.59.130 and 18.59.090. WSR 05-24-105, § 246-847-065, filed 12/7/05, effective 1/7/06. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-847-065, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.59.130. WSR 92-18-015 (Order 300B), § 246-847-065, filed 8/24/92, effective 9/24/92; WSR 91-11-064 (Order 171B), § 246-847-065, filed 5/16/91, effective 6/16/91; WSR 91-05-027 (Order 112B), recodified as § 246-847-065, filed 2/12/91, effective 3/15/91; WSR 90-22-011 (Order 094), § 308-171-041, filed 10/26/90, effective 11/26/90.]

## WSR 23-18-048

## PERMANENT RULES

## DEPARTMENT OF HEALTH

[Filed August 30, 2023, 4:30 p.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: Birth doula. ESHB 1881 (chapter 217, Laws of 2022), co-dified under chapter 18.47 RCW, created birth doulas (doula) as a new health profession in the state of Washington. The adopted rules establish the profession's education, training, and certification requirements. This is a voluntary credential, meaning that an individual does not need to be credentialed in Washington state to provide doula services; however, the title "state-certified birth doula" cannot be used unless the person is certified as a doula.

The adopted rules incorporate education requirements that include culturally congruent ancestral practices, training and education. Training may be completed through educational programs or [by] completing ancestral pathway competencies.

In addition to the education and training requirements, the adopted rules establish certification requirements which include an application process, fees, and any requirements necessary to comply with the Uniform Disciplinary Act, chapter 18.130 RCW, which is required for all credential holders.

Citation of Rules Affected by this Order: New WAC 246-835-005, 246-835-010, 246-835-015, 246-835-020, 246-835-022, 246-835-025, 246-835-030, 246-835-040, 246-835-060, and 246-836-990.

Statutory Authority for Adoption: Chapter 18.47 RCW; ESHB 1881 (chapter 217, Laws of 2022).

Adopted under notice filed as WSR 23-12-090 on June 6, 2023.

Changes Other than Editing from Proposed to Adopted Version: The department made the following changes in response to public comments received on the proposed rule.

**WAC 246-835-020 Approved birth doula educational programs.** (1) The secretary accepts any birth doula training program, or that courses that collectively requires attendance at a minimum of three births and introduces students to the key principles of the following topics:

**WAC 246-835-022 Ancestral pathway competencies.** This section applies to applicants that did not attend a traditional birth doula training program or course.

(1) An attestation on forms provided by the department that they have completed training that is substantially equivalent to the required training in WAC 246-835-020; and

~~(2) An attestation that they have attended at least one birth in the capacity of a doula in either a paid or volunteer capacity within the last five years; or~~

(3) Three written client testimonial letters or letters of recommendation from ~~professionals~~ a profession-related leader or peers using testimonial templates provided by the department. Letters must be written within the last five years.

**WAC 246-835-025(1) Culturally congruent ancestral practices, training, and education.**

(a) Multicultural, ancestral and culturally congruent care; such as, but not limited to, rebozo use, belly binding, placenta burial, placenta encapsulation, cord burning, lotus birth, development of intuition;

(b) History of obstetrics; such as erasure of granny midwives and indigenous birth work; ~~or~~

(c) Trauma-informed care;

(d) Social Determinants of Health and Adverse Childhood Experiences; or

(ee) Other training and education that enhances the applicant's knowledge of culturally congruent ancestral practices.

**WAC 246-835-030 Application process.**

(2) Proof of successful completion of the education requirements in WAC 246-835-015:

(a) Culturally congruent ancestral practices, training, and education as required in WAC 246-835-025; and

(b) If the applicant completed the birth and core curricula training requirements through a program, or courses that collectively meeting meet the requirements in WAC 246-835-020(1), documentation must be submitted by the applicant to the department; or

(c) If the applicant completed the training requirements from an approved program through WAC 246-835-020(2) listed on the department's webpage, proof of completion must be received by the department directly from the program where the applicant completed the training; or

(d) If the applicant completed the education requirements through completion of the ancestral pathway and legacy competencies in WAC 246-835-022, documentation must be submitted by the applicant to the department.

(3) Verification from all states in which the applicant holds or has held a health care credential, indicating that the applicant has or has not been subject to ~~charges or~~ final or pending disciplinary action ~~for unprofessional conduct or impairment;~~

**WAC 246-835-040 Applicants certified in other states or territories.** An initial applicant currently certified to practice as a birth doula in another state, the District of Columbia, or a territory of the United States may be licensed by endorsement. An applicant shall comply with the requirements for licensure as specified in chapters 18.47 RCW and 246-835 WAC and submit proof of: (1) Current certification from another United States jurisdiction; and (2) For applicants who have been certified in another jurisdiction for at least two years, completion of 10 hours of continuing education within the two-year period immediately preceding licensure.

**WAC 246-835-060 Continuing education.** State-certified birth doulas shall complete 10 hours of continuing education every renewal cycle in the form of continuing education and ~~professional~~ leadership development activities. The credential holder shall submit documentation upon request as required by chapter 246-12 WAC.

(1) Eight hours of continuing education and ~~professional~~ leadership development activities must be obtained through one of the activities listed in (a) through (f) of this subsection. A minimum of five hours must directly relate to the practice of a birth doula as defined in chapter 18.47 RCW. Any remaining hours may be in ~~professional~~ leadership development activities that enhance the practice of the birth doula. Documentation for all activities must include credential holder[']s name, date of activity, and number of hours. Approved continued education activities include:

(a) Continuing education course work;

(b) Employer sponsored in-service training or ~~professional~~ profession-related study groups;

(c) Attendance at a ~~professional~~ profession-related conference or workshop presented by a ~~professional~~ profession-related organization;

(d) Online courses and webinars;



(e) Self-study of ~~professional~~ profession-related journal articles, textbooks or chapters, or ~~professionally developed~~ multimedia and digital media educational materials. Documentation for this is a typed, one-page synopsis written by the credential holder; and

(f) Service on a ~~professional~~ profession-related board, committee, collective, disciplinary panel, or association.

A final cost-benefit analysis is available by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, fax 360-236-2901, TTY 711, email kathy.weed@doh.wa.gov, website www.doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 0, Repealed 0.

Date Adopted: August 30, 2023.

Kristin Peterson, JD  
Chief of Policy  
for Umair A. Shah, MD, MPH  
Secretary

**OTS-4500.7**

**Chapter 246-835 WAC  
BIRTH DOULA**

NEW SECTION

**WAC 246-835-005 State-certified birth doula.** (1) An individual who meets the certification requirements of this chapter and chapter 18.47 RCW is considered a "state-certified birth doula."

(2) Nothing in this chapter prohibits a person from practicing as a birth doula without obtaining a certification under this chapter and chapter 18.47 RCW.

(3) No person may use the title "state-certified birth doula" in connection with the person's name to indicate or imply, directly or indirectly, that the person is a state-certified birth doula without being certified in accordance with this chapter as a birth doula.

[]

NEW SECTION

**WAC 246-835-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Birth doula" or "doula" mean a state-certified birth doula under this chapter.

(2) "Culturally congruent care" means the care and respect towards families to uphold their cultural practices around birth as the duty of the doula regardless of their identity, as well as assisting families in accessing other doulas from the same background and community as them.

(3) "Department" means the department of health.

(4) "Postpartum" means the 12-month period beginning on the last day of pregnancy.

(5) "Secretary" means the secretary of the department of health.

[]

NEW SECTION

**WAC 246-835-015 Education requirements.** To qualify for certification, an individual shall:

(1) Successfully complete culturally congruent ancestral practices, training, and education as required in WAC 246-835-025.

(2) In addition to subsection (1) of this section an individual shall also successfully complete:

(a) An approved program in WAC 246-835-020; or

(b) Requirements for ancestral pathway competencies in WAC 246-835-022.

[]

NEW SECTION

**WAC 246-835-020 Approved birth doula educational programs.** (1) The secretary accepts any birth doula training program, or courses that collectively introduce students to the key principles of the following topics:

(a) Role of a birth doula: History of birth work, scope of work, individual practice and skill set, when and how to refer out;

(b) Prenatal and birth care: Prenatal wellness and preparing for birth including, but not limited to, nutrition, movement, mental health, spiritual wellness, relationship support, education, and resources; physiology of labor and birth; comfort measures; coping techniques and pain management; common medical terminology and interventions; creating a birth plan;

(c) Postpartum care: Lactation and newborn feeding techniques, newborn care, family integration and bonding, healing and comfort measures, postpartum mood and anxiety disorders, self and community care, and grief;

(d) Communication and interpersonal skills: Collaboration with birth team, emotional intelligence and sensitivity, active listening,

informed consent and decision making, advocacy, accessible and affirming language; community support networks;

(e) Doula safety and self-care: Boundaries with clients, capacity and burn out, emotional wellness practices such as mindfulness, meditation, reiki, and prayer, networking, and community building; and

(f) Birth justice and advocacy: LGBTQ+/gender inclusive care, black and indigenous perinatal health crisis, medical racism and advocacy.

(2) Birth doula training programs meeting the criteria in subsection (1) of this section may apply for department approval. Programs that have applied for, and received approval, will be listed on the department's webpage.

[]

#### NEW SECTION

**WAC 246-835-022 Ancestral pathway competencies.** This section applies to applicants that did not attend a traditional birth doula training program or course. To qualify for certification as a birth doula by completing the ancestral pathway competencies, the applicant shall complete birth doula ancestral training that is substantially equivalent to the required training in WAC 246-835-020. Documentation of completion must include:

(1) An attestation on forms provided by the department that they have completed training that is substantially equivalent to the required training in WAC 246-835-020; or

(2) Three written client testimonial letters or letters of recommendation from profession-related leaders or peers using testimonial templates provided by the department. Letters must be written within the last five years. One letter must be from either a licensed provider, a community-based organization, or a practicing doula or midwife.

[]

#### NEW SECTION

**WAC 246-835-025 Culturally congruent ancestral practices, training, and education.** (1) To apply for a birth doula certification, an applicant shall complete culturally congruent ancestral practices, training, and education that demonstrates learned familiarity with clients' cultural practices using culturally congruent care related to birth in client communities where the doula may practice. Such training may include, but is not limited to:

(a) Multicultural, ancestral and culturally congruent care; such as, but not limited to, rebozo use, belly binding, placenta burial, placenta encapsulation, cord burning, lotus birth, development of intuition;

(b) History of obstetrics; such as erasure of granny midwives and indigenous birth work;

(c) Trauma-informed care;

(d) Social determinants of health and adverse childhood experiences; or

(e) Other training and education that enhances the applicant's knowledge of culturally congruent ancestral practices.

(2) Documentation of completion must include:

(a) An attestation that they have successfully completed a training in one of the categories in subsection (1) of this section; or

(b) A certificate of completion from a relevant training that lists the applicant's name.

[]

#### NEW SECTION

**WAC 246-835-030 Application process.** An applicant for a birth doula certification shall submit the following to the department:

(1) A completed application as provided by the department;

(2) Proof of successful completion of the education requirements in WAC 246-835-015:

(a) Culturally congruent ancestral practices, training, and education as required in WAC 246-835-025; and

(b) If the applicant completed the core curricula training requirements through a program, or courses that collectively meet the requirements in WAC 246-835-020(1), documentation must be submitted by the applicant to the department; or

(c) If the applicant completed the training requirements from an approved program through WAC 246-835-020(2) listed on the department's webpage, proof of completion must be received by the department directly from the program where the applicant completed the training; or

(d) If the applicant completed the education requirements through completion of the ancestral pathway competencies in WAC 246-835-022, documentation must be submitted by the applicant to the department.

(3) Verification from all states in which the applicant holds or has held a health care credential, indicating that the applicant has or has not been subject to final or pending disciplinary action;

(4) Additional documentation as required by the secretary to determine whether an applicant is qualified for certification; and

(5) Any fees required in WAC 246-835-990.

[]

#### NEW SECTION

**WAC 246-835-040 Applicants currently certified in other states or territories.** An initial applicant currently certified to practice as a birth doula in another state, the District of Columbia, or a territory of the United States may be licensed by endorsement. An applicant shall comply with the requirements for licensure as specified in chapters 18.47 RCW and 246-835 WAC and submit proof of:

(1) Current certification from another United States jurisdiction; and

(2) For applicants who have been certified in another jurisdiction for at least two years, completion of 10 hours of continuing education within the two-year period immediately preceding licensure.

[]

NEW SECTION

**WAC 246-835-060 Continuing education.** State-certified birth doulas shall complete 10 hours of continuing education every renewal cycle in the form of continuing education and leadership development activities. The credential holder shall submit documentation upon request as required by chapter 246-12 WAC.

(1) Eight hours of continuing education and leadership development activities must be obtained through one of the activities listed in (a) through (f) of this subsection. A minimum of five hours must directly relate to the practice of a birth doula as defined in chapter 18.47 RCW. Any remaining hours may be in leadership development activities that enhance the practice of the birth doula. Documentation for all activities must include credential holder's name, date of activity, and number of hours. Approved continued education activities include:

- (a) Continuing education course work;
- (b) Employer sponsored in-service training or profession-related study groups;
- (c) Attendance at a profession-related conference or workshop presented by a profession-related organization;
- (d) Online courses and webinars;
- (e) Self-study of profession-related journal articles, textbooks or chapters, or multimedia and digital media educational materials. Documentation for this is a typed, one-page synopsis written by the credential holder; and
- (f) Service on a profession-related board, committee, collective, disciplinary panel, or association.

(2) In addition to the eight hours of continued education in subsection (1) of this section, a birth doula shall complete two hours of health equity CE every four years per chapter 43.70 RCW and in compliance with WAC 246-12-800 through 246-12-830.

[]

NEW SECTION

**WAC 246-835-990 Birth doula fees and renewal cycle.** (1) A birth doula must renew their certification every two years on the practitioner's birthday as provided in chapter 246-12 WAC.

(2) The following nonrefundable fees will be charged:

Title	Fee
Application for initial certification	\$190.00
Certification renewal	\$190.00
Late renewal penalty	\$95.00
Expired certificate reissuance	\$95.00
Duplicate certificate	\$10.00
Verification of certification	\$25.00

[]

**WSR 23-18-053**  
**PERMANENT RULES**  
**SECRETARY OF STATE**

[Filed August 31, 2023, 11:25 a.m., effective October 1, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Update and clarify division filing procedures; correct and update RCW references; increase annual report filing fee and expedited service fees.

Citation of Rules Affected by this Order: New WAC 434-112-110; repealing WAC 434-112-056, 434-112-057, 434-112-058, 434-112-065 and 434-112-090; and amending WAC 434-112-010, 434-112-028, 434-112-030, 434-112-040, 434-112-045, 434-112-050, 434-112-055, 434-112-060, 434-112-070, 434-112-075, 434-112-080, 434-112-085, and 434-112-100.

Statutory Authority for Adoption: Chapters 11.110, 18.100, 19.77, 19.09, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW.

Adopted under notice filed as WSR 23-11-158 on May 24, 2023.

Changes Other than Editing from Proposed to Adopted Version: WAC 434-112-080 changing "immediate" to "same-day" and adding "Same-day services may be limited due to business hours and quantity of filings submitted." and striking information about alternative arrangements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 13, Amended 1, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 10, Repealed 5.

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 13, Repealed 5; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 28, 2023.

Randy Bolerjack  
Deputy Secretary of State

**OTS-4608.4**

AMENDATORY SECTION (Amending WSR 19-16-130, filed 8/6/19, effective 9/6/19)

**WAC 434-112-010 Services provided by the corporations and charities division, "the division".** The corporations and charities division provides the following services:

(1) Filing business records under chapter ~~((s))~~ 18.100 ~~((, 23.78, 23.86, 23.90))~~ RCW, and Titles 23, 23B, and 25 RCW ~~((, and chapter 176, Laws of 2015))~~;

(2) Filing nonprofit ~~((organization))~~ entity records under Title 24 RCW ~~((and chapter 176, Laws of 2015))~~;

(3) Filing (~~(charities program)~~) registrations for charitable organizations, charitable trusts, and commercial fund-raisers under chapters 11.110 and 19.09 RCW and 434-120 WAC;

(4) Filing trademark registrations (~~(records)~~) under chapters 19.77 RCW and 434-12 WAC;

(5) Filing registration records of international student exchange programs under chapters 19.166 RCW and 434-166 WAC;

(6) (~~(Apostilles)~~) Providing apostille certification of documents under RCW (~~(42.44.180)~~) 43.07.032 and the Hague Conference 1961 Apostille Convention;

(7) Agent for service of process on nonresident motorists under RCW 46.64.040;

(8) Agent for service of process on defendants in actions for recovery of damages for motor vehicle theft, as authorized by RCW 9A.56.078;

(9) Agent for service of process for those entities and under those circumstances listed in (~~(section 1411(4), chapter 176, Laws of 2015)~~) RCW 23.95.450 and 23B.18.040;

(10) Agent for service of process in civil actions relating to acting as an athlete agent under RCW 19.225.020;

(11) Filing registration records of state registered domestic partnerships under chapter 26.60 RCW and RCW 43.07.400.

[Statutory Authority: RCW 19.34.030, 43.07.120 and chapter 19.34 RCW. WSR 19-16-130, § 434-112-010, filed 8/6/19, effective 9/6/19. Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-010, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-010, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 43.07.400 and 9A.56.078. WSR 07-20-065, § 434-112-010, filed 9/28/07, effective 10/29/07. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-010, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 15-22-047, filed 10/29/15, effective 1/1/16)

**WAC 434-112-028 Name reservation.** (1) (~~(Paper)~~) Requests for a name reservation submitted on paper are completed in order of date received unless immediate or expedited service is requested, and after payment has been made. A name reservation may be made by completing the form provided by the division or in a letter clearly containing all the following information:

(a) The (~~(corporate name desired)~~) preferred entity name, and up to three alternate names in order of preference;

(b) The entity type or entity structure for which a name reservation is sought;



(c) The name, address, and (~~telephone number~~) email address of the applicant;

(~~(e)~~) (d) The signature of the applicant; and

(~~(d)~~) (e) The application date.

An application on behalf of a client should also include the client's name and complete address.

(2) If subsequent documents are submitted citing the name reservation number or reserved entity name, the name and/or address of the applicant, or the client on whose behalf the reservation was submitted, must appear in the submitted document, or a transfer of reservation will be required.

(3) A name reservation expires (~~in one hundred eighty~~) 180 days after filing, and may not be renewed. A new filing may be made after the expiration date.

(~~(3)~~) (4) Requests for a name reservation may be filed online, when the system is available.

[Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-028, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-028, filed 10/6/10, effective 11/6/10.]

AMENDATORY SECTION (Amending WSR 15-22-047, filed 10/29/15, effective 1/1/16)

**WAC 434-112-030 Certificates.** Certificates issued by the secretary of state or the secretary's designee in furtherance of duties under Titles 18, 19, 23, 23B, 24, 25, 26 RCW(~~(7)~~) and chapter (~~(42.44)~~) 42.45 RCW(~~(, and chapter 176, Laws of 2015,)~~) will:

(1) Contain a rendition of the Washington state seal;

(2) Contain a mechanical or electronic reproduction of the secretary's signature; and

(3) Be regarded as the secretary of state's official certification of the matters itemized in the certificate(~~(, and)~~).

(4) Types of certificates issued include, but are not limited to:

(a) Certificate of existence;

(b) Certificate of registration;

(c) Certificate of fact or record;

(d) Duplicate certificate of registration or formation.

[Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-030, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605,

[25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-030, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. WSR 09-06-036, § 434-112-030, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-030, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 21-04-056, filed 1/27/21, effective 2/27/21)

**WAC 434-112-040 Standards for confirmation of filed records.**

Confirmation of filing of all paper or electronic ((business-related)) records ((are returned)) filed by the division is sent to the registered agent's email address on behalf of the entity when processing is completed ((unless the record indicates otherwise)), and to the return email address for the entity, if provided. Date-stamped copies of all records filed by the division are maintained in the online filing system and can be viewed and downloaded from that site.

[Statutory Authority: RCW 29A.04.611. WSR 21-04-056, § 434-112-040, filed 1/27/21, effective 2/27/21. Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-040, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-040, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. WSR 09-06-036, § 434-112-040, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-040, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 21-04-056, filed 1/27/21, effective 2/27/21)

**WAC 434-112-045 Rejection of records.** (1) The ((corporations program)) division may reject paper or electronic records that:

- (a) Are not legible; or
- (b) Are not able to be recorded as an image with adequate resolution and clarity; or
- (c) Are incomplete; or
- (d) Are not permitted to be filed ((in the corporations office; or

~~(e) Paper records completed in pencil or faxed will not be accepted for filing)) with the division.~~

(2) Additional information, clarification, corrections, or payment may be requested by division staff via telephone, email, or letter.

(3) The ~~((corporations program))~~ division may hold records for up to ~~((thirty))~~ 60 days after rejection to await additional information or funds needed to complete the filing process. After ~~((thirty))~~ 60 days, new records and fees may be required.

(4) Records that do not include a return mailing address ~~((will))~~ and email address may not be accepted for filing.

[Statutory Authority: RCW 29A.04.611. WSR 21-04-056, § 434-112-045, filed 1/27/21, effective 2/27/21. Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-045, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-045, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-045, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 21-04-056, filed 1/27/21, effective 2/27/21)

**WAC 434-112-050 Filing procedure.** (1) Persons submitting paper ~~((business))~~ records under chapters 18.100, 19.77 RCW, or Titles 23, 23B, 24, and 25 RCW, ~~((and chapter 176, Laws of 2015,))~~ must submit one copy of the record for filing.

(2) ~~((The corporations program))~~ Once filed, the division will retain a digital image of the paper or electronic record ~~((submitted for filing))~~. The ~~((corporations program))~~ division will, ~~((on))~~ upon completion of the filing, send a confirmation per WAC 434-112-040.

(3) ~~((The corporations program may return the completed filed record via email or other electronic means if the record indicates that an electronic response is acceptable.~~

~~((4))~~ If a record submitted for filing contains more than ~~((one hundred))~~ 100 governors as defined in RCW 23.95.105(12), ~~((that record must be submitted by))~~ the person submitting the record must add each governor's name using the online filing system.

[Statutory Authority: RCW 29A.04.611. WSR 21-04-056, § 434-112-050, filed 1/27/21, effective 2/27/21. Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-050, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007,

[24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-050, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-050, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 15-22-047, filed 10/29/15, effective 1/1/16)

**WAC 434-112-055 Registered agent—Designation, statement of change, resignation.** (1) A domestic entity and a foreign registered entity must designate a registered agent. A registered agent may be a noncommercial or commercial registered agent.

(2) To be designated as a commercial registered agent, a person must deliver to the secretary of state via the online filing system a commercial-registered-agent-listing statement ((accompanied by a list of all entities')), and must enter the names and unified business identifier numbers of all entities which the commercial registered agent represents in this state.

(3) When completing and submitting an online filing for any entity required by Washington law to appoint a registered agent, the filing party shall affirm under oath that they have obtained and have in their possession the signed, written consent of the person appointed as registered agent.

(4) When the person submitting the filing online is the person appointed as registered agent, a separate written consent is not required.

(5) Submitting a false affirmation is punishable as a gross misdemeanor under RCW 43.07.210.

(6) The entity required to maintain a registered agent must:

(a) Retain the registered agent's signed consent;

(b) Make the registered agent's signed consent available for inspection upon request; and

(c) Submit the registered agent's signed consent to the division or the office of the attorney general within 10 business days upon demand.

(7) A statement of change to update the registered agent name or contact information may be completed online by:

(a) An authorized person acting on behalf of the entity;

(b) A noncommercial registered agent; or

(c) A commercial registered agent.

(8) When a statement of change is filed by a noncommercial or commercial registered agent, the agent making the change must give each entity represented a notice of a record relating to the change.

(9) A registered agent may resign as the agent for a represented entity by delivering to the secretary of state via the online filing system a statement of resignation, executed by the agent.

(10) A statement of resignation takes effect on the 31st day after the day on which it is filed by the division, or the designation of a new registered agent, whichever is earlier.

(11) A resigning registered agent must promptly furnish each represented entity notice in a record of the date on which a statement of resignation was filed. Notice must include the warning that the entity may be administratively dissolved if a new registered agent is not appointed within 60 days of the resignation of the agent.

[Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-055, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-055, filed 10/6/10, effective 11/6/10.]

AMENDATORY SECTION (Amending WSR 15-22-047, filed 10/29/15, effective 1/1/16)

**WAC 434-112-060 Annual reports.** ~~((All business entities, as defined in section 1102(6), chapter 176, Laws of 2015,))~~ (1) An entity defined by RCW 23.95.105(6) and subject to RCW 23.95.255 must file an annual report((s)) accompanied by the ((statutory)) fee established under WAC 434-112-085 ((and are due)) by the last day of the month that the ((business)) entity was formed or registered ((in)) by the ((secretary of state's office)) division.

(2) An annual report may be filed up to 180 days prior to the due date.

(3) Any entity formed under Title((s)) 23, 23B, ((and)) 24, or 25 RCW must disclose any transfer in the controlling interest of the entity and any interest in real property on the annual report, ((under)) pursuant to RCW 43.07.390.

[Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-060, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-060, filed 10/6/10, effective 11/6/10.]

AMENDATORY SECTION (Amending WSR 15-22-047, filed 10/29/15, effective 1/1/16)

**WAC 434-112-070 Online filing—For foreign entity registration—Certificate of existence.** (1) When a foreign entity as defined by

~~((section 1102(6), chapter 176, Laws of 2015))~~ RCW 23.95.105, submits an online foreign entity registration statement, the filing party may meet the statutory requirement for submitting a certificate of existence by submitting a digital image of a certificate of existence or document of similar import no older than ~~((sixty))~~ 60 days before the date of submission.

(2) The image must be in a format specified as acceptable on the online filing website.

(3) The entity must:

(a) Retain the original certificate of existence;

(b) Make the original certificate of existence available for inspection ~~((on))~~ upon request; and

(c) Submit the original to the ~~((corporations program))~~ division or the office of the attorney general within ~~((ten))~~ 10 business days upon demand.

[Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-070, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-070, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-070, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 21-04-056, filed 1/27/21, effective 2/27/21)

**WAC 434-112-075 Online services.** (1) Online filings ~~((+))~~

~~((a))~~ will be subject to an online processing fee of ~~((twenty dollars))~~ \$20, with the exception of:

(a) Annual reports ~~((r))~~;

(b) Statements of change, designation, or resignation of registered agent ~~((, resignation of registered agent, articles of dissolution or statement of withdrawal, requested certificates or certified copies; and~~

~~((b) Be))~~ ;

(c) Requested certificates; and

(d) Charitable organization, charitable trust, and commercial fund-raiser filings.

(2) Online filings will be treated as received when the division's filing system records receipt of the completed transaction including payment authorization.

~~((2))~~ (3) When submitting an online filing, the person completing the filing shall sign the application by ~~((Typing))~~ recording their full name ~~((in the space provided on the web form; stating their capacity with the entity addressed in the filing; and following the directions for signing the web form.~~

~~(3))~~ within the authorized person/signature attestation section of the web form.

~~(4)~~ Online processing fees (~~may~~) are not (~~be~~) refundable.

[Statutory Authority: RCW 29A.04.611. WSR 21-04-056, § 434-112-075, filed 1/27/21, effective 2/27/21. Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-075, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-075, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. WSR 09-06-036, § 434-112-075, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-075, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 21-04-056, filed 1/27/21, effective 2/27/21)

**WAC 434-112-080 ((Immediate)) Same-day and expedited service—Special fees.** (1) (~~Immediate~~) Same-day service is available at the division's front counter for (~~an immediate~~) a service fee of (~~fifty dollars~~) \$150 for single or multiple transactions on paper within each new or existing division program filing. In addition, the filing fee for each transaction applies. Same-day services may be limited due to business hours and quantity of filings submitted.

(2) There is no (~~immediate~~) same-day service fee for records dropped off in-person for processing with nonexpedited records received that day.

(3) Expedited service requests for filing (~~paper~~) records (~~received by mail,~~) will be completed within (~~two~~) three working days of submission for an expedited service fee of (~~fifty dollars~~) \$100. If a request is made for (~~immediate~~) same-day service on an expedited record, an (~~immediate~~) additional same-day service fee of \$50 may be assessed.

(4) Nonexpedited service requests for filing paper records received by mail are processed within (~~fifteen~~) 15 business days. If a request is made for (~~expedite~~) expedited or (~~immediate~~) same-day service, the applicable fee may be assessed.

(5) If (~~an online~~) a record submitted online is subsequently requested to be filed immediately, (~~an additional immediate~~) the \$150 same-day service fee may be required.

(6) The filing party may (~~indicate~~) request expedited service (~~is requested~~) on mailed records by placing the word "expedite" in bold letters on either the envelope, the face of the record to be filed, or on any cover letter submitted with the record.

~~(7) ((Customers who resubmit rejected records that were expedited the first time they were submitted, may be charged an additional expedite fee upon resubmission.~~

~~(8))~~ Emergency services outside regular business hours requiring employee overtime are ~~((one hundred fifty dollars))~~ \$200 per hour (minimum fee of \$200/one hour's rate) plus transaction fees due on any filing. When the division receives a request for emergency services, staff will notify the customer of the service fee and any other reasonable conditions set by the director. The customer must agree to pay the fees or have received a fee waiver before emergency services are provided.

~~((9) A customer may make alternate arrangements with the director prior to bringing or sending in records, if a sudden, unexpected situation occurs during the business day.~~

~~(10))~~ (8) A customer may submit a written request to waive emergency, expedited, or penalty fees, which must include the special circumstances justifying the fee waiver. The director or deputy director will make the determination to waive fees or not.

~~((11) Immediate))~~ (9) Same-day, online, or expedited service fees ~~((may not be))~~ are not refundable.

[Statutory Authority: RCW 29A.04.611. WSR 21-04-056, § 434-112-080, filed 1/27/21, effective 2/27/21. Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-080, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-080, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. WSR 09-06-036, § 434-112-080, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-080, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 21-04-056, filed 1/27/21, effective 2/27/21)

**WAC 434-112-085 Fees and penalties.** (1) Fees paid under WAC 434-112-085 are not refundable.

(2) For each certified copy of any record the fee is \$20.

(3) For noncertified copies of records, refer to fees established under WAC 434-12A-100.

(4) For any service of process, the fee is \$50 per individual, marital community, or entity, per address.

(5) Dishonored checks will be assessed a penalty of \$25.

(6) For fees for expedited and immediate processing, refer to WAC 434-112-080.



(7) For domestic and foreign business entities (~~(formed)~~) under Title 23B RCW, chapters 23.78, (~~(25.15, 25.10)~~) 23.86, 25.05, 25.10, 25.15, and 25.05 RCW, fees and penalties are:

((a)	Public organic record including cooperatives	One hundred eighty dollars
(b)	Foreign registration statement	One hundred eighty dollars (may include back fees)
(c)	Articles of amendment or amendment of foreign registration statement	Thirty dollars
(d)	Articles of restatement	Thirty dollars
(e)	Statement of correction	Thirty dollars
(f)	Revocation of voluntary dissolution	Thirty dollars
(g)	Delinquent fee	Twenty-five dollars
(h)	Annual report including cooperatives	Sixty dollars plus business licensing services fee when applicable
(i)	Reinstatement from administrative dissolution	One hundred forty dollars plus all delinquent license or annual fees
(j)	Requalification from administrative termination	One hundred eighty dollars plus all delinquent fees or penalties
(k)	Articles of merger or exchange	Twenty dollars for each listed company
(l)	Resignation of registered agent	No fee
(m)	Initial report filed with public organic record	No fee
(n)	Initial report filed separate	Ten dollars
(o)	Amended annual report	Ten dollars
(p)	Change of registered agent	No fee
(q)	Registration, reservation, or transfer of name	Thirty dollars
(r)	Articles of dissolution or voluntary termination of statement	No fee
(s)	Agent's consent to act as agent	No fee
(t)	Agent's resignation if appointed without consent	No fee

(u)	<u>Other statement or report</u>	Ten dollars))
(a)	<u>Public organic record</u>	One hundred eighty dollars
(b)	<u>Foreign registration statement</u>	One hundred eighty dollars (plus applicable back fees)
(c)	<u>Articles of amendment or amendment of foreign registration statement</u>	Thirty dollars
(d)	<u>Statement of correction</u>	Thirty dollars
(e)	<u>Articles of validation</u>	Thirty dollars
(f)	<u>Articles of restatement</u>	Thirty dollars
(g)	<u>Articles of merger or exchange</u>	Twenty dollars for each listed company
(h)	<u>Articles of Conversion</u>	Ten dollars
(i)	<u>Certificate of Existence – long form</u>	Thirty dollars
(j)	<u>Certificate of existence – short form/certificate of good standing</u>	Twenty dollars
(k)	<u>Registration, reservation, or transfer of name</u>	Thirty dollars
(l)	<u>Articles of dissolution or voluntary termination of statement</u>	No fee
(m)	<u>Revocation of voluntary dissolution</u>	Thirty dollars
(n)	<u>Initial report filed with public organic record</u>	No fee
(o)	<u>Initial report filed at a later date (deferred)</u>	Ten dollars
(p)	<u>Annual report</u>	Seventy dollars
(q)	<u>Amended annual report</u>	Ten dollars
(r)	<u>Delinquent fee</u>	Twenty-five dollars
(s)	<u>Reinstatement from administrative dissolution</u>	One hundred forty dollars plus all delinquent annual report fees
(t)	<u>Requalification from administrative termination</u>	One hundred eighty dollars plus all delinquent annual report fees
(u)	<u>Designation or statement of change of registered agent</u>	No fee

(v)	<u>Resignation of registered agent</u>	<u>No fee</u>
(w)	<u>Agent's resignation if appointed without consent</u>	<u>No fee</u>
(x)	<u>Other statement or report</u>	<u>Ten dollars</u>

~~((2))~~ (8) For domestic and foreign nonprofit entities under Title 24 RCW ~~((and chapter 23.86 RCW))~~, fees and penalties are:

<del>((a))</del>	Public organic record	Thirty dollars
(b)	Foreign registration statement	Thirty dollars
(c)	Cooperative association	Twenty-five dollars
(d)	Articles of amendment	Twenty dollars
(e)	Restatement	Twenty dollars
(f)	Annual report	Ten dollars
(g)	Articles of voluntary dissolution, statement of withdrawal	No fee
(h)	Reinstatement from administrative dissolution	Thirty dollars plus all delinquent annual fees and five dollar penalty
(i)	Articles of merger or exchange	Twenty dollars for each listed corporation
(j)	Amended annual report	Ten dollars
(k)	Change of registered agent	No fee
(l)	Change of registered agent address	No fee
(m)	Resignation of registered agent	No fee
(n)	Registration, reservation, or transfer of reservation of name	Twenty dollars
(o)	Certificate of election adopting provisions of chapter 24.03 RCW	Thirty dollars
(p)	Other statement or report filed	Ten dollars))
(a)	<u>Public organic record</u>	<u>Thirty dollars, plus the Charitable Asset Protection Account fee</u>
(b)	<u>Foreign registration statement</u>	<u>Thirty dollars</u>
(c)	<u>Articles of amendment or amendment of foreign registration statement</u>	<u>Twenty dollars</u>
(d)	<u>Statement of correction</u>	<u>Thirty dollars</u>

(e)	<u>Articles of restatement</u>	<u>Twenty dollars</u>
(f)	<u>Articles of merger or exchange</u>	<u>Twenty dollars for each listed corporation</u>
(g)	<u>Articles of domestication</u>	<u>Ten dollars</u>
(h)	<u>Articles of domestication and conversion</u>	<u>Ten dollars</u>
(i)	<u>Registration, reservation, or transfer of reservation of name</u>	<u>Twenty dollars</u>
(j)	<u>Certificate of existence/certificate of good standing</u>	<u>Twenty dollars</u>
(k)	<u>Articles of voluntary dissolution, statement of withdrawal</u>	<u>No fee</u>
(l)	<u>Revocation of voluntary dissolution</u>	<u>Twenty dollars</u>
(m)	<u>Annual report</u>	<u>Ten dollars, plus the Charitable Asset Protection Account fee</u>
(n)	<u>Amended annual report</u>	<u>Ten dollars</u>
(o)	<u>Reinstatement from administrative dissolution</u>	<u>Thirty-five dollars plus all delinquent annual report fees</u>
(p)	<u>Requalification from administrative termination</u>	<u>Thirty dollars plus all delinquent annual report fees</u>
(q)	<u>Designation as a public benefit corporation</u>	<u>Twenty dollars</u>
(r)	<u>Registration as a host home</u>	<u>Twenty dollars</u>
(s)	<u>Designation or statement of change of registered agent</u>	<u>No fee</u>
(t)	<u>Resignation of registered agent</u>	<u>No fee</u>
(u)	<u>Agent's resignation if appointed without consent</u>	<u>No fee</u>
(v)	<u>Other statement or report filed</u>	<u>Ten dollars</u>

~~((3))~~ (9) For registering trademarks for use within the state, the fees are as follows:

(a)	Five year registration	Fifty-five dollars (((includes five dollars heritage center fee) for each class)) per classification registered
-----	------------------------	--

- |     |                                       |  |
|-----|---------------------------------------|--|
| (b) | Five year renewal                     | Fifty dollars <del>((for each class))</del> <u>per classification registered</u>                                       |
| (c) | Assignment of trademark               | Ten dollars  |
| (d) | New certificate with name of assignee | Five dollars   |
| (e) | Reservation of trademark              | Thirty dollars for each <del>((class))</del> <u>classification reserved</u> <del>((for one hundred eighty days))</del> |
| (f) | Amendment of trademark                | Fifty dollars <del>((for each class))</del> <u>per classification added</u>  |
| (g) | Cancellation of trademark             | No fee   |
| (h) | Other statement or report filed       | Ten dollars  |

~~((4))~~ (10) For filings related to state registered domestic partnership, the fees are:

- |     |   |   |
|-----|---|---|
| (a) | Registration  | Fifty dollars                             |
| (b) | Name change   | No fee                                    |
| (c) | Address change  | No fee                                    |
| (d) | <del>((Notice of termination by reason of death))</del><br><u>Additional or replacement certificate of domestic partnership (paper or electronic)</u> | <del>((No fee))</del> <u>Five dollars</u> |
| (e) | <u>Replacement wallet card</u>  | <u>Ten dollars</u>                        |
| (f) | <u>Notice of termination by reason of death, divorce, or marriage</u>   | <u>No fee</u>                             |

~~((5) Fees paid under WAC 434-112-085 may not be refundable.))~~  
(11) For apostille certification of documents, the fee is \$15 per document apostilled.

[Statutory Authority: RCW 29A.04.611. WSR 21-04-056, § 434-112-085, filed 1/27/21, effective 2/27/21. Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-085, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 23B.01.220, 25.15.805, and 25.10.916. WSR 11-12-020, § 434-112-085, filed 5/24/11, effective 7/1/11. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-085, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. WSR 09-06-036, § 434-112-085, filed 2/24/09, ef-

fective 3/27/09. Statutory Authority: RCW 43.07.400 and 9A.56.078. WSR 07-20-065, § 434-112-085, filed 9/28/07, effective 10/29/07. Statutory Authority: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].315, 19.77.115, and 43.07.170. WSR 04-04-018, § 434-112-085, filed 1/23/04, effective 2/23/04.]

AMENDATORY SECTION (Amending WSR 15-22-047, filed 10/29/15, effective 1/1/16)

**WAC 434-112-100 State registered domestic partnerships.** (1)

State registered domestic partnerships will be registered by ~~((the corporations program, in))~~ the corporations and charities division of the office of the secretary of state.

(2) Declarations of state registered domestic partnerships may be submitted to the division by mail, or in person.

(3) The paper record standards in WAC 434-112-040 apply to declarations of state registered domestic partnerships.

(4) At the time of registration of a declaration of state registered domestic partnership the ~~((corporations program))~~ division will provide to the state registered domestic ~~((partnership))~~ partners:

(a) One original certificate of registration. ~~((Further certifi- eates or))~~ Additional certificates requested after registration are available subject to the fees set forth in WAC ((434-112-090)) 434-112-085.

(b) Two wallet sized cards documenting registration of the state registered domestic partnership.

(5) Registrations of state registered domestic partnerships are public records and all records related to the registration are subject to public disclosure.

(6) Notice of termination of domestic partnership by reason of death ~~((only)),~~ dissolution, or marriage may be submitted to the ~~((corporations program))~~ division by email, ~~((regular))~~ postal mail, or in person and must include a copy of the death certificate, decree of dissolution, or marriage certificate. There is no fee for filing a notice of termination.

[Statutory Authority: 2015 c 176, and chapters 11.110, 18.100, 19.77, 23.86, 23.90, 23B.01, 24.03, 24.06, 25.10, 25.15, 43.07, and 46.64 RCW. WSR 15-22-047, § 434-112-100, filed 10/29/15, effective 1/1/16. Statutory Authority: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040. WSR 10-20-150, § 434-112-100, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 23.86.070, 23B.01.200, 23B.01.220, 24.03.405, 25.10.600, 43.07.120. WSR 09-06-036, § 434-112-100, filed 2/24/09, effective 3/27/09. Statutory Authority: RCW 43.07.400 and 9A.56.078. WSR 07-20-065, § 434-112-100, filed 9/28/07, effective 10/29/07.]

NEW SECTION

**WAC 434-112-110 Apostille certification of documents.** (1) The division will provide apostille certification pursuant to RCW 43.07.032 and standard protocols under the Hague Conference 1961 Apostille Convention.

(2) The division can provide apostille certification for certified government documents from the state of Washington and its political subdivisions, including state agencies, courts, institutions of higher education, public school systems, and county and municipal government offices.

(3) The division can provide apostille certification for documents properly notarized by a licensed Washington notary, subject to RCW 43.07.032.

(4) The division will not provide apostille certification for documents notarized by an out-of-state notary.

(5) Documents issued by a government of another state, territory, or nation, or by the United States federal government or the United States military will not be apostilled by the secretary of state. Apostilles should be sought from the government which holds the original record or document.

(6) The division will not provide apostille certification of records recorded with county auditors or other political subdivisions of the state of Washington if the underlying document cannot be apostilled pursuant to subsections (4) and (5) of this section.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-112-056	Statement of change for registered agent name and address.
WAC 434-112-057	Resignation of agent.
WAC 434-112-058	Service of process.
WAC 434-112-065	Online filing—Designation of registered agent.
WAC 434-112-090	Miscellaneous fees.

## WSR 23-18-059

## PERMANENT RULES

## DEPARTMENT OF ECOLOGY

[Order 22-07—Filed September 1, 2023, 8:27 a.m., effective October 2, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Washington state department of ecology (ecology) developed and codified chapter 173-50 WAC, Accreditation of environmental laboratories, and created the laboratory accreditation unit (LAU) to maximize efficacy of the state, federal, or other relevant regulations.

The adopted rule amendments will achieve the following goals:

**1. Amend wording in existing sections and add new sections to increase clarity and to incorporate existing best practices, quality control, and rules for participation in the lab accreditation program; including:**

**Add updates and clarifications to definitions.**

**Require laboratories to submit standard operating procedures (SOPs).**

**Update and clarify quality control requirements.**

- Require laboratories to develop an SOP for each analytical method.
- Clarify appropriate statistical methods for multilevel calibration.
- Require laboratories to perform annual limit of quantification (LOQ) analysis.
- Require laboratories to conduct matrix spikes as specified by analytical method.
- Require laboratory control samples to include all analytes of interest in the respective analysis.
- Clarify when laboratories can report high-biased sample data.
- Require laboratories to document resolution of spectral interferences for ICP-OES even when the analytical methods are not clear in this.

**Add data management and record traceability requirements.**

**Require additional proficiency testing (PT) sample per parameter per year for microbiology parameters.**

**Clarify procedural requirements for PT.**

- Per public feedback, we are only going to require one acceptable PT for bioassay parameters. It is not feasible to require more than one acceptable PT from these laboratories in one year.

**Clarify and update audit procedures and frequency.**

**Clarify requirements for accreditation of drinking water laboratories.**

- Clarify that audits of laboratories for drinking water parameter accreditation are required to be on site.
- Clarify that laboratories must follow the department of health's drinking water laboratory accreditation rule (chapter 246-390 WAC).

**Clarify that laboratories must notify ecology at least 30 days prior to a permanent laboratory move.**

- This section also clarifies expectations for laboratories that have had a temporary or emergency move.



**Update reasons for suspension of accreditation to include: violation of federal law.**

**2. Amend the fee structure to meet the following objectives:**

- Remove the maximum fee.
- Update fees to meet ecology LAU implementation costs.
- Increase the minimum fee to \$500.
- Add a processing fee of \$300 for initial accreditation or reinstatement of accreditation after 12 months of not being accredited.
- Increase fees in fiscal year 2025 and 2026.
- Include a formula to increase fees in fiscal year 2027 and in future years based on the state's fiscal growth factor.

**Other changes were made for clarification, to update references, and to restructure.**

Citation of Rules Affected by this Order: Amending chapter 173-50 WAC.

Statutory Authority for Adoption: RCW 43.21A.230 Certification of environmental laboratories authorized—Fees—Use of certified laboratories by persons submitting data or results to department.

Adopted under notice filed as WSR 23-09-067 on April 19, 2023.

Changes Other than Editing from Proposed to Adopted Version: RCW 34.05.325 (6) (a) (ii) requires ecology to describe the differences between the text of the proposed rule as published in the Washington State Register and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are some differences between the proposed rule filed on April 19, 2023, and the adopted rule filed on September 1, 2023. Ecology made these changes for all or some of the following reasons: In response to comments we received, to ensure clarity and consistency, and to meet the intent of the authorizing statute.

The following content describes the changes and ecology's reasons for making them.

**Changes to WAC 173-50-040 Definitions:**

**Change:** "Environmental laboratory" or "laboratory" - A facility:

- Under the ownership and technical management of a single entity in a single geographical location or in a self-contained mobile unit;
- Where scientific determinations are performed on samples taken from the environment, including drinking water samples; and
- Where data are ~~is~~ submitted to the department of ecology, department of health, or other entity requiring the use of an accredited laboratory under provisions of a regulation, permit, or contractual agreement.

**Reason for the change:** During final internal review, this change was made since it is common for "data" to be plural.

**Change:** "Instrument" or "instrumentation" - Equipment used to measure an analyte or analyte(s).

**Reason for the change:** During final internal review, this change was made because it is more grammatically correct than the previous wording.

**Change:** "Limit of quantitation" or "LOQ" - The smallest concentration that produces a quantitative result ~~Lowest amount of analyte that can be measured with acceptable precision and accuracy,~~ as required by data quality objectives.

**Reason for the change:** Per public comment, a reword of this definition was suggested. We did not use their suggestion but chose to use the definition written here.

**Change:** "Matrix spike" or "MS" - ~~Matrix spikes are~~ An aliquots of environmental samples to which known concentrations of certain target analytes have been added before sample preparation, cleanup, and derivative procedures have been ~~implemented~~ performed.

**Reason for the change:** During final internal review, this change was made to remove the use of the term within its own definition and more accurately describe the term by replacing "implemented" with "performed."

**Change:** "Proficiency testing (PT)" - ~~Evaluation of the results from the a~~ Analysis of samples in the accredited matrix, the true values of which are known to the supplier of the samples but unknown to the laboratory conducting the analyses. PT samples are provided by a source external to the environmental laboratory.

**Reason for the change:** During final internal review, we removed unnecessary words to more clearly define the term.

#### **Changes to WAC 173-50-050 Responsibilities of the department.**

**Change:** Subsection 1 contained a typo that read, "As a minimum" when the phrase "At a minimum" is appropriate.

**Reason for the change:** During final internal review, this typo was fixed.

#### **Changes to WAC 173-50-060 Responsibilities of environmental laboratories.**

**Change:** The term "fiscal officer" was removed from subsection (1) (a).

**Reason for the change:** During final internal review, the term was removed since a fiscal officer is no longer involved in the fee process.

**Change:** The phrase ", at a minimum," was removed from subsection (1) (c).

**Reason for the change:** During final internal review, the phrase was removed because it was unnecessary.

#### **Changes to WAC 173-50-061 Required quality control practices.**

**Change:** Inserted subsection (i) to subsection (2) (a) that reads, "Exceptions can be made if a significant error's cause can be clearly identified, the error is documented, and the calibration point is excluded for all analytes contained in the calibration point."

**Reason for the change:** During the public comment period, two of the commenters suggested that we allow for valid exceptions to the requirement of subsection (2) (a).

**Change:** The word "otherwise" was added to the second sentence of subsection (2) (b).

**Reason for the change:** Per public comment, addition of this word was recommended. This change ensures that if a published method has a requirement similar to this section, the published method supersedes the WAC.

**Change:** The words, "of calibration" were inserted prior to the word "points" in the second sentence of subsection (2) (b).

**Reason for the change:** Per public comment, addition of these words was recommended. This helps ensure that someone reading the WAC understands what type of points are being referenced.

**Change:** Replaced "where" with ", in which case" in the second sentence of subsection (2) (b).

**Reason for the change:** Per public comment, this rewrite was recommended. This change makes more sense to the reader than using the word "which."

**Change:** The second sentence of subsection (3) was edited to, "This standard must ~~be meet~~ between 50 and 150 percent of the true value."

**Reason for the change:** During final internal review, this reword was made to clarify that the acceptance range is 50 percent of the true value both in a positive and negative direction.

**Change:** In the list contained within subsection (3), another item, "Mass Spectrometry" was added to the list.

**Reason for the change:** During final internal review, this addition was made to ensure that there was no confusion with the previous "Spectrometry" term in the list. Within the context of the regulated community, this specification is necessary.

**Change:** Subsection (4) was edited to read, "Matrix spikes are required as specified by the method. ~~Observed m~~ Matrix spikes that do not meet their acceptance criteria must be document issues ed ~~must be~~ addressed for regulated parameters under the federal Safe Drinking Water Act and Clean Water Act."

**Reason for the change:** During the public comment period, we received multiple comments regarding this section. After reading and considering those comments, we agreed that the original wording was not appropriate and that matrix spike issues need to be "documented," rather than "addressed," since there are often instances where no action can be taken to address the issue.

**Change:** Subdivision (a) was added to subsection (4) that reads, "The lab must take corrective action if specified by the method."

**Reason for the change:** After replacing the term "addressed" with "documented" in subsection (4) per public feedback, it was necessary to specify that action must be taken when possible and specified by the published method.

**Change:** The following change was made to the beginning of subsection (5), "Unless the method specifies otherwise, ± laboratory ..."

**Reason for the change:** During the public comment period, we received a couple comments regarding some valid exceptions that exist to the requirement as previously written. We made the above change to accommodate those exceptions.

**Change:** The following changes were made to subsection (6), "W For compliance monitoring samples, if a laboratory control sample is outside of it's hen quality control samples for chemistry parameters such as a laboratory control sample are above their acceptance criteria for a parameter(s), the data for that parameter(s) e should an only be reported if the laboratory can demonstrate:"

**Reason for the change:** During the public comment period, we received multiple comments regarding this section. After reading and considering those comments, we clarified to what types of samples this requirement applies.

**Change:** In subsection (6)(c) the word "the" was changed to "any."

**Reason for the change:** During final internal review, this change was made since it needs to have the flexibility to be referring to multiple items.

**Changes to WAC 173-50-069 Data and record traceability:**

**Change:** Subsection (1)(c) added, "and sample extracts."

**Reason for the change:** Per public feedback, we received a comment that we should add this term. Many methods that the regulated communi-

ty employ specify certain storage requirements for sample extracts as well as samples.

**Change:** Subsection (1)(d) received the following edits, "Document that all temperature-based equipment such as a refrigerator, oven, or incubator is within control. When electronic record keeping equipment is used, these records must be appropriately monitored by lab personnel to verify that temperatures meet relevant method and regulatory requirements; ~~Document that all temperature-based equipment such as a refrigerator, oven, or incubator is both within control and checked manually as required by the relevant analytical method;~~"

**Reason for the change:** During public feedback, several comments were received regarding this section. We edited this subdivision to be much clearer as to what requirements need to be taken when checking temperature records, regardless of if they are taken manually or electronically.

**Change:** Subsection (1)(e) received the following change, "Keep a log books for."

**Reason for the change:** We received a public comment believing that the original wording implied that "logbooks" could not be electronic. This change was made to remove that possible implication.

**Change:** Subsection (2) was edited to read, "When records are handwritten, they must be in indelible ink and comply with the relevant method requirements and include the date and time(s) of reading, temperature(s), and technician's initials. ~~When records are handwritten, they must be in indelible ink and comply with the relevant method requirements. Incubator temperatures must be handwritten and include the date and time(s) of reading, temperature(s), and technician's initials.~~"

**Reason for the change:** During public feedback, we received many comments regarding this subsection and felt it needed to be reworded to improve clarity, specifically removing the "incubator temperatures" comment since it was more appropriate to add that requirement in the next section.

**Change:** Subsection (3) was edited and reformatted to read, "Unmonitored use of continuous data-loggers is not an acceptable substitute when methods and/or regulations require temperature checks. Use of electronic record keeping equipment is allowed when:

(a) The equipment can demonstrate the accuracy and precision required by the applicable method and/or regulations;

(b) it includes the date and time the record was captured, using a fully traceable and secure format, and;

(c) it is not being used on an incubator used for analysis of samples for microbiology parameters. ~~When records are kept electronically, they must be recorded at the time of reading, using a fully traceable and secure format. Use of continuous data-loggers is not an acceptable substitute for method and/or regulatory required incubator temperature checks.~~"

**Reason for the change:** During public feedback, we received many comments regarding this subsection and felt it needed to be reworded to improve readability, ensure the regulated community that use of electronic recordkeeping is allowable with appropriate use, and add the "handwritten incubator temperature" requirement that was removed from the previous section.

**Changes to WAC 173-50-070 Proficiency testing (PT).**

**Change:** Addition of subsection (2)(a) that reads, "For Bioassay parameters, only one acceptable PT sample is required per parameter per year."

**Reason for the change:** We received a public comment that mentioned that two acceptable PTs for bioassay parameters per accreditation year was not practical. After review of the comment and PT availability of bioassay parameters, this was an appropriate addition.

**Change:** Subsection (7) received the following edits, "When two or more approved PT ~~providers~~ make available a PT sample exist for a parameter in an appropriate matrix, the laboratory must analyze and pass a PT to gain or maintain accreditation, unless an exception is approved by the department."

**Reason for the change:** During public feedback, we received a proposed edit to this subsection that we felt was an improvement to the original language.

#### **Changes to WAC 173-50-080 Audits.**

**Change:** Subsection (1)(a) was edited to read, "By conducting The audits the department determines ~~seeks to determine~~ if SOPs and other documentation of analytical methods ..."

**Reason for the change:** During final internal review, we made these changes in order to clarify that the process of the audit determines the subsections of this section. We also believed the critical role SOPs play in audits needed us to include them in the updated rule language.

#### **Changes to WAC 173-50-190 Fee structure.**

**Change:** The column titled "Per Parameter Add Fee to Existing Method" in Tables 2 and 3 were replaced with "Per Parameter Addition Fee."

**Reason for the change:** During public comment, we received a couple comments that asked for clarification on when this column applies. In conjunction with an edit made in subsection (11), we believe this edit addresses that ambiguity.

**Change:** Subsection (11) received the following edit, "If a laboratory requests to add or reinstate a parameter to an existing method on their scope of accreditation outside of their initial application or renewal process, the laboratory will be invoiced a fee based on the type and number of requested parameters according to the "Per Parameter Addition Fee" column, ~~per~~ of Table 1, Table 2, Table 3, or as updated by Equation 1."

**Reason for the change:** During public comment, we received a couple comments that asked for clarification on when the newly titled "Per Parameter Addition Fee" column applies. In conjunction with the edits made in Tables 2 and 3, we believe we have addressed that ambiguity.

A final cost-benefit analysis is available by contacting Ryan Zboralski, Department of Ecology, Environmental Assessment Program, Lacey, WA 98503, phone 360-764-9364, Washington relay service or TTY call 711 or 877-833-6341, email ryan.zboralski@ecy.wa.gov, website <https://apps.ecology.wa.gov/publications/UIPages/SummaryPages/2303026.html>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 16, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 16, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 1, 2023.

Laura Watson  
Director

## OTS-4306.6

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-040 Definitions.** Definitions in this section apply throughout this chapter, unless context clearly indicates otherwise.

**"Accreditation"** - The formal recognition by the department that an environmental laboratory is capable of producing accurate and defensible analytical data. This recognition is signified by issuance of a written certificate accompanied by a scope of accreditation indicating the parameters for which the laboratory is accredited.

- The term "accredit" as used in this chapter is intended to have the same meaning as the term "certify" as used in RCW 43.21A.230.

- Any laboratory accredited under this chapter shall be deemed to have been certified under RCW 43.21A.230.

- The department does not, by accrediting any laboratory pursuant to these rules, vouch for or warrant the accuracy of any particular work done or report issued by that laboratory.

**"Accreditation year"** - The one-year period as stated on the certificate of accreditation.

**"Accuracy"** - The degree to which an analytical result corresponds to the true or accepted value for the sample being tested. Accuracy is affected by bias and precision.

**"Analyte"** - The constituent or property of a sample measured using an analytical method.

**"Analytical data"** - The recorded qualitative and/or quantitative results of a chemical, physical, biological, microbiological, radiochemical, or other scientific determination.

**"Analytical method"** - A written procedure for acquiring analytical data.

**"Audit"** - An inspection and evaluation of laboratory facilities, equipment, records, and staff. This may be on-site or virtual.

**"Calibration curve"** - A series of standards of known concentrations used to determine the relationship between concentration and analytical response.

**"Data traceability" or "traceability"** - The ability to recreate the final result by means of records. This must be an unbroken trail of accountability for verifying or validating the chain of custody of samples, the data, the documentation of a procedure, or the values of a standard.

**"Department"** - The state of Washington department of ecology when the term is not followed by another state designation.

**"Drinking water certification manual"** - The Environmental Protection Agency *Manual for the Certification of Laboratories Analyzing Drinking Water*, 5th Edition, January 2005.

**"Ecology accrediting authority"** - The supervisor of the lab accreditation unit of the environmental assessment program of the department of ecology.

**"Environmental laboratory" or "laboratory"** - A facility:

- Under the ownership and technical management of a single entity in a single geographical location or in a self-contained mobile unit;
- Where scientific determinations are performed on samples taken from the environment, including drinking water samples; and
- Where data ((is)) are submitted to the department of ecology, department of health, or other entity requiring the use of an accredited laboratory under provisions of a regulation, permit, or contractual agreement.

**"Instrument" or "instrumentation"** - Equipment used to measure an analyte or analytes.

**"Lab accreditation unit"** - The lab accreditation unit of the department of ecology.

**"Laboratory control sample" or "LCS"** (also known as a "laboratory fortified blank" or "LFB") - An aliquot of analyte-free water or analyte-free solid (e.g., Ottawa sand, anhydrous sodium sulfate, or other purified solid) to which known amounts of the method analytes are added.

**"Limit of quantitation" or "LOQ"** - The smallest concentration that produces a quantitative result with acceptable precision and accuracy, as required by data quality objectives.

**"Matrix"** - The material to be analyzed, including, but not limited to, ground or surface water, wastewater, drinking water, air, solid waste, soil, tissue, nuclear waste, and hazardous waste. For the purposes of establishing a fee structure (WAC 173-50-190(4)), matrices are grouped as follows:

- Nonpotable water;
- Drinking water;
- Solid and chemical materials; and
- Air and emissions.

~~(("On-site audit" - An on-site inspection and evaluation of laboratory facilities, equipment, records and staff.))~~

**"Matrix spike" or "MS"** - An aliquot of environmental samples to which known concentrations of certain target analytes have been added before sample preparation, cleanup, and determinative procedures have been performed.

**"Method detection limit" or "MDL"** - The minimum concentration of an analyte that can be measured and reported with a 99 percent confidence that the analyte concentration is distinguishable from the method blank results as determined by the procedure set forth in Appendix B of 40 C.F.R. Part 136.

**"Out-of-state laboratory"** - A laboratory that is not located in the state of Washington.

**"Parameter"** - The combination of one or more analytes determined by a specific analytical method in a specific matrix. Examples of parameters include:

- The analyte alkalinity by method SM 2320 B in nonpotable water;
- The analyte ((zinc)) arsenic by method EPA ((200.7)) 200.8 in drinking water;

• The ~~((set of analytes called volatile organic compounds (VOCs))~~) analyte benzene by method EPA 8260 in solid and chemical materials; and

• The analyte ~~((Total Coli/Ecoli-count))~~ fecal coliform-count by method SM 9222 ~~((B/9221-F))~~ D in nonpotable water.

**"Principal laboratory"** - A laboratory designated by the Washington department of health to support the drinking water certification program.

**"Procedural manual"** - The most recent version of the Department of Ecology's Procedural Manual for the Environmental Laboratory Accreditation Program ~~((dated September 2010))~~.

**"Proficiency testing (PT)"** - ~~((Evaluation of the results from the))~~ Analysis of samples in the accredited matrix, the true values of which are known to the supplier of the samples but unknown to the laboratory conducting the analyses. PT samples are provided by a source external to the environmental laboratory.

**"Quality assurance (QA)"** - Activities intended to assure that a quality control program is effective. A QA program is a totally integrated program for assuring reliability of measurement data.

**"Quality assurance (QA) manual"** - A written record intended to assure the reliability of measurement data. A QA manual documents policies, organization, objectives, and specific QC and QA activities. Volume and scope of QA manuals vary with complexity of the laboratory mission.

**"Quality control (QC)"** - ~~((The routine application of statistically based procedures to evaluate and control the accuracy of analytical results.))~~ The overall system of technical activities that measures the attributes and performance of a process, item, or service against defined standards to verify that they meet the stated requirements established by the customer; operational techniques and activities that are used to fulfill requirements for quality.

**"Regulatory program"** - A program administered by a federal, state, or other regulatory agency.

**"Standard operating procedure" or "SOP"** - A detailed written description of a procedure designed to systematize performance of the procedure.

**"Third-party accreditation"** - Recognition by the ecology accrediting authority of accreditation granted by another accrediting authority.

**"WA ELAP"** - Washington state environmental laboratory accreditation program.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-040, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-040, filed 10/1/02, effective 11/1/02; WSR 93-20-011 (Order 92-53), § 173-50-040, filed 9/22/93, effective 10/23/93; WSR 90-21-090 (Order 90-21), § 173-50-040, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-040, filed 4/20/89 and 3/13/90, effective 4/13/90.]



AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-050 Responsibilities of the department.** (1) The department maintains a procedural manual describing specifics of the accreditation process. ~~((As))~~ At a minimum, the procedural manual describes the procedures for:

- Submitting an application and fee;
- Preparing a quality assurance manual;
- Performing proficiency testing;
- Conducting ~~((on-site))~~ audits;
- Accrediting out-of-state laboratories;
- Granting, denying, suspending, and revoking accreditation; and
- Notifying laboratories and authorized government officials of accreditation actions.

The department will make the procedural manual available to all interested persons.

(2) Department personnel assigned to assess the capability of drinking water laboratories participating in the WA ELAP must meet the experience, education, and training requirements established in the drinking water certification manual.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-050, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-050, filed 10/1/02, effective 11/1/02; WSR 93-20-011 (Order 92-53), § 173-50-050, filed 9/22/93, effective 10/23/93; WSR 90-21-090 (Order 90-21), § 173-50-050, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-050, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-060 Responsibilities of environmental laboratories.**

(1) When applying for initial accreditation (see WAC 173-50-130 for maintaining an existing accreditation), managers of environmental laboratories must:

~~((+))~~ (a) Submit an environmental laboratory accreditation application (WAC 173-50-063) and required fees (WAC 173-50-190) to the department ~~((fiscal officer))~~;

~~((+))~~ (b) Submit a copy of the laboratory's quality assurance manual (WAC 173-50-067);

~~((+))~~ (c) For laboratories seeking direct accreditation from the department, SOP's for all methods for which the laboratory is seeking accreditation must be submitted;

(d) Submit an initial set of satisfactory PT sample results (WAC 173-50-070); and

~~((+))~~ (e) Undergo an ~~((on-site))~~ audit (WAC 173-50-080).

(2) For laboratories to be accredited for drinking water parameters, the laboratory must follow requirements designated in the drinking water certification manual.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-060, filed 8/9/10, effective

9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-060, filed 10/1/02, effective 11/1/02; WSR 90-21-090 (Order 90-21), § 173-50-060, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-060, filed 4/20/89 and 3/13/90, effective 4/13/90.]

NEW SECTION

**WAC 173-50-061 Required quality control practices.** Laboratories must comply with the following quality control practices:

- (1) Have a dedicated SOP for each method listed on their current Washington scope of accreditation.
- (2) For parameters where a multilevel calibration is necessary:
  - (a) A laboratory must not remove any midpoints from a calibration curve with the exception of consecutive points at either end of the curve. Exceptions can be made if a significant error's cause can be clearly identified, the error is documented, and the calibration point is excluded for all analytes contained in the calibration point.
  - (b) Each calibration point must have its value recalculated against the calibration curve. Unless otherwise specified in the method, each calibration point must have its percent error or relative standard error meet the calibration verification acceptance limits from the method; with the exception of calibration points at or below the LOQ, in which case the limit is 50 - 150 percent error, or percent relative standard error.
- (3) For parameters that require a limit of quantitation and the method does not specify any requirements, laboratories must analyze a standard at their limit of quantitation at least annually. This standard must be between 50 and 150 percent of the true value. This applies to the following instrumentation technologies:
  - (a) Atomic absorption;
  - (b) Flow-injection analysis;
  - (c) Gas and liquid chromatography;
  - (d) Inductively coupled plasma;
  - (e) Ion chromatography;
  - (f) Spectrometry;
  - (g) Mass spectrometry;
  - (h) Total organic carbon analysis; and
  - (i) Any other technology where method detection limits are applicable.
- (4) Matrix spikes are required as specified by the method. Matrix spikes that do not meet their acceptance criteria must be documented for regulated parameters under the federal Safe Drinking Water Act and Clean Water Act. The lab must take corrective action if specified by the method.
- (5) Unless the method specifies otherwise, laboratory control samples must include all analytes of interest in the respective analysis. Matrix spikes should include all analytes of interest in the respective analysis.
- (6) For compliance monitoring samples, if a laboratory control sample is outside of its acceptance criteria for a parameter(s), the data for that parameter(s) should only be reported if the laboratory can demonstrate:
  - (a) No source of low bias of that parameter(s) is also present in the sample(s) and/or other related quality control samples;

(b) Instrument calibration have met method acceptance criteria; and

(c) The reported samples do not have a detection for any high biased parameter(s).

(7) Documented resolution of spectral interferences is required for ICP-OES.

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AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-063 Application.** (1) Through ~~((the))~~ a department environmental laboratory accreditation application, laboratory managers:

((+)) (a) Request accreditation for specific parameters;

((+)) (b) Calculate fees due to the department; and

((+)) (c) Provide evidence that sufficient and capable personnel and equipment are available to successfully perform analytical methods as specified in the application.

(2) Through review of the application submitted by the applicant laboratory, the lab accreditation unit determines if:

((+)) (a) Requested parameters are eligible for accreditation;

((+)) (b) The fee calculated by the applicant laboratory is correct; and

((+)) (c) Personnel and equipment are adequate to support successful performance of requested parameters.

(3) Following the review, the lab accreditation unit advises the applicant laboratory of any required changes.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-063, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-063, filed 10/1/02, effective 11/1/02.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-067 Quality assurance manual.** (1) The lab accreditation unit reviews and approves the laboratory's QA manual prior to the initial ~~((on-site))~~ audit. The QA manual submitted concurrently with ~~((the))~~ a department environmental laboratory accreditation application must be in detail and scope commensurate with the size and mission of the laboratory. Guidelines for contents of the QA manual are in the procedural manual.

(2) The QA manual must address QA and QC requirements of applicable regulatory programs. For drinking water laboratories, such requirements ~~((are))~~ can be found in the drinking water certification manual and/or approved method.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-067, filed 8/9/10, effective 9/9/10.]

9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-067, filed 10/1/02, effective 11/1/02.]

NEW SECTION

**WAC 173-50-069 Data and record traceability.** (1) In order to demonstrate data traceability, laboratories must:

(a) Be able to recreate final sample results by means of records in entirety;

(b) Document proper storage of any chemical, reagent, and/or media used by an analytical method;

(c) Document proper storage of samples and samples extracts as required by the specific analytical method and/or regulation;

(d) Document that all temperature-based equipment such as a refrigerator, oven, or incubator is within control. When electronic record keeping equipment is used, these records must be appropriately monitored by lab personnel to verify that temperatures meet relevant method and regulatory requirements;

(e) Keep a log for any and all instruments, including documentation of installation, setup, maintenance, and removal from service; and

(f) Document proper preparation and QC of chemicals, reagents, and media used in support of the analyses.

(2) When records are handwritten, they must be in indelible ink and comply with the relevant method requirements and include the date and time(s) of reading, temperature(s), and technician's initials.

(3) Unmonitored use of continuous data-loggers is not an acceptable substitute when methods and/or regulations require temperature checks. Use of electronic record keeping equipment is allowed when:

(a) The equipment can demonstrate the accuracy and precision required by the applicable method and/or regulations;

(b) It includes the date and time the record was captured, using a fully traceable and secure format; and

(c) It is not being used on an incubator used for analysis of samples for microbiology parameters.

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AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-070 Proficiency testing (PT).** (1) The lab accreditation unit advises applying laboratories of specific requirements for participation in proficiency testing (PT) studies for applicable parameters. Proficiency tests conducted under the provisions of other recognized programs may be used to satisfy these requirements. The lab accreditation unit determines the sufficiency of such proficiency tests.

(2) Accredited laboratories must analyze a minimum of ~~((one))~~ two PT samples per applicable ~~((microbiology parameter per year and two PT samples for applicable chemistry))~~ parameters per year. ~~((For chemistry parameters,))~~ After an accredited laboratory submits two satisfactory PT sample results and no unsatisfactory results in an accredita-

tion year, the laboratory is required to submit only one satisfactory PT sample result in subsequent accreditation years. This applies as long as there are no intervening unsatisfactory PT sample results. For bioassay parameters, only one acceptable PT sample is required per parameter per year.

(3) The lab accreditation unit may require the laboratory to submit raw data along with the report of analysis of PT samples.

(4) The lab accreditation unit may waive proficiency tests for certain parameters if PT samples are not readily available or for other valid reasons.

(5) Applying laboratories are responsible for obtaining PT samples from vendors approved by the lab accreditation unit. No fee shall be charged to the department for the purchase or analysis of PT samples.

(6) PTs must undergo the identical preparation and analytical processes that are used for samples.

(7) When two or more approved PT providers make available a PT sample for a parameter in an appropriate matrix, the laboratory must analyze and pass a PT to gain or maintain accreditation, unless an exception is approved by the department.

(8) Presence-absence microbiology parameters must pass all 10 replicates in their PTs to be considered acceptable.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-070, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-070, filed 10/1/02, effective 11/1/02; WSR 93-20-011 (Order 92-53), § 173-50-070, filed 9/22/93, effective 10/23/93; WSR 90-21-090 (Order 90-21), § 173-50-070, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-070, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-080 ((~~On-site~~)) Audits.** The laboratory must undergo an ((~~on-site~~)) audit by the department, or their primary accreditation authority (in cases of third party recognition), to assess critical elements and areas of recommended practices. All directly accredited laboratories will be audited on a triennial basis. The laboratory must assist/accommodate department of ecology personnel during ((~~on-site~~)) audits as required. The department will determine if the audit will be on-site.

(1) **Critical elements for accreditation.** Elements of an environmental laboratory's operations which are critical to the consistent generation of accurate and defensible data are critical elements for accreditation. Critical elements are subject to intense scrutiny throughout the accreditation process. The ecology accrediting authority may deny, revoke, or suspend accreditation for deficiencies in critical elements. Functional areas including critical elements are:

(a) **Analytical methods.** ((~~The on-site audit seeks to determine if~~)) By conducting audits the department determines if SOPs and other documentation of analytical methods:

((~~\*~~)) (i) Are present at the laboratory;

((~~\*~~)) (ii) Are approved for regulatory use, if applicable;

(iii) Readily available to analysts; and

((\*) (iv) Being implemented. If the laboratory is using a locally developed method, the ((~~on-site~~)) audit may include an evaluation of the adequacy of that method.

(b) **Equipment and supplies.** The ((~~on-site~~)) audit seeks to determine if sufficient equipment and supplies as required by analytical methods are:

((\*) (i) Available;

((\*) (ii) Being adequately maintained; and

((\*) (iii) In a condition to allow successful performance of applicable analytical procedures.

To gain and maintain accreditation, laboratories must demonstrate that equipment and supply requirements of applicable regulatory programs are being met.

(c) **QA and QC records.** The ((~~on-site~~)) audit includes a review of QA and QC records for programs/projects within which the laboratory is generating analytical data for submission to the data user.

(d) **Sample management.** The ((~~on-site~~)) audit includes a review of applicable procedures for receipt, preservation, transportation, and storage of samples. The laboratory is responsible only for those elements of sample management over which it has direct control. To gain and maintain accreditation, laboratories must demonstrate that sample management requirements of applicable regulatory programs are being met.

(e) **Data management.** The ((~~on-site~~)) audit includes a review of activities necessary to assure accurate management of laboratory data including:

((\*) (i) Raw data;

((\*) (ii) Calculations; and

((\*) (iii) Transcription, computer data entry, reports of analytical results.

To gain and maintain accreditation, laboratories must demonstrate that data management requirements of applicable regulatory programs are being met.

(2) **Recommended practices.** Recommended practices are those elements of laboratory operations which might affect efficiency, safety, and other administrative functions, but do not normally affect quality of analytical data. Normally these practices would not be the basis for denial or revocation of accreditation status. Functional areas within which recommended practices may be noted are:

(a) **Personnel.** The department seeks to determine if managerial, supervisory, and technical personnel have adequate training and experience to allow satisfactory completion of analytical procedures and compilation of reliable, accurate data. Minimum recommended education and experience criteria for laboratory personnel are specified in the procedural manual.

(b) **Facilities.** The department seeks to determine if laboratory facilities allow efficient generation of reliable, accurate data in a safe environment.

(c) **Safety.** The department may refer serious safety deficiencies to appropriate state or federal agencies.

(3) **Drinking water laboratory requirements.** For laboratories applying for accreditation of drinking water parameters, ((~~on-site~~)) audit requirements are those designated in the drinking water certification manual. If such a standard is more stringent than the corresponding standard in this chapter, the drinking water certification manual applies.

(4) Documentation requests. Laboratories must submit requested documentation to the department at least two weeks prior to the scheduled start date of an audit. At a minimum the documents submitted must include:

- (a) Standard operating procedures for all methods being audited;
- (b) Analytical data for each method being audited; and
- (c) Additional documentation deemed necessary by the department to conduct the audit.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-080, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-080, filed 10/1/02, effective 11/1/02; WSR 93-20-011 (Order 92-53), § 173-50-080, filed 9/22/93, effective 10/23/93; WSR 90-21-090 (Order 90-21), § 173-50-080, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-080, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-100 Interim accreditation.** (1) If the department is unable to complete the accreditation process through no fault of the laboratory, the ecology accrediting authority may grant interim accreditation. To be considered for interim accreditation, the laboratory must:

- ((+)) (a) Submit an application and applicable fees;
- ((+)) (b) Successfully complete applicable proficiency tests; and
- ((+)) (c) Submit a QA manual and applicable SOP's that meet((s)) the requirements of WAC 173-050-067.

(2) The lab accreditation unit may also require the laboratory to submit an analytical data package as evidence of analytical capability.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-100, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-100, filed 10/1/02, effective 11/1/02; WSR 93-20-011 (Order 92-53), § 173-50-100, filed 9/22/93, effective 10/23/93; WSR 90-21-090 (Order 90-21), § 173-50-100, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-100, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-110 Provisional accreditation.** (1) The ecology accrediting authority may grant provisional accreditation to laboratories which can consistently produce valid analytical data but have deficiencies requiring corrective action. When the laboratory has corrected such deficiencies, it must provide evidence of correction to the lab accreditation unit, or request a follow-up ((on-site)) audit, as appropriate. If the lab accreditation unit determines the deficien-

cies have been corrected, the ecology accrediting authority awards full accreditation as in WAC 173-50-090.

(2) The ecology accrediting authority may renew a provisional accreditation for a subsequent accreditation period if laboratory management has demonstrated that all reasonable measures to correct deficiencies have been exhausted.

(3) For drinking water laboratories, specific conditions warranting provisional accreditation and specific actions required of the laboratory when provisional accreditation is granted are found in the drinking water certification manual.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-110, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-110, filed 10/1/02, effective 11/1/02; WSR 90-21-090 (Order 90-21), § 173-50-110, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-110, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-130 Requirements for maintaining accreditation status.** (1) Accreditation is granted for a one-year period (the accreditation year) and expires one year after the effective date of accreditation.

(2) Renewal requires the laboratory to submit:

((+)) (a) An application and appropriate fees;

((+)) (b) An update of the laboratory's QA manual if applicable;

((+)) (c) Evidence of accreditation by a third party when appropriate; ~~and~~

(+) (d) Successful completion of proficiency testing requirements; and

(e) Any other documents specifically requested by the department needed to renew accreditation.

(3) For laboratories accredited for drinking water parameters, on-site audits are required at periods not to exceed three years from the previous on-site audit.

(4) For laboratories not accredited for drinking water parameters, the schedule of (~~on-site~~) audits will be determined by the ecology accrediting authority.

(5) For a laboratory planning to permanently change their location, the laboratory must notify the department at least 30 days prior to the need for accreditation at the new location. At the time of the laboratory move, the department places all accredited parameters into interim status pending successful completion of an audit. For instrumental analysis methods laboratories must take the following actions after a move:

(a) Conduct new MDL studies for all parameters at the new location;

(b) Pass a PT for all parameters at the new location;

(c) Update SOPs for all changed parameters, if there are any revisions to the SOPs due to the laboratory move; and

(d) Update third-party scope(s), if applicable.



(6) If the laboratory move includes a merger with another accredited laboratory, the laboratory must notify the department at least 60 days prior to the need for accreditation.

(7) Temporary and/or emergency laboratory moves will be handled on a case-by-case basis. The laboratory must contact the department before any sample analysis can resume.

(8) For a laboratory to be accredited for drinking water parameters, the laboratory must comply with requirements under WAC 246-390-055, 246-390-065, and 246-390-075 and 40 C.F.R. Part 141.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-130, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-130, filed 10/1/02, effective 11/1/02; WSR 93-20-011 (Order 92-53), § 173-50-130, filed 9/22/93, effective 10/23/93; WSR 90-21-090 (Order 90-21), § 173-50-130, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-130, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-140 Denying accreditation.** (1) The ecology accrediting authority may deny accreditation if the applicant laboratory:

((+)) (a) Fails to comply with standards for critical elements of the ~~((on-site))~~ audit;

((+)) (b) Misrepresents itself to the department;

((+)) (c) Fails to disclose pertinent information in ~~((the))~~ their environmental laboratory accreditation application;

((+)) (d) Falsifies reports of analysis including proficiency testing results;

((+)) (e) Engages in unethical or fraudulent practices concerning generation of analytical data;

((+)) (f) Is deficient in its ability to provide accurate and defensible analytical data; or

((+)) (g) Fails to render applicable fees.

(2) A laboratory may be denied accreditation for a specific parameter for ~~((unsatisfactory))~~ unacceptable proficiency testing results.

(3) Laboratories denied accreditation may appeal under the provisions of WAC 173-50-200. If an appeal does not result in action favorable to the laboratory, and following correction of deficiencies, laboratories denied accreditation may reapply for accreditation to include payment of appropriate fees as determined in WAC 173-50-190.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-140, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-140, filed 10/1/02, effective 11/1/02; WSR 90-21-090 (Order 90-21), § 173-50-140, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-140, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-150 Revoking or suspending accreditation.** (1) Revocation of accreditation is the department's withdrawal of a previously granted accreditation. Revocation may involve the entire laboratory or one or more individual parameters.

(2) Suspension of accreditation is for a specified period during which the affected laboratory corrects deficiencies that led to the suspension. Suspension may involve the entire laboratory, or one or more individual parameters.

(3) The ecology accrediting authority may suspend or revoke accreditation if the accredited laboratory:

((+)) (a) Fails to comply with standards for critical elements of an (~~on-site~~) audit;

((+)) (b) Violates a state rule and/or federal law relative to the analytical procedures for which it is accredited;

((+)) (c) Misrepresents itself to the department;

((+)) (d) Falsifies reports of analysis including proficiency testing results;

((+)) (e) Engages in unethical or fraudulent practices concerning generation of analytical data;

((+)) (f) Is deficient in its ability to provide accurate and defensible analytical data;

((+)) (g) Refuses to permit entry for enforcement purposes (WAC 173-50-210);

((+)) (h) Fails to render applicable fees;

((+)) (i) Fails to maintain third-party accreditation; or

((+)) (j) Reports two consecutive unsatisfactory PT sample results.

(4) A laboratory having had its accreditation suspended or revoked may appeal under the provisions of WAC 173-50-200. If an appeal does not result in action favorable to the laboratory, and following correction of deficiencies, a laboratory having had its accreditation revoked may reapply for accreditation to include payment of appropriate fees as determined in WAC 173-50-190.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-150, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-150, filed 10/1/02, effective 11/1/02; WSR 90-21-090 (Order 90-21), § 173-50-150, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-150, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-170 Third-party accreditation.** (1) The department may recognize accreditation (or certification, registration, licensure, approval) of a laboratory by a third party when the accreditation process is determined to be equivalent to that described in this chapter.

(2) Laboratories applying for recognition of a third party's accreditation submit:

- ((\*) (a) An application and associated fee (WAC 173-50-190(7));
- ((\*) (b) A copy of the third party's certificate;
- ((\*) (c) A copy of the third party's scope of accreditation;
- ((\*) (d) A copy of the third party's most recent ((~~on-site~~)) audit report;
- ((\*) (e) A copy of the laboratory's corrective action report relative to the ((~~on-site~~)) audit, if applicable; and
- ((\*) (f) Recent, satisfactory proficiency test results for the applicable parameters.

(3) In consideration of a request to recognize a third party's accreditation as the basis for accreditation by the ecology accrediting authority, the lab accreditation unit reviews the application and supporting documentation to assure compliance with minimum accreditation requirements as stated in this chapter. If the review is favorable, a certificate and scope of accreditation are granted as in WAC 173-50-090.

(4) Laboratories granted third-party accreditation must notify the laboratory accreditation unit immediately of changes in the status of their third-party accreditation.

(5) Washington laboratories accredited or applying for accreditation in recognition of a third party's accreditation must notify the lab accreditation unit of ((~~on-site~~)) audits scheduled by the third party and allow a department observer to attend such ((~~on-site~~)) audits.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-170, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-170, filed 10/1/02, effective 11/1/02; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-170, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-190 Fee structure.** (1) Fees in this chapter are in U.S. dollars and are established to cover costs of administering the WA ELAP. ((Fees shall be assessed)) The department shall assess fees for each parameter or method within each matrix, except as noted in subsection (3) of this section. Laboratories are charged using the fee structure of the fiscal year covering the effective date the department issues a determination on a laboratory's accreditation application, renewal of its accreditation, or a revision of a laboratory's scope of accreditation. The fee schedule per parameter or method for each category((, and the maximum fee per category where applicable,)) are identified in ((Table 1.)):

- (a) Table 1 - Fee schedule through June 30, 2024.
- (b) Table 2 - Fee schedule from July 1, 2024, through June 30, 2025.
- (c) Table 3 - Fee schedule from July 1, 2025, through June 30, 2026.

(2) Examples of parameters or methods for each category are published in the procedural manual. Accreditation may be requested for parameters in addition to those listed in the procedural manual.

(3) When a fee is assessed for a specific drinking water parameter or method, the laboratory may be accredited for the same parameter or method in nonpotable water without paying an additional fee.

~~(TABLE 1 - FEE SCHEDULE~~

CATEGORY	FEE PER PARAMETER	FEE PER METHOD	MAX FEE PER CATEGORY
General Chemistry	\$80	—	\$1,600
Trace Metals	—	\$400	—
Organics I	—	\$200	—
Organics II	—	\$500	—
Microbiology	\$200	—	—
Radiochemistry	\$250	—	—
Bioassay	\$300	—	\$3,000
Immunoassay	\$80	—	—
Physical	\$80	—	—))

**Table 1 - Fee Schedule through June 30, 2024**

Category	Fee Per Parameter	Fee Per Method	Max Fee Per Category
General Chemistry	\$80	=	\$1,600
Trace Metals	=	\$400	=
Organics I	=	\$200	=
Organics II	=	\$500	=
Microbiology	\$200	=	=
Radiochemistry	\$250	=	=
Bioassay	\$300	=	\$3,000
Immunoassay	\$80	=	=
Physical	\$80	=	=

**Table 2 - Fee Schedule from July 1, 2024, through June 30, 2025**

Category	Fee Per Parameter	Per Parameter Addition Fee	Fee Per Method
General Chemistry	\$150	=	=
Trace Metals	=	\$30	\$745
Organics I	=	\$15	\$375
Organics II	=	\$35	\$930
Microbiology	\$375	=	=
Radiochemistry	\$555	=	=
Bioassay	=	\$15	\$375
Immunoassay	\$150	=	=
Physical	\$150	=	=

**Table 3 - Fee Schedule from July 1, 2025, through June 30, 2026**

Category	Fee Per Parameter	Per Parameter Addition Fee	Fee Per Method
General Chemistry	\$220	=	=
Trace Metals	=	\$55	\$1,085
Organics I	=	\$30	\$545
Organics II	=	\$70	\$1,355
Microbiology	\$545	=	=
Radiochemistry	\$680	=	=
Bioassay	=	\$25	\$445
Immunoassay	\$220	=	=
Physical	\$220	=	=

(4) Starting July 1, 2026, Equation 1 below will be used to calculate the fees:

Equation 1

$$\text{Fee}_2 = \text{Fee}_1 \times (1 + \text{FGF})$$

Where:

Fee<sub>1</sub> = The current fiscal year fees for each category.

Fee<sub>2</sub> = The fee for each category for the fiscal year following the fiscal year in which Fee<sub>1</sub> was in effect, rounded up to the nearest whole \$5 increment. The updated fee table is then posted on the department's website.

FGF = An annual fiscal growth factor expressed as a percentage, as determined under chapter 43.135 RCW.

(a) Fiscal year begins July 1st and ends June 30th of the following calendar year. For example, fiscal year 2027 is July 1, 2026, through June 30, 2027.

(b) Ecology will provide annual notice of the next fiscal year's fees by March 31st.

(5) The minimum fee for accreditation, either direct or through recognition of a third-party accreditation, is ~~((three hundred dollars))~~ \$500.

~~((5))~~ (6) In addition to paying the fee indicated in Table 1, Table 2, Table 3, or as updated by Equation 1: Out-of-state laboratories must pay the department for the actual cost of travel associated with on-site audits. The department invoices the laboratory for such costs after completion of the on-site audit.

~~((6) The laboratory must pay applicable fees before:))~~ (7) For laboratories that have not been accredited for any parameter by the department in the previous 12 months, the laboratory must pay a processing fee of \$300 before:

~~((a))~~ (a) Its quality assurance manual ~~((is))~~ and applicable SOP's are reviewed by the department;

~~((b))~~ (b) The ~~((on-site))~~ audit is conducted if applicable; and

~~((c))~~ (c) Interim, provisional, or full accreditation is granted. The application fee is not refundable.

~~((7))~~ (8) Once accreditation is granted the laboratory will be invoiced annually by the department for the requested parameters.

(9) When a laboratory applies for renewal of their accreditation, an application fee is not required. The applicable accreditation fees per Table 1, Table 2, Table 3, or as updated by Equation 1 do not need to be paid prior to processing of the application.

(10) The fee for recognition of a third-party accreditation (WAC 173-50-170) is three-fourths (75(%)) percent of the fee indicated in Table 1, Table 2, Table 3, or as updated by Equation 1.

~~((8) If a laboratory withdraws from the accreditation process after the application has been processed, but before accreditation is granted, the fee is refundable, less an amount up to three hundred dollars as reimbursement for costs of processing the application.))~~

(11) If a laboratory requests to add or reinstate a parameter to an existing method on their scope of accreditation outside of their initial application or renewal process, the laboratory will be invoiced a fee based on the type and number of requested parameters according to the "Per Parameter Addition Fee" column of Table 1, Table 2, Table 3, or as updated by Equation 1.

(12) If a laboratory withdraws from the accreditation process after the ~~((on-site))~~ audit has been completed, the department may re-

tain the entire fee including reimbursement of travel costs if applicable.

~~((9) Dollar amounts listed in Table 1 and subsections (4) and (8) of this section may be decreased at any time the department determines they are higher than needed to meet accreditation program requirements. The department notifies affected parties of any fee adjustment at least thirty days prior to the effective date of the adjusted fee.~~

~~(10))~~ (13) Accreditation fees are waived for laboratories operated by the Washington state departments of ecology and health. Accreditation fees are also waived for drinking water parameters certified by EPA Region 10 at designated principal laboratories.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-190, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-190, filed 10/1/02, effective 11/1/02; WSR 93-20-011 (Order 92-53), § 173-50-190, filed 9/22/93, effective 10/23/93; WSR 90-21-090 (Order 90-21), § 173-50-190, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-190, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-210 ((Enforcement)) Compliance inspections and access.** (1) For the purpose of conducting ~~((on-site))~~ audits or inspections to ensure compliance with this chapter, the department may, during regular business hours, enter business premises in which analytical data pertaining to accreditation under the provisions of this chapter are generated or stored.

(2) Refusal to permit entry for such purposes may result in denial or revocation of accreditation.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-210, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-210, filed 10/1/02, effective 11/1/02; WSR 90-21-090 (Order 90-21), § 173-50-210, filed 10/19/90, effective 11/19/90; WSR 89-10-001 and 90-07-017 (Order 89-1 and 89-1A), § 173-50-210, filed 4/20/89 and 3/13/90, effective 4/13/90.]

AMENDATORY SECTION (Amending WSR 10-17-032, filed 8/9/10, effective 9/9/10)

**WAC 173-50-220 Assistance to laboratories.** Laboratories scheduled to undergo an ~~((on-site))~~ audit may request a training session be conducted by department staff in conjunction with that audit. Accredited laboratories may also request on-site assistance at times other than the ~~((on-site))~~ audit. Whether requested as part of the ~~((on-site))~~ audit or otherwise, the department will provide such assistance to the extent allowed by staff resources available at the time.

[Statutory Authority: RCW 43.21A.230, 43.20.050 and 2009 c 564 § 301. WSR 10-17-032 (Order 09-09), § 173-50-220, filed 8/9/10, effective 9/9/10. Statutory Authority: RCW 43.21A.230. WSR 02-20-090 (Order 01-12), § 173-50-220, filed 10/1/02, effective 11/1/02; WSR 90-21-090 (Order 90-21), § 173-50-220, filed 10/19/90, effective 11/19/90.]

**WSR 23-18-097**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-182—Filed September 6, 2023, 11:34 a.m., effective October 7, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule is to adjust the timing of participant selection and the timing for gear in hand requirements to allow fishers sufficient time to secure gear. In addition, this rule will clarify conditions pertaining to the successful fisher applicants.

Citation of Rules Affected by this Order: Amending WAC 220-360-520.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, 77.65.400.

Adopted under notice filed as WSR 23-15-096 on July 18, 2023.

Changes Other than Editing from Proposed to Adopted Version: There are three changes from the proposed rule and the rule as adopted. The first modifies text in subsection (2)(b) to read "April 30th of the inaugural year for each fisher." The second deletes some text in subsection (3) to clarify that the emerging commercial fishery license and associated experimental fishery permit will be issued November 15. The second [third] change adds text to subsection (4)(c) to provide more flexibility for selected fishers to miss a fishing period with an approved exception.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 31, 2023.

Kelly Susewind  
Director

**OTS-4716.2**

AMENDATORY SECTION (Amending WSR 22-23-006, filed 11/2/22, effective 12/3/22)

**WAC 220-360-520 Columbia River emerging commercial fishery—Is-  
 suance of an emerging commercial fishery license and experimental  
 fishery permit—License and permit conditions.** (1) To maintain consistency in this fishery enabling the department to gather the best



available information, a fisher selected by lottery (~~((in the initial year the fishery is offered will be able to renew their))~~) will be able to obtain a permit for the duration of the fishery.

(2) Applications for participation in the (~~(one-time))~~) lottery are due by (~~(April 30th))~~) October 15th of the (~~(initial))~~) year (~~((in which the fishery is offered))~~) preceding the fishery starting with October 15, 2023, (for the fishery starting in 2024). Any permits remaining available or that become available will be part of the subsequent year's lottery subject to all of the same conditions of the original lottery taking place in 2023.

(a) Only one application per person is allowed, and only one alternative gear type may be permitted per person for this emerging commercial fishery. Selected fishers wishing to switch between alternative gear types (e.g., purse seine to beach seine) may do so with written approval from the WDFW staff and said switch may only occur between fishing seasons.

(b) (~~((The alternative gear an applicant is interested in fishing is in the applicant's possession by the time their application is submitted.))~~) The proof of purchase for the alternative gear an applicant is interested in fishing must be submitted to WDFW by April 30th in the inaugural year for each fisher. If such proof of purchase is not submitted by the above date, the department will notify that fisher of their failure and select a new fisher to replace them in the fishery.

(3) Issuance of the annual emerging commercial fishery license and experimental fishery permit will occur by (~~(May 30th prior to the start of each fishing season))~~) November 15th.

(a) If the total number of available permits is not filled from the applications received by the deadline for that year, the department may ask for additional applications. If more applications are submitted than the number of permits available for that year, the WDFW will select and notify additional fishers to serve as alternates in the event a selected applicant is no longer able to participate or fails to present the proper proof of purchase for alternate gear.

(b) Applicants selected must respond within 10 business days of being notified by (~~(the department))~~) WDFW to accept the permit and purchase the emerging fishery license. If the applicant fails to purchase the license and permit within 10 business days of notification of selection, (~~(the department))~~) WDFW may issue the license and permit to another applicant.

(4) The conditions of possessing a valid license and permit are as follows:

(a) Fishery participants are not precluded from participation in other commercial fisheries.

(b) Fishery participants are required to have a state observer observing their catch while actively fishing.

(c) (~~((If a permit holder fails to make multiple landings during the fishery, the experimental permit issued to that fisher will be voided, that person will have his or her name permanently withdrawn from the applicant pool, and a new applicant will be selected from the applicant pool.))~~) Fishery participants are required to actively fish all of the open periods during any season of the fishery. WDFW reserves the right to make exceptions. To qualify for this exception the permit holder must contact WDFW ahead of any open fishery period for which they will be unable to participate and document their inability to participate in writing. If this exception is granted, WDFW will notify the permit holder in writing of that decision before that open fishery period.

(d) This license and permit are not transferable between persons. The license and permit holder must be present and in possession of a valid license and permit during fishing operations. (~~(A violation of this subsection is punishable under RCW 77.15.540 Unlawful use of a commercial fishery license—Penalty.)~~)

(e) It is unlawful to violate the conditions of the emerging commercial fishery license and experimental fishery permit. A violation of this subsection is punishable under RCW 77.15.540 Unlawful use of a commercial fishery license—Penalty.

(f) This license and permit may be revoked, at any time, at the discretion of the director (~~and~~). Future licenses and permits denied for failure to comply with conditions specified in the permit or violations of other commercial fishing regulations.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, and 77.65.400. WSR 22-23-006 (Order 22-262), § 220-360-520, filed 11/2/22, effective 12/3/22.]