

## WSR 24-20-012

## EXPEDITED RULES

## DEPARTMENT OF REVENUE

[Filed September 19, 2024, 3:24 p.m.]

Title of Rule and Other Identifying Information: WAC 458-20-10201 Application process and eligibility requirements for reseller permits, and 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, hostels, trailer camps, short-term rentals and similar lodging businesses.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of revenue (department) is amending WAC 458-20-10201 and 458-20-166 to incorporate 2024 legislation, SB 6215 (section 3) and HB 2137, respectively. SB 6215 (section 3) amended the definition of "contractor" to include plumbing contractor activities in RCW 18.106.010. HB 2137 exempted certain lodging from tourism promotion area assessments if authorized by the legislative authority of a local government. In addition to the new exemption in HB 2137, WAC 458-20-166 was updated to remove outdated language and to improve readability.

Reasons Supporting Proposal: The changes to WAC 458-20-10201 clarify the contractor activities under which a reseller permit may be issued. The updates to WAC 458-20-166 clarify when lodging may be exempted from a tourism promotion area assessment and improves the readability of the rule.

Statutory Authority for Adoption: RCW 82.01.060, 82.32.300.

Statute Being Implemented: RCW 82.32.783, 35.101.055.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Jeannette Gute, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1599.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is applicable to these rule updates because the department is incorporating changes resulting from 2024 legislation and the proposed amendments clarify these rules without changing their effect.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE

RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leslie Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, BEGINNING September 20, 2024, 12:00 a.m., AND RECEIVED BY December 2, 2024, 11:59 p.m.

September 19, 2024  
Brenton Madison  
Rules Coordinator

## OTS-5871.1

AMENDATORY SECTION (Amending WSR 23-14-002, filed 6/21/23, effective 7/22/23)

**WAC 458-20-10201 Application process and eligibility requirements for reseller permits.** (1) **Introduction.** Reseller permits, issued by the department of revenue (department), replaced resale certificates as the documentation necessary to substantiate the wholesale nature of a sales transaction effective January 1, 2010. This rule explains the criteria under which the department will automatically issue a reseller permit, the application process for both contractors and taxpayers engaging in other business activities when the department does not automatically issue or renew a reseller permit, and the criteria that may result in the denial of an application for a reseller permit. Unique requirements and provisions apply to contractors. (See Part III of this rule.)

The information in this rule is organized into (~~the following~~) three parts:

- (a) Part I: General Information.
- (b) Part II: Businesses Other than Contractors.
- (c) Part III: Contractors.

(2) **Other rules that may apply.** Readers may want to refer to other rules for additional information, including those in the following list:

(a) WAC 458-20-102 ((+))Reseller permits((+))  , which explains taxpayers' responsibilities regarding the use of reseller permits, sellers' responsibilities for retaining copies of reseller permits, and the implications for taxpayers not properly using reseller permits and sellers not obtaining copies of reseller permits from taxpayers;

(b) WAC 458-20-10202 ((+))Brief adjudicative proceedings for matters related to reseller permits((+))  , which explains the process a taxpayer must use to appeal the department's denial of an application for a reseller permit; and

(c) WAC 458-20-192 ((+))Indians-Indian country((+))  , which explains the extent of the state's authority to regulate and impose tax in Indian country.

(3) **Examples.** This rule contains examples that identify a number of facts and then state a conclusion. The examples should be used only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

**Part I - General Information**

**(101) Definitions.** For the purpose of this rule, the following terms (~~(will)~~) apply:

(a) **Consumer.** "Consumer" has the same meaning as under RCW 82.04.190.

(b) **Contractor.** As provided in RCW 82.32.783 (8) (a), a "contractor" is a person whose primary business ((activity is as a contractor as defined under RCW 18.27.010 or an electrical contractor as defined under RCW)) activities are those of a contractor. Business activities of a contractor include those identified in RCW 18.27.010, 18.106.010, or 19.28.006.

(c) **Gross income.** "Gross income" means gross proceeds of sales as defined in RCW 82.04.070 and value of products manufactured as determined under RCW 82.04.450.

(d) **Labor.** "Labor" is defined as the work of subcontractors, ~~((+))~~ including personnel provided by temporary staffing companies ~~((+))~~, hired by a contractor to perform a portion of the construction services in respect to real property owned by a third party. In the case of speculative builders, labor includes the work of any contractor hired by the speculative builder. Labor does not include the work of taxpayer's employees. Nor does the term include architects, consultants, engineers, construction managers, or other independent contractors hired to oversee a project but who are not responsible for the construction of the project. However, for purposes of the percentage discussed in subsection (303) (a) (iii) of this rule, purchases of labor may include the wages of taxpayer's employees and amounts paid to consultants, engineers, construction managers or other independent contractors hired to oversee a project if all such purchases are commingled in the applicant's records and it would be impractical to exclude such purchases.

(e) **Materials.** "Materials" is defined as tangible personal property that becomes incorporated into the real property being constructed, repaired, decorated, or improved. Materials are the type of tangible personal property that contractors on retail construction projects purchase at wholesale, such as lumber, concrete, paint, wiring, pipe, roofing materials, insulation, nails, screws, drywall, and flooring material. Materials do not include consumable supplies, tools, or equipment, whether purchased or rented, such as bulldozers. However, for purposes of the percentage discussed in subsection (303) (a) (iii) of this rule, purchases of consumable supplies, tools, and equipment rentals may be included with material purchases if all such purchases are commingled in the applicant's records and it would be impractical to exclude such purchases.

(f) **Material misstatement.** "Material misstatement" is a false statement knowingly or purposefully made by the applicant with the intent to deceive or mislead the department.

(g) **Outstanding tax liability.** ~~((For the purpose of this rule,))~~ "Outstanding tax liability" is any issued tax invoice that has not been paid in full on or before its stated due date. The definition excludes an invoice placed on hold by the department or where the department has executed a payment agreement with the taxpayer and the taxpayer is still in compliance with that agreement.

(h) **Reseller permit.** A "reseller permit" is the document issued to a taxpayer by the department, a copy of which the taxpayer provides to a seller to substantiate a wholesale purchase. A wholesale purchase is not subject to retail sales tax. RCW 82.04.060; 82.08.020.

(i) **Retail construction activity.** "Retail construction activity" means the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, on, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and it also includes the sale of services or charges made for the clearing of land and the moving of earth except the mere leveling of land used in commercial farming or agriculture. Retail construction activity generally involves residential and commercial construction performed for others, including road construction for the state of Washington. It generally includes construction activities that are not specifically designated as speculative building, government contracting, public road construction, logging road construction, radioactive waste cleanup on federal lands, or designated hazardous site clean up jobs. RCW 82.04.050.

(j) **Wholesale construction activity.** "Wholesale construction activity" means labor and services rendered for persons who are not consumers in respect to real property, if such labor and services are expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers.

**(102) Can any business obtain a reseller permit?** No. The legislature passed the act authorizing reseller permits to address the significant retail sales tax noncompliance problem resulting from both the intentional and unintentional misuse of resale certificates. The department will not issue a reseller permit unless the business substantiates that it is entitled to make wholesale purchases. Some businesses may not receive a reseller permit, and if they make wholesale purchases, they will need to pay retail sales tax to the seller and then claim a "taxable amount for tax paid at source" deduction on their excise tax return or request a refund from the department as discussed in subsection (205) of this rule.

**Example 1.** BC Interior Design (BC) arranges for its customers to order and pay for furniture, window treatments and other decorative items directly from vendors. As the customers purchase directly from the vendors, and BC does not purchase the items for resale to their customers, BC may not qualify for a reseller permit. BC must meet the criteria as discussed in subsection (203) of this rule, which includes reporting income from retailing, wholesaling, or manufacturing activities.

## Part II - Businesses Other than Contractors

**(201) How does a business obtain a reseller permit?** The department may automatically issue a reseller permit to a business if it appears to the department's satisfaction, based on the nature of the business's activities and any other information available to the department, that the business is entitled to make purchases at wholesale.

Those businesses that do not receive an automatically issued reseller permit may apply to the department to obtain a reseller permit. Applications can be filed using the businesses' (~~("My Account.")~~) "My DOR" online account. If a paper application is needed, businesses can obtain one by calling 360-705-6705 (~~((taxpayer services) or 360-902-7137 (taxpayer account administration))~~) (tax assistance). Completed paper applications should be mailed or faxed to the department at:

Taxpayer Account Administration  
Washington State Department of Revenue  
P.O. Box 47476  
Olympia, WA 98504-7476  
Fax: 360-705-6733

**(202) When does a business apply for a reseller permit?** A business may apply for a reseller permit at any time.

**(203) What criteria will the department consider when deciding whether a business will receive a reseller permit?**

(a) Except as provided in (b) of this subsection, a business other than a contractor will receive a reseller permit if it satisfies the following criteria (contractors should refer to subsection (303) of this rule for an explanation of the requirements unique to them):

(i) The business has an active tax reporting account with the department;

(ii) The business has reported gross income on its excise tax returns covering a monthly or quarterly period during the immediately preceding six months or, if the business reports on an annual basis, on the immediately preceding annual excise tax return; and

(iii) Five percent or more of the business's gross income reported during the applicable six- or 12-month period described in (a)(ii) of this subsection was reported under a retailing, wholesaling, or manufacturing business and occupation (B&O) tax classification.

(b) Notwithstanding (a) of this subsection, the department may deny an application for a reseller permit if:

(i) The department determines that an applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a reseller permit based on the nature of the applicant's business;

(ii) The applicant has been assessed the penalty for the misuse of a resale certificate or a reseller permit;

(iii) The application contains any material misstatement;

(iv) The application is incomplete;

(v) The applicant has an outstanding tax liability due to the department; or

(vi) The department determines that denial of the application is in the best interest of collecting the taxes due under Title 82 RCW.

(c) The department's decision to approve or deny an application may be based on excise tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant in the master application and the reseller permit application, and other information available to the department.

(d) In the event that a business has reorganized, the new business resulting from the reorganization may be denied a reseller permit if the former business would not have qualified for a reseller permit under (a) or (b) of this subsection. For purposes of this subsection, "reorganize" means:

(i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly;

(ii) A mere change in identity or form of ownership, however effected; or

(iii) The new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

**(204) What if I am a new business and don't have a past reporting history?** New businesses will generally be issued permits if they indicate they will engage in activity taxable under a retailing, wholesaling, or manufacturing B&O tax classification.

**(205) What if I don't get a reseller permit and some of my purchases qualify as wholesale purchases?** Some taxpayers that do not qualify for a reseller permit make occasional wholesale purchases. In these circumstances, the taxpayer must pay retail sales tax on these purchases and then claim a "taxable amount for tax paid at source" deduction on its excise tax return. However, such a deduction in respect to the purchase of services is not permitted if the services are not of a type that can be sold at wholesale under the definition of wholesale sale in RCW 82.04.060.

Alternatively, the taxpayer may request a refund from the department of retail sales tax it paid on purchases that are later resold without being used (intervening use) by the taxpayer or for purchases that would otherwise have met the definition of wholesale sale if the taxpayer had provided the seller with a reseller permit or uniform exemption certificate as authorized in RCW 82.04.470. For instructions on requesting a refund see WAC 458-20-229.

### Part III - Contractors

**(301) How does a contractor obtain a reseller permit?** The department may automatically issue a reseller permit to a contractor if the department is satisfied that the contractor is entitled to make purchases at wholesale and that issuing the reseller permit is unlikely to jeopardize collection of sales taxes due based on the criteria discussed in subsection (303) of this rule.

Contractors that do not receive an automatically issued reseller permit may apply to the department to obtain a reseller permit in the same manner as provided in subsection (201) of this rule. However, the application identifies information specific to contractors that must be provided.

**(302) When does a contractor apply for a reseller permit?** The same guidelines for business applicants as provided in subsection (202) of this rule also apply to contractor applicants.

**(303) What are the criteria specific to contractors to receive a reseller permit?**

(a) The department may issue a permit to a contractor that:

(i) Provides a completed application with no material misstatement as that term is defined in this rule;

(ii) Demonstrates it is entitled to make purchases at wholesale; and

(iii) Reported on its application at least 25 percent of its total dollar amount of material and labor purchases in the preceding 24 months were for retail and wholesale construction activities performed by the contractor.

The department may approve an application not meeting these criteria if the department is satisfied that approval is unlikely to jeopardize collection of the taxes due under Title 82 RCW.

(b) If the criteria in (a) of this subsection are satisfied, the department will then consider the following factors to determine whether to issue a reseller permit to a contractor:

- (i) Whether the contractor has an active tax reporting account with the department;
  - (ii) Whether the contractor has reported gross income on its excise tax returns covering a monthly or quarterly period during the immediately preceding six months or, if the contractor reports on an annual basis, on the immediately preceding annual excise tax return;
  - (iii) Whether the contractor has the appropriate certification and licensing with the Washington state department of labor and industries;
  - (iv) Whether the contractor has been assessed the penalty for the misuse of a resale certificate or a reseller permit;
  - (v) Whether the contractor has an outstanding tax liability due to the department; and
  - (vi) Any other factor resulting in a determination by the department that denial of the contractor's application is in the best interest of collecting the taxes due under Title 82 RCW.
- (c) The department's decision to approve or deny an application may be based on the same materials and information as discussed in subsection (203)(c) of this rule.
- (d) The provisions of subsection (203)(d) of this rule apply equally to contractors.

**Example 2.** DC Contracting is a speculative homebuilder and also purchases houses to renovate and sell, sometimes referred to as flipping. A speculative builder is the consumer of all materials incorporated into the real estate including houses purchased for flipping. Retail sales tax is owed on all supplies and services DC Contracting purchases, unless there is an applicable exemption. DC Contracting would not qualify for a reseller permit under these facts.

**(304) What if a contractor does not obtain a reseller permit and some of its purchases do qualify as wholesale purchases?** The provisions of subsection (205) of this rule apply equally to contractors.

AMENDATORY SECTION (Amending WSR 19-04-002, filed 1/23/19, effective 2/23/19)

**WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, hostels, trailer camps, short-term rentals and similar lodging businesses.** (1) **Introduction.** This rule explains the taxation of persons operating hotels, motels, bed and breakfast facilities, and similar businesses that provide lodging and related services to transient tenants.

(a) **References to related rules.** The department of revenue (department) has adopted other rules that may contain additional relevant information:

- (i) WAC 458-20-111 ((+))Advances and reimbursements((+));
- (ii) WAC 458-20-118 ((+))Sale or rental of real estate, license to use real estate((+));
- (iii) WAC 458-20-159 ((+))Consignees, bailees, factors, agents and auctioneers((+));
- (iv) WAC 458-20-165 ((+))Laundry, dry cleaning, linen and uniform supply, and self-service and coin-operated laundry services((+));
- (v) WAC 458-20-167 ((+))Educational institutions, school districts, student organizations, and private schools((+));

(vi) WAC 458-20-168 (~~(+)~~) Hospitals, nursing homes, assisted living facilities, adult family homes, and similar health care facilities(~~(+)~~);

(vii) WAC 458-20-187 (~~(Coin-operated vending machines, amusement devices and service machines)~~) Tax responsibility of vending machine owners and operators; and

(viii) WAC 458-20-245 (~~(+)~~) Taxation of competitive telephone service, telecommunications service, and ancillary service(~~(+)~~).

(b) **Examples.** This rule includes examples that identify a set of facts and then state a conclusion. The examples are only a general guide. The department will evaluate each case on its particular facts and circumstances (~~and apply both this rule and other statutory and common law authority~~).

(2) This rule explains the business and occupation (B&O) tax, retail sales tax, special hotel/motel tax, the convention and trade center tax, the tourism promotion area charge, and the taxation of emergency housing furnished to homeless people.

(a) This rule applies to persons operating hotels, motels, short-term rentals, and the following businesses:

(i) Trailer camps and recreational vehicle parks that rent space to transient tenants for house trailers, campers, recreational vehicles, mobile homes, tents, and similar accommodations.

(ii) Educational institutions that sell overnight lodging to persons other than students. Information regarding educational institutions is provided in WAC 458-20-167 (~~(Educational institutions, school districts, student organizations, and private schools)~~).

(iii) Private lodging houses, dormitories, bunkhouses, and similar accommodations operated by or on behalf of a business or school solely for the accommodation of employees of the business or students of the school, which are not held out to the public as a place where sleeping accommodations may be obtained.

(b) This rule does not apply to persons operating the following businesses:

(i) Hospitals, sanitariums, nursing homes, rest homes, and similar institutions. Information regarding operating these establishments is provided in WAC 458-20-168 (~~(Hospitals, nursing homes, assisted living facilities, adult family homes and similar health care facilities)~~).

(ii) Apartments or condominiums where the rental is for one month or more. Information regarding rentals for one month or more and the distinction between a rental of real estate and the license to use real estate is provided in WAC 458-20-118 (~~(Sale or rental of real estate, license to use real estate)~~).

(3) **Transient tenant defined.** The term "transient tenant" as used in this rule means any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property for less than one month, or less than (~~(thirty)~~) 30 continuous days if the rental period does not begin on the first day of the month. Providing lodging for a continuous period of one month or more to a guest, resident, or other occupant is a rental or lease of real property. It is presumed that when lodging is provided for a continuous period of one month or more, or (~~(thirty)~~) 30 continuous days or more if the rental period does not begin on the first day of the month, the guest, resident, or other occupant purchasing the lodging is a nontransient upon the (~~(thirtieth)~~) 30th day without regard to a specific lodging unit occupied throughout the continuous (~~(thirty)~~) 30-day period. An occupant who contracts in advance and remains in



continuous occupancy for the initial (~~(thirty)~~) 30 days will be considered a nontransient from the first day of occupancy provided in the contract.

(4) **Business and occupation tax (B&O).** Where lodging is sold to a nontransient tenant, the transaction is a rental of real estate and not subject to B&O tax. (~~(See)~~) WAC 458-20-118 (~~((Sale or rental of real estate, license to use real estate))~~). Sales of lodging and related services to transient tenants are subject to B&O tax, including transactions that may have been identified or characterized as membership fees or dues.

(a) **Retailing classification.** Gross income derived from the following activities provided to transient tenants is subject to the retailing B&O tax:

(~~(A)~~) (i) Rental of rooms for lodging;

(~~(A)~~) (ii) Rental of radio and television sets;

(~~(A)~~) (iii) Rental of rooms, space, and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, and similar accommodations;

(~~(A)~~) (iv) Automobile parking or storage; and

(~~(A)~~) (v) Sale or rental of tangible personal property at retail. More information regarding retail sales is provided in subsection (5) of this rule discussing retail sales tax.

(b) **Service and other activities classification.** Commissions, amounts derived from accommodations not available to the public, and certain (~~(lump sum)~~) fees charged for multiple services are taxable under the service and other activities classification of the B&O tax. (~~(Gross income derived from the following business activities also is subject to service and other B&O tax.)~~)

(i) Commission income. Commission income received by hotels, motels, and similar businesses from other businesses providing a service to their tenants (~~(. The following are examples of commission income that is subject to the service and other activities B&O tax.)~~) is subject to the service and other activities B&O tax, such as commission income received from:

(A) (~~(Commission income received from)~~) Acting as a laundry agent for tenants when someone other than the hotel provides the laundry service. Information regarding these commissions is provided in WAC 458-20-165 (~~((Laundry, dry cleaning, linen and uniform supply, and self-service and coin-operated laundry services).)~~);

(B) (~~(Commission income received from telephone companies for long distance telephone calls when the hotel or motel merely acts as an agent and commission income received from coin-operated telephones. Information regarding these commissions is provided in WAC 458-20-159 (Consignees, bailees, factors, agents and auctioneers) and WAC 458-20-245 (Taxation of competitive telephone service, telecommunications service, and ancillary service). Refer to subsection (5) of this rule for a discussion of telephone service fees subject to retail sales tax.~~)

(~~(C) Commission income or license fees for~~) Permitting a satellite antenna to be installed on the premises or for permitting a broadcaster or cable operator to make sales to the transient tenants staying at the hotel or motel (~~(are subject to service and other activities B&O tax.)~~);

(~~((D) Commission income from)~~) (C) The rental of videos for use by tenants staying at the hotel or motel when the hotel or motel operator is making the sales as an agent for a seller(~~(.))~~); and

~~((E) Commission income received from))~~ (D) The operation of  
~~((amusement devices))~~ a vending machine not owned by the owner or op-  
erator of the lodging facility. Information regarding ~~((amusement de-~~  
~~vices))~~ vending machines is provided in WAC 458-20-187 ~~((Coin-operat-~~  
~~ed vending machines, amusement devices and service machines))~~.

(ii) Other income. Gross income derived from the following busi-  
 ness activities is subject to the service and other activities B&O  
 tax~~((+))~~:

(A) The rental of sleeping accommodations by private lodging  
 houses, ~~((+))~~ including dormitories, bunkhouses, and similar accommo-  
 dations~~((+))~~, operated by or on behalf of a business for its employees,  
 which are not held out to the public as a place where sleeping accom-  
 modations may be obtained~~((+))~~; and

(B) Deposits retained by ~~((the))~~ a lodging business as a penalty  
 charged to a transient tenant for failure to timely cancel a reserva-  
 tion.

(5) **Retail sales tax.** Persons providing lodging and other serv-  
 ices generally must collect and remit retail sales tax on the gross  
 selling price of the lodging and other services. They must pay retail  
 sales or use tax on all items they purchase for use in providing their  
 services.

(a) **Lodging.** All fees charged for lodging and related services to  
 transient tenants are retail sales. Included are fees charged for ve-  
 hicle parking and storage and for space and other facilities, includ-  
 ing fees charged by a trailer camp for utility services.

(i) A tenant who does not contract in advance to stay at least  
~~((thirty))~~ 30 days is not entitled to a refund of retail sales tax if  
 the rental period later extends beyond ~~((thirty))~~ 30 days.

Example: ~~((Assume))~~ A tenant rents the same motel room on a week-  
 ly basis~~((+))~~ ~~((Further assume the tenant))~~ and continues to extend occu-  
 pancy on a weekly basis until the tenant finally exceeds ~~((thirty))~~ 30  
 days. Under these ~~((assumed))~~ facts, the tenant is considered a tran-  
 sient for the first ~~((twenty-nine))~~ 29 days of occupancy and must pay  
 retail sales tax on the rental fees. The rental fees are exempt from  
 retail sales tax beginning on the ~~((thirtieth))~~ 30th day. The tenant  
 is not entitled to a refund of retail sales taxes paid on the rental  
 fees for the first ~~((twenty-nine))~~ 29 days.

(ii) A business providing transient-tenant lodging must complete  
 the "transient rental income" information section of the combined ex-  
 cise tax return. The four digit location code must be listed along  
 with the gross income received from transient-tenant lodging subject  
 to retail sales tax for each facility located within a participating  
 city or county.

(b) **Meals and entertainment.** All fees charged for food, beverage-  
 s, and entertainment activities are retail sales subject to retail  
 sales tax.

(i) Fees charged for related services ~~((including, but not limi-~~  
~~ted to,))~~ such as room service, banquet room services, ~~((and))~~ service  
 charges, and gratuities that are agreed to in advance by customers or  
 added to their bills by the service provider are subject to retail  
 sales tax.

(ii) If meals sold under a promotion such as a "two meals for the  
 price of one," the taxable selling price is the actual amount received  
 as payment for the meals.

~~((Meals sold to employees are subject to retail sales tax. Information regarding meals furnished to employees is provided in WAC 458-20-119 (Sales by caterers and food service contractors).))~~ Meals

provided by a restaurant to its employees without charge are exempt from retailing B&O tax and retail sales tax. RCW 82.04.750 and 82.08.9995. However, if a charge is made, retailing B&O tax and retail sales tax applies.

(iv) Sale of food and other items sold through vending machines are retail sales. Information regarding income from vending machines and the distinction between taxable and nontaxable sales of food products is provided in WAC 458-20-187 (~~((Coin-operated vending machines, amusement devices and service machines))~~) and ((WAC)) 458-20-244 (~~((Food and food ingredients))~~).

(v) When a (~~(lump sum fee)~~) single price is charged to nontransient tenants for providing both lodging and meals, retail sales tax must be collected (~~((upon the fair selling price of such))~~) on the market price of the meals. (~~((Unless accounts are kept showing the fair selling price,))~~) If the market price of the meals is unknown, then the tax will be computed ((upon)) based on double the cost of the meals served. The cost includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other incidental costs (~~((incidental thereto))~~), including an appropriate portion of overhead expenses.

(vi) (~~((Cover fees charged for dancing and other entertainment activities are retail sales.~~

~~((vii)))~~ Fees charged for providing extended television reception to transient tenants are retail sales.

(c) **Laundry services.** Fees charged for laundry services provided by a hotel/motel in the (~~((hotel's))~~) hotel/motel name are retail sales. Fees charged to tenants for self-service laundry facilities are not retail sales, but the gross income derived from these fees is subject to service and other activities B&O tax.

(d) (~~((Telephone charges. Telephone and "message service" fees charged to transient tenants are retail sales, but commission income received from telephone companies for long distance telephone calls when the hotel or motel merely acts as an agent is not subject to retail sales tax.~~

If the hotel or motel is acting as an agent for a telephone service provider that provides long distance telephone service to the transient tenant, the actual telephone fees charged are not taxable income to the hotel or motel. These amounts are advances and reimbursements. Information on advances and reimbursements is provided in WAC 458-20-111 (Advances and reimbursements). Any additional fee added by the hotel or motel to the actual long distance telephone fee, however, is a retail sale.

(e) **Telephone lines.** If the hotel or motel leases telephone lines and then provides telephone services for a fee to either its transient or nontransient tenants, these fees are retail sales. In this case the hotel or motel is in the telephone business. Information regarding the telephone business is provided in WAC 458-20-245 (Taxation of competitive telephone service, telecommunications service, and ancillary service). The hotel or motel may give a reseller permit for purchases made to the provider of the leased lines and is not subject to the payment of retail sales tax to the provider of the leased lines.

~~((f)))~~ **Rentals.** Renting tangible personal property such as movies and sports equipment is a retail sale.

~~((g)))~~ (e) **Purchases of tangible personal property for use in providing lodging and related services.** All purchases of tangible personal property for use in providing lodging and related services are

retail sales. The fee charged for lodging and related services is for services rendered and not for the resale of any tangible property.

(i) ~~((Purchases subject to retail sale tax include, but are not limited to,))~~ Retail sales tax applies to purchases such as beds, room furnishings, linens, towels, ((soap, shampoo)) small toiletry items (e.g., soap, shampoo, body wash, and lotion), restaurant equipment, and laundry supply services. ((Purchases, such as small toiletry items, are included even though they may be provided for guests to take home if not used.))

(ii) Sales of prepared meals or other prepared items are subject to retail sales tax. Information regarding the sales of food products is provided in WAC 458-20-244 ~~((Food and food ingredients))~~.

~~((h))~~ **(f) Sales to the United States government.** Sales made directly to the United States government are not subject to retail sales tax. Sales to employees of the federal government are taxable even if the employee ultimately will be reimbursed for the lodging fee.

(i) **Payment by government voucher or check.** If the lodging fee is paid by United States government voucher or United States government check payable directly to the hotel or motel, the sale is presumed to be a tax-exempt sale made directly to the federal government.

(ii) **Charges to government credit card.** ~~((Various))~~ United States government contracted credit cards are used to make payment for purchases of goods and services by or for the United States government. ~~((Specify))~~ Information about ((determining when a purchase by)) the taxability of government credit card ((is a tax-exempt purchase by the United States government)) purchases is available ((via)) on the department's ((internet)) website at ((http://dor.wa.gov. (See the department's lodging industry guide.)) For specific information about determining when payment is the direct responsibility of the United States government or the employee, you may)) dor.wa.gov, or by calling the department's telephone information center at 360-705-6705. You may also contact the department's taxpayer services division at ((http://dor.wa.gov/content/ContactUs/or)):

Department of Revenue  
Taxpayer Services Division  
P.O. Box 47478  
Olympia, WA 98504-7478

(6) **Special hotel/motel tax.** Some locations in the state impose special hotel/motel taxes. ~~((These taxes are imposed under chapters 67.28 and 36.100 RCW.))~~ RCW 67.28.180 and 36.100.040(1). If a business is in one of those locations, an additional tax is charged and reported under the special hotel/motel portion of the tax return. The four digit location code, the gross-selling price for providing the lodging, and the tax rate must be completed for each location where the lodging is provided. The special hotel/motel tax under RCW 67.28.180 applies without regard to the number of lodging units ((except that)), but the tax imposed under RCW 36.100.040(1) applies only if there are ((forty)) 40 or more lodging units. The ((tax-only applies)) taxes apply to the fee charged for the rooms used for lodging by transient tenants((. Additional)), including fees charged for use of camping and recreational vehicle sites. The taxes do not apply to any fees charged for telephone services, laundry, ((or other)) incidental charges ((are not subject to the special hotel/motel tax. Nor is the fee)), or fees charged for use of meeting rooms, banquet rooms, or other special use rooms ((subject to this tax. The tax applies,

however, to fees charged for use of camping and recreational vehicle sites)).

(7) **Convention and trade center tax.** (~~Subject to the exemptions in (b) of this subsection,~~) RCW 36.100.040(4) authorizes a convention and trade center tax for businesses located in King County selling lodging to transient tenants, including (, but not limited to, any short-term rental,) short-term rentals. These businesses must charge their customers the convention and trade center tax and report the tax under the "convention and trade center" portion of the combined excise tax return.

(a) Applicability of tax. The convention and trade center tax applies only to the fees charged for the rooms, or camping or recreational vehicle sites, used to provide lodging for transient tenants. Each campsite is considered a single unit.

~~((Additional))~~ The tax does not apply to fees charged for telephone services, laundry, ((or other)) incidental charges ((are not subject to the convention and trade center tax.)), or fees charged for the use of meeting rooms, banquet rooms, or other special use rooms ((are also not subject to the convention and trade center tax)).

(b) Exemptions. The following are exempt from the convention and trade center tax:

(i) A business in a town with a population of less than ~~((three hundred))~~ 300 people that has fewer than ~~((sixty))~~ 60 rooms that are available or being used to provide lodging to transient tenants, regardless of whether the business also rents units to nontransient tenants and the combined number of transient and nontransient lodging units is ~~((sixty))~~ 60 rooms or more;

(ii) Businesses classified as hostels;

(iii) Any lodging that is concurrently subject to a tax on engaging in the business of being a short-term rental operator imposed by a city in which a convention and trade center is located;

(iv) Any lodging that is operated by a university health care system exclusively for family members of patients; and

(v) Any lodging that is operated as a charity described in

(c) (iii) (B) of this subsection, is otherwise exempted in this subsection, or is emergency lodging to homeless people as described in subsection (9) of this rule.

(c) Definitions. The definitions in this subsection apply to the convention and trade center tax:

(i) "Hostel" means a structure or facility where a majority of the rooms for sleeping accommodations are hostel dormitories containing a minimum of four standard beds designed for single-person occupancy within the facility. Hostel accommodations are supervised and must include at least one common area and at least one common kitchen for guest use.

(ii) "Hostel dormitory" means a single room, containing four or more standard beds designed for single-person occupancy, used exclusively as nonprivate communal sleeping quarters, generally for unrelated persons, where such persons independently acquire the right to occupy individual beds, with the operator supervising and determining which bed each person will occupy.

(iii) "Short-term rental" means a lodging use, that is not a hotel or motel, in which a short-term rental operator offers or provides a dwelling unit, or portion thereof, to a guest or guests for a fee for fewer than ~~((thirty))~~ 30 consecutive nights. The term "short-term rental" does not include:

(A) A dwelling unit, or portion thereof, that the same person uses for ~~((thirty))~~ 30 or more consecutive nights; and

(B) A dwelling unit, or portion thereof, that is operated by an organization or government entity that is registered as a charitable organization with the secretary of state, state of Washington, and/or is classified by the federal Internal Revenue Service as a public charity or a private foundation, and provides temporary housing to individuals who are being treated for trauma, injury, or disease and/or their family members.

(d) Reporting requirements. The four digit location code, gross-selling price for the lodging, and the tax rate must be completed for each location where the lodging is provided.

(8) **Tourism promotion area charge.** A legislative authority as defined in RCW 35.101.010 may impose a charge on the activity of providing lodging by a business, that has 40 or more lodging units, located in the tourism promotion area(~~(, except for)~~). The charge does not apply to temporary medical housing that is exempt under RCW 82.08.997 (~~((Exemptions—Temporary medical housing))~~), or any lodging business, lodging unit, or lodging guest so designated by the legislative authority. RCW 35.101.055. The charge is administered by the department and must be collected by the business providing the lodging from the transient tenant. The charge is not subject to the sales tax rate limitations of RCW 82.14.410. To determine whether your lodging business must collect and remit the charge, refer to the ~~((special notices for tourism promotion areas at [http://dor.wa.gov/content/GetAFormOrPublication/PublicationBySubject/tax\\_sn\\_main.aspx](http://dor.wa.gov/content/GetAFormOrPublication/PublicationBySubject/tax_sn_main.aspx) or the lodging industry guide at <http://dor.wa.gov/content/doingbusiness/BusinessTypes/Industry/lodging/>)~~) department's website at [dor.wa.gov](http://dor.wa.gov).

(9) **Providing emergency lodging to homeless people.** The fee charged for providing emergency lodging to homeless people purchased via a shelter voucher program administered by cities, towns, counties, or private organizations that provide emergency food and shelter services is exempt from the retail sales tax(~~(τ)~~). RCW 82.08.0299. The fee is also exempt from the convention and trade center tax(~~(τ)~~) and the special hotel/motel tax. ~~((This))~~ The form of payment does not influence the required minimum number of transient rooms available for use as transient-lodging units ~~((under the "convention and trade center tax" or under the "special hotel/motel tax."))~~.

## WSR 24-20-033

## EXPEDITED RULES

## DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed September 23, 2024, 11:23 a.m.]

Title of Rule and Other Identifying Information: Physical therapy licensure compact; updating the reference date to match the most recent physical therapy compact commission (commission) rules. The board of physical therapy (board) is proposing to update the effective date in WAC 246-915A-010 to match the date of the most recent physical therapy compact rules per RCW 18.74.500, Article IX(2). This proposed amendment will update the effective date in WAC 246-915A-010 to June 17, 2024 in rule.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the effective date in WAC to the date of the commission rules' most recent version, June 17, 2024. The commission rules are not effective in Washington unless the board approves and adopts the rules.

The commission rules, effective June 17, 2024, make the following changes:

(1) Clarify the expiration date of the home state license and compact privilege.

(2) Change the time frame of how long a compact privilege holder must report a change in home state from 30 days to 60 days.

Reasons Supporting Proposal: The board is proposing amendments to comply with RCW 18.74.500, Article IX(2), which mandates that the board must update the effective date of the compact rules in WAC 246-915A-010 to participate in the compact in the state of Washington.

Statutory Authority for Adoption: RCW 18.74.023 and 18.74.500, Article IX(2).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of physical therapy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Allyson McIver, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2878.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed amendments adopt by reference, without material change, the most recent version of the physical therapy licensure compact commission rules updated on June 17, 2024. The proposed amendment updates the WAC to include the date of the most recent version of the compact.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Allyson McIver, Program Manager, Department of Health, Board of Physical Therapy, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-2878, email <https://fortress.wa.gov/doh/policyreview/>, [physical.therapy@doh.wa.gov](mailto:physical.therapy@doh.wa.gov), BEGINNING the date and time of this filing, AND RECEIVED BY December 2, 2024 at 11:59 p.m.

September 23, 2024  
Kathryn Dale, PT, Chair  
Physical Therapy Board

### OTS-5791.1

AMENDATORY SECTION (Amending WSR 24-11-116, filed 5/20/24, effective 5/20/24)

**WAC 246-915A-010 Physical therapy licensure compact—Compact commission rules.** (1) The physical therapy licensure compact (compact) is established in Washington under RCW 18.74.500. Its purpose is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services.

(2) The rules of the physical therapy compact commission, in effect as of June ((27, 2023)) 17, 2024, are adopted and incorporated by reference.

(3) A copy of the rules is available for public inspection from the department of health at <https://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate/PhysicalTherapyLicensureCompact> or by calling the department of health's office of customer service at 360-236-4700.

(4) A licensee may exercise a compact privilege as provided in RCW 18.74.500, Article IV. Applicable fees are set forth in WAC 246-915A-990.



**WSR 24-20-049**  
**EXPEDITED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed September 25, 2024, 9:33 a.m.]

Title of Rule and Other Identifying Information: WAC 181-78A-225.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The WAC will be updated with the typographical error. This will clarify the program standards that school counselor programs need to meet during their review.

Reasons Supporting Proposal: WAC needs to be updated with typographical error.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting: Michael Nguyen, 600 Washington Street S.E., Olympia, WA 98504, 360-489-4471; Implementation: Jeffrey Youde, 600 Washington Street S.E., Olympia, WA 98504, 360-870-0143; and Enforcement: Erica Hernandez-Scott, 600 Washington Street S.E., Olympia, WA 98504, 360-890-2443.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This change clarifies language without making any substantive changes.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Michael Nguyen, Professional Educator Standards Board, 600 Washington Street S.E., Olympia, WA 98504, phone 360-489-4471, email rulespesb@k12.wa.us, AND RECEIVED BY December 2, 2024.

September 24, 2024  
Michael Nguyen  
Rules Coordinator

**OTS-5885.1**

AMENDATORY SECTION (Amending WSR 21-20-052, filed 9/28/21, effective 10/29/21)

**WAC 181-78A-225 Acceptance of alternative standards and additions to national standards for school counselor and school psychologist preparation programs.** (1) For a given program, the professional

educator standards board may allow the substitution of alternative national standards for program approval standards for school counselor and school psychologist program approval, if they are deemed by the board to be equivalent to the board-adopted national standards for the role (WAC 181-78A-220 (2) through (5)).

(2) The professional educator standards board has deemed necessary the following additions to the standards adopted by the Council for Accreditation of Counseling and Related Educational Programs (CACREP):

WAC 181-78A-232 (1)(a) and (2)(d); 181-78A-233 (2)(c); 181-78A-234 (2)(c) and (d); 181-78A-235 (1)(b), (2)(b) and (d), (3)(b) and (c); and 181-78A-236 (1)(a), (2)(c) and (f), and (4)(a).

(3) The professional educator standards board has deemed necessary the following additions to the standards adopted by the National Association of School Psychologists (NASP):

WAC 181-78A-232 (2)(d); 181-78A-233 (2)(c); 181-78A-234 (1)(a) and (b), (2)(a), (c), and (d); 181-78A-235 (1)(b), (2)(a), (b), and (d), (3)(b) and (c); 181-78A-236 (2)(c) and (f); and 181-78A-237 (1)(b).

(4) The professional educator standards board may allow the substitution of national standards (e.g., the National Council for Accreditation of Teacher Education (NCATE) teacher education standards) for program approval with any additions deemed necessary by the professional educator standards board. National standards may also be approved for programs in specific endorsement areas if they are deemed to be equivalent to state standards.

## WSR 24-20-089

## EXPEDITED RULES

## DEPARTMENT OF HEALTH

[Filed September 29, 2024, 6:00 p.m.]

Title of Rule and Other Identifying Information: Medical test site (MTS) federal rule compliance updates. The department of health (department) is proposing amendments to WAC 246-338-022, 246-338-040, 246-338-050, 246-338-060, 246-338-070, 246-338-080, and 246-338-090 to incorporate existing minimum standards that are missing, make technical corrections to rules, and adopt new federal requirements.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The MTS program must have minimum standards in place that are at least as stringent as federal requirements; therefore, amendments are proposed based on the following three justifications: existing federal standards are missing in chapter 246-338 WAC and must be included, technical corrections to the chapter are needed for clarity, and new federal rules have been introduced that go into effect in 2024.

The department is proposing amendments to add missing existing federal standards to WAC 246-338-022 to specify when a hospital may file a single MTS application, WAC 246-338-080 to add additional quality assurance requirements for medical test sites, and WAC 246-338-090 to add quality control requirements for retention of transfused blood.

The department is proposing technical corrections to WAC 246-338-040 to update and alphabetize the list of approved laboratory accrediting organizations, WAC 246-338-070 to clarify that narrative description nomenclature on cytology reports is required for all results, and WAC 246-338-090 to correct the term gynecological smears to gynecological slide preparations.

New federal rule requirements going into effect in 2024 require an amendment to WAC 246-338-050 to raise the minimum passing score for proficiency testing for unexpected antibody detection from 80 percent to 100 percent, and WAC 246-338-060 to describe new requirements for MTS directors to perform on-site visits of the licensed medical test site at a specified frequency and interval.

Reasons Supporting Proposal: Clinical Laboratory Improvement Amendments (CLIA) provides federal standards that are applicable to all United States facilities or sites that test human specimens for health assessment to diagnose, prevent, or treat disease. Washington is CLIA-exempt, meaning that all laboratories in the state, called medical test sites, must obtain an MTS license instead of a federal CLIA license to perform medical tests. Washington receives approval from CLIA to enforce federal rules for medical test sites. The MTS program must comply with federal requirements described in 42 C.F.R. Part 493 to maintain the exemption from CLIA. Adding the missing minimum standards requirements, making technical corrections, and adding new federal standards will align chapter 246-338 WAC with the federal requirements.

Statutory Authority for Adoption: RCW 70.42.220.

Statute Being Implemented: Chapter 70.42 RCW.

Rule is necessary because of federal law, 42 C.F.R. Parts 493.35(b), 493.43(b), 493.55(b), 493.861(a), 493.1407(c), effective 12/28/2024; 493.1445(c), effective 12/28/2024; 493.1274 (e) (5), 493.1101 (a) (2), 493.1101(b), 493.1274 (b) (1), 493.1271(d), and Federal Register publication numbers CMS-3422-N, CMS-3436-N, CMS-3449-N, and CMS-3450-N.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jessica Holloway, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-2927.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: New federal requirements for laboratory directors and proficiency testing begin in 2024. The additions and technical corrections to chapter 246-338 WAC are currently existing federal requirements that must be adopted to allow immediate enforcement.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jessica Holloway, Department of Health, P.O. Box 47843, Olympia, WA 98502, phone 360-236-2927, email [jessica.holloway@doh.wa.gov](mailto:jessica.holloway@doh.wa.gov), <https://fortress.wa.gov/doh/policyreview/>, BEGINNING the date and time of this filing, AND RECEIVED BY December 2, 2024, at 11:59 p.m.

September 24, 2024  
 Kristin Peterson, JD  
 Chief of Policy  
 for Umair A. Shah, MD, MPH  
 Secretary

#### OTS-5818.1

AMENDATORY SECTION (Amending WSR 06-15-132, filed 7/19/06, effective 8/19/06)

**WAC 246-338-022 Initial application for medical test site license. (1) Application procedure.**

Applicants requesting a medical test site license must:

(a) Submit a completed application on forms furnished by the department, signed by the owner or authorized representative;

(b) File a separate application for each test site **except** under the following conditions:

(i) If the test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single license for the home base location;

(ii) If the medical test site is a not-for-profit or state or local government and performs a combination of (~~fifteen~~) 15 or less of either waived or moderate complexity test procedures at different locations, the owner may file an application for a single license;

(iii) If the medical test sites within a hospital are located at contiguous buildings on the same campus and are under common direction, the owner may file a single application or multiple applications for the sites within the same physical location or street address;

(c) Furnish full and complete information to the department in writing:

(i) Name, address, phone number, and federal tax ID number of the medical test site;

(ii) Name of owner;

(iii) Number and types of tests performed, planned, or projected;

(iv) Name and qualifications including educational background, training, and experience of the director;

(v) Names and qualifications including educational background, training, and experience of technical personnel, if requested by the department;

(vi) Name of proficiency testing program or programs used by the medical test site and a copy of the enrollment confirmation form, if applicable;

(vii) Methodologies for tests performed, if requested by the department; and

(viii) Other information as requested by the department;

(d) Submit the designated fee in the time period indicated, upon receipt of a fee statement from the department;

(e) If applying for an accredited license, submit proof of accreditation by an approved accreditation organization. If application has been made to an accreditation organization, submit a copy of the application, followed by proof of accreditation within (~~eleven~~) 11 months of issuance of the medical test site license.

**(2) Issuing an initial license.**

(a) An initial license will be issued for a medical test site when the applicant:

(i) Submits a completed application and any information requested by the department;

(ii) Pays the designated license fee; and

(iii) Meets the requirements of chapter 70.42 RCW and this chapter.

(b) License expiration dates will be based on a two-year license cycle, expiring on June 30th of odd-numbered years. The license period for an initial license begins the day of the month that payment is received and expires on June 30th of odd-numbered years.

(c) For licenses issued for a period of less than two years, the license fee will be prorated for the remainder of the two-year cycle under WAC 246-338-990.

(d) The department may issue a provisional license valid for a period of up to two years when a medical test site applies for licensure for the first time.

- (e) The department will terminate a provisional license at the time a two-year license for the medical test site is issued.
- (f) License fees are listed under WAC 246-338-990.

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

**WAC 246-338-040 Approval of accreditation organizations.** (1)

The department will recognize the accreditation organizations granted deemed status by CMS.

(2) The CMS-approved accreditation organizations are:

(a) (~~American Association of Blood Banks (AABB)~~) Accreditation Commission for Health Care (ACHC);

(b) (~~American Osteopathic Association (AOA)~~) American Association for Laboratory Accreditation (A2LA);

(c) American Society of Histocompatibility and Immunogenetics (ASHI);

(d) (~~College of American Pathologists (CAP)~~) Association for the Advancement of Blood and Biotherapies (AABB);

(e) COLA; (and)

(f) (~~Joint Commission on Accreditation of Healthcare Organizations (JCAHO)~~) College of American Pathologists (CAP); and

(g) Joint Commission.

(3) The accreditation organizations must:

(a) Allow the department to have jurisdiction to investigate complaints, do random on-site validation inspections, and take disciplinary action against a medical test site if indicated;

(b) Notify the department within (~~fifteen~~) 15 days of any medical test site that:

(i) Has had its accreditation withdrawn, revoked, or limited;

(ii) Is sanctioned as a result of a routine inspection or complaint investigation; or

(iii) When adverse action has been taken for unsuccessful proficiency testing performance;

(c) Notify the department within five days of any deficiency that jeopardizes the public health, safety, or welfare; and

(d) Provide the department with a list of inspection schedules, as requested, for the purpose of conducting on-site validation inspections.

(4) The department will:

(a) Revoke deemed status from any organization which has deemed authority removed by CMS; and

(b) Notify the medical test site if approval of an accreditation organization is withdrawn by the department.

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

**WAC 246-338-050 Proficiency testing.** (1) All licensed medical test sites, excluding those granted a certificate of waiver, must:

(a) Comply with federal proficiency testing requirements listed in 42 C.F.R. Part 493 - Laboratory Requirements, Subparts H and I;

(b) Submit to the department a copy of proficiency testing enrollment confirmation form(s) for the tests the medical test site will perform during the following calendar year, by December 31st of each year; and

(c) Authorize the proficiency testing program to release to the department all data required to determine the medical test site's compliance with this section.

(2) The department will:

(a) Recognize only those proficiency testing programs approved by HHS; and

(b) Furnish, upon request:

(i) A copy of 42 C.F.R. Part 493 Subparts H and I;

(ii) A list of the proficiency testing programs approved by HHS; and

(iii) A list of tests that must be covered by proficiency testing.

(3) The department will evaluate proficiency testing results by using the following criteria:

(a) An evaluation of scores for the last three testing events of proficiency testing samples including:

(i) Tests;

(ii) Subspecialties; and

(iii) Specialties;

(b) Maintenance of a minimum acceptable score of (~~eighty~~) 80 percent for all tests, subspecialties, and specialties except (~~one hundred~~) 100 percent for:

(i) ABO grouping and Rh typing;

(ii) Compatibility testing; (~~and~~)

(iii) Antihuman immunodeficiency virus; and

(iv) Unexpected antibody detection;

(c) Unsatisfactory performance occurs when:

(i) Unsatisfactory scores are obtained in any specialty or subspecialty in a testing event; or

(ii) An unsatisfactory score is obtained on a single test in a testing event.

(4) Unsatisfactory performance on two of any three successive testing events is considered unsuccessful participation, and will result in the following actions:

(a) The department will mail a letter to the director stating that the medical test site may choose to:

(i) Discontinue patient testing for the identified test, specialty or subspecialty; or

(ii) Follow a directed plan of correction; and

(b) The medical test site must notify the department, within (~~fifteen~~) 15 days of receipt of the notice of the decision to:

(i) Discontinue testing patient specimens for the identified test, subspecialty or specialty; or

(ii) Agree to a directed plan of correction.

(5) Continued unsatisfactory performance for a test, specialty or subspecialty in either of the next two consecutive sets of proficiency testing samples, after completing a directed plan of correction, will result in the following action:

(a) The department will send, by certified mail, a notice to the owner and director of the medical test site to cease performing the identified test, subspecialty, or specialty; and

(b) The owner must notify the department in writing within (~~fifteen~~) 15 days of the receipt of the notice of the decision to volun-

tarily stop performing tests on patient specimens for the identified test, subspecialty, or specialty.

(6) The owner may petition the department for reinstatement of approval to perform tests on patient specimens after demonstrating satisfactory performance on two successive testing events of proficiency testing samples for the identified test, subspecialty, or specialty.

(7) The department will notify the owner in writing, within (~~fifteen~~) 15 days of receipt of petition, of the decision related to the request for reinstatement.

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

**WAC 246-338-060 Personnel.** (1) Medical test site owners must:

(a) Have a director responsible for the overall technical supervision and management of the test site personnel including oversight of the performance of test procedures and reporting of test results;

(b) Have technical personnel, competent to perform tests and report test results; and

(c) Meet the standards for personnel qualifications and responsibilities in compliance with federal regulation, as listed in 42 C.F.R. Part 493 Subpart M - Personnel for Non-waived Testing.

(2) The department will furnish a copy of 42 C.F.R. Part 493 Subpart M upon request.

(3) Medical test site directors must:

(a) Establish and approve policies for:

(i) Performing, recording, and reporting of tests;

(ii) Maintaining an ongoing quality assurance program;

(iii) Supervision of testing; and

(iv) Compliance with chapter 70.42 RCW and this chapter;

(b) Evaluate, verify, and document the following related to technical personnel:

(i) Education, experience, and training in test performance and reporting test results;

(ii) Sufficient numbers to cover the scope and complexity of the services provided;

(iii) Access to training appropriate for the type and complexity of the test site services offered; and

(iv) Maintenance of competency to perform test procedures and report test results;

(c) Be present, on call, or delegate the duties of the director to an on-site technical person during testing;

(d) Conduct on-site visits at the licensed medical test site at least once every six months, with a minimum four-month interval between the mandatory on-site visits. On-site visits must be documented and include evidence of performing activities that are part of the lab director responsibilities.



AMENDATORY SECTION (Amending WSR 16-18-073, filed 9/2/16, effective 10/3/16)

**WAC 246-338-070 Records.** Medical test sites must maintain records as described in this section.

(1) REQUISITIONS must include the following information, in written or electronic form:

(a) Patient name, identification number, or other method of patient identification;

(b) Name and address or other suitable identifiers of the authorized person ordering the test. The laboratory may accept oral requests for laboratory tests if it solicits a written or electronic authorization within (~~(thirty)~~) 30 days of the oral request and maintains the authorization or documentation of its efforts to obtain the authorization;

(c) Date of specimen collection, and time, if appropriate;

(d) Source of specimen, if appropriate;

(e) Type of test ordered;

(f) Sex, and age or date of birth, of the patient; and

(g) For cytology and histopathology specimens:

(i) Pertinent clinical information; and

(ii) For Pap smears:

(A) Date of last menstrual period; and

(B) Indication whether the patient had a previous abnormal report, treatment, or biopsy.

(2) TEST RECORD SYSTEMS MUST:

(a) Consist of instrument printouts, worksheets, accession logs, corrective action logs, and other records that ensure reliable identification of patient specimens as they are processed and tested to assure that accurate test results are reported; and

(b) Include:

(i) The patient's name or other method of specimen identification;

(ii) The date and time the specimen was received;

(iii) The reason for specimen rejection or limitation;

(iv) The date of specimen testing; and

(v) The identification of the personnel who performed the test.

(3) TEST REPORTS must:

(a) Be maintained in a manner permitting identification and reasonable accessibility;

(b) Except as provided in WAC 246-338-070 (3)(c) be released only to authorized persons or designees;

(c) Upon a request by a patient or patient's personal representative, the laboratory may provide patients, their personal representatives, and those persons specified under 45 C.F.R. 164.524 (c)(3)(ii), with access to completed test reports that, using the laboratory's authentication process, can be identified as belonging to that patient;

(d) Include:

(i) Name and address of the medical test site, or where applicable, the name and address of each medical test site performing each test;

(ii) Patient's name and identification number, or a unique patient identifier and identification number;

(iii) Date reported;

(iv) Time reported, if appropriate;

(v) Specimen source, when appropriate, and any information regarding specimen rejection or limitation; and

(vi) Name of the test performed, test result, and units of measurement, if applicable.

(4) CYTOLOGY REPORTS must:

(a) Distinguish between unsatisfactory specimens and negative results;

(b) Provide narrative (~~descriptions for any abnormal~~) descriptive nomenclature for all results, using a recognized system of disease nomenclature such as the ((2001)) Bethesda System ((of terminology as published in the Journal of the American Medical Association, 2002, Volume 287, pages 2114-2119)); and

(c) Include the signature or initials of the technical supervisor, or an electronic signature authorized by the technical supervisor, for nongynecological preparations and gynecological preparations interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial neoplasia lesions including human papilloma-virus-associated changes) or malignant category.

(5) HISTOPATHOLOGY REPORTS must include the signature or initials of the technical supervisor or an electronic signature authorized by the technical supervisor on all reports. Reports must be signed by the same qualified individual who performs the diagnostic interpretation and evaluation, and must utilize appropriate terminology such as the SnoMed system.

(6) CYTOGENETICS REPORTS must:

(a) Use the International System for Human Cytogenetic Nomenclature on final reports;

(b) Include the number of cells counted and analyzed; and

(c) Include a summary and interpretation of the observations.

(7) If a specimen is referred to another laboratory for testing, the medical test site must:

(a) Report the essential elements of the referred test results without alterations that could affect the clinical interpretation of the results; and

(b) Retain or be able to produce an exact duplicate of each testing report from the referral laboratory.

(8) The medical test site must retain records, slides, and tissues as described in Table 070-1, under storage conditions that ensure proper preservation.

(9) If the medical test site ceases operation, it must make provisions to ensure that all records and, as applicable, slides, blocks and tissue are retained and available for the time frames specified in Table 070-1.

**Table 070-1 Record/Slide/Tissue Retention Schedule**

	Two Years	Five Years	Ten Years
(a) General Requirements for all Laboratory Specialties	<ul style="list-style-type: none"> <li>• Test requisitions or equivalent;</li> <li>• Test records, including instrument printouts if applicable;</li> <li>• Test reports;</li> <li>• Quality control records;</li> <li>• Quality assurance records;</li> </ul>		

	Two Years	Five Years	Ten Years
	<ul style="list-style-type: none"> <li>• Proficiency testing records;</li> <li>• Hard copy of report, or ability to reproduce a copy, for all specimens referred for testing; and</li> <li>• Discontinued procedures for all specialty areas</li> </ul>		
(b) Transfusion Services		<ul style="list-style-type: none"> <li>• Test requisitions or equivalent;</li> <li>• Test records;</li> <li>• Test reports;</li> <li>• Quality control records; and</li> <li>• Quality assurance records</li> </ul>	<ul style="list-style-type: none"> <li>• Individual product records*</li> </ul>
(c) Cytology		<ul style="list-style-type: none"> <li>• All cytology slides, from date of examination of the slide</li> </ul>	<ul style="list-style-type: none"> <li>• All cytology reports</li> </ul>
(d) Histopathology/Oral Pathology	<ul style="list-style-type: none"> <li>• Specimen blocks, from date of examination</li> </ul>		<ul style="list-style-type: none"> <li>• All histopathology and oral pathology reports; and</li> <li>• Stained slides, from date of examination of the slide</li> </ul>
(e) Histopathology/Oral Pathology-Tissues	Retain remnants of tissue specimens in an appropriate preserved state until the portions submitted for microscopic examination have been examined and diagnosed		
(f) Instrument/method Validation Studies	For life of instrument/method plus two years		

\* Must be retained for no less than ((ten)) 10 years in accordance with 21 C.F.R. 606.160 (7)(d).

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

**WAC 246-338-080 Quality assurance.** Each medical test site performing moderate complexity (including PPMP) or high complexity testing, or any combination of these tests, must establish and follow written policies and procedures for a comprehensive quality assurance program. The quality assurance program must be designed to monitor and evaluate the ongoing and overall quality of the total testing process (preanalytic, analytic, postanalytic). The medical test site's quality assurance program must evaluate the effectiveness of its policies and procedures; identify and correct problems; assure the accurate, reliable, and prompt reporting of test results; and assure the adequacy and competency of the staff. As necessary, the medical test site must revise policies and procedures based upon the results of those evaluations. The medical test site must meet the standards as they apply to the services offered, complexity of testing performed and test results reported, and the unique practices of each testing entity. All quality assurance activities must be documented.

(1) The medical test site must establish and implement a written quality assurance plan, including policies and procedures, designed to:

(a) Monitor, evaluate, and review quality control data, proficiency testing results, and test results, including biannual verification of:

(i) Accuracy of test results for:

(A) Tests that are not covered by proficiency testing;

(B) Tests that are covered by proficiency testing but have unsatisfactory scores, are not scored by the proficiency testing program, or where scoring does not reflect actual test performance (e.g., the proficiency testing program does not obtain the agreement required for scoring); and

(ii) Relationship between test results when the medical test site performs the same test on different instruments or at different locations within the medical test site;

(b) Identify and correct problems;

(c) Establish and maintain accurate, reliable, and prompt reporting of test results;

(d) Verify all tests performed and reported by the medical test site conform to specified performance criteria in quality control under WAC 246-338-090;

(e) Establish and maintain the adequacy and competency of the technical personnel; and

(f) Establish and follow written policies and procedures that ensure positive identification and optimum integrity of a patient's specimen from the time of collection or receipt of the specimen through completion of testing and reporting of results.

(2) The quality assurance plan must include mechanisms or systems to:

(a) Establish and apply criteria for specimen acceptance and rejection;

(b) Notify the appropriate individuals as soon as possible when test results indicate potential life-threatening conditions;

(c) Assess problems identified during quality assurance reviews and discuss them with the appropriate staff;

(d) Evaluate all test reporting systems to verify accurate and reliable reporting, transmittal, storage, and retrieval of data;

(e) Document all action taken to identify and correct problems or potential problems;

(f) Issue corrected reports when indicated;

(g) Provide appropriate instructions for specimen collection, handling, preservation, and transportation;

(h) Ensure that specimens are properly labeled, including patient name or unique patient identifier and, when appropriate, specimen source;

(i) Ensure confidentiality of patient information throughout all phases of the testing process; and

(j) Provide clients updates of testing changes that would affect test results or the interpretation of test results.

(3) The medical test site must establish criteria for and maintain appropriate documentation of any remedial action taken in response to quality control, quality assurance, personnel, proficiency testing, and transfusion reaction investigations.

(4) When results of control or calibration materials fail to meet the established criteria for acceptability, the medical test site must

have a system in place to determine if patient test results have been adversely affected. The system must include:

- (a) A review of all patient test results obtained in the unacceptable test run; and
  - (b) A review of all patient test results since the last acceptable test run.
- (5) The medical test site must have a system in place to assure:
- (a) All complaints and problems reported to the medical test site are documented and investigated when appropriate; and
  - (b) Corrective actions are instituted as necessary.
- (6) The owner must:
- (a) Maintain adequate space, facilities, and essential utilities for the performance and reporting of tests;
  - (b) Ensure that contamination of patient specimens, equipment, instruments, reagents, materials, and supplies is minimized;
  - (c) Ensure that molecular amplification procedures that are not contained in closed systems have a unidirectional workflow. This must include separate areas for specimen preparation, amplification and production detection, and as applicable, reagent preparation;
  - ~~((e))~~ (d) Ensure the laboratory has appropriate and sufficient equipment, instruments, reagents, materials, and supplies for the type and volume of testing it performs;
  - (e) Establish, make accessible, and observe safety precautions to ensure protection from physical, chemical, biochemical, and electrical hazards and biohazards; and
  - ~~((d))~~ (f) Establish and implement policies and procedures for infectious and hazardous medical wastes consistent with local, state, and federal authorities.
- (7) Information that must be available to authorized persons ordering or utilizing the test results includes:
- (a) A list of test methods, including performance specifications;
  - (b) Reference ranges; and
  - (c) Test method limitations.
- (8) If the medical test site refers specimens to another site for testing, the site to which specimens are referred must have a valid medical test site license or meet equivalent requirements as determined by CMS.

AMENDATORY SECTION (Amending WSR 16-18-073, filed 9/2/16, effective 10/3/16)

**WAC 246-338-090 Quality control.** The medical test site must use quality control procedures, providing and assuring accurate and reliable test results and reports, meeting the requirements of this chapter.

- (1) The medical test site must have and follow written procedures and policies available in the work area for:
  - (a) Analytical methods used by the technical personnel including:
    - (i) Principle;
    - (ii) Specimen collection and processing procedures;
    - (iii) Equipment/reagent/supplies required;
    - (iv) Preparation of solutions, reagents, and stains;
    - (v) Test methodology;
    - (vi) Quality control procedures;

- (vii) Procedures for reporting results (normal, abnormal, and critical values);
- (viii) Reference range;
- (ix) Troubleshooting guidelines - limitations of methodology;
- (x) Calibration procedures; and
- (xi) Pertinent literature references; and
- (b) Alternative or backup methods for performing tests including the use of a reference facility if applicable.
- (2) The medical test site must establish written criteria for and maintain appropriate documentation of:
  - (a) Temperature-controlled spaces and equipment;
  - (b) Preventive maintenance activities;
  - (c) Equipment function checks;
  - (d) Procedure calibrations; and
  - (e) Method/instrument validation procedures.
- (3) The medical test site must maintain documentation of:
  - (a) Expiration date, lot numbers, and other pertinent information for:
    - (i) Reagents;
    - (ii) Solutions;
    - (iii) Culture media;
    - (iv) Controls;
    - (v) Calibrators;
    - (vi) Standards;
    - (vii) Reference materials; and
    - (viii) Other testing materials; and
  - (b) Testing of quality control samples.
- (4) For **quantitative tests**, the medical test site must perform quality control as follows:
  - (a) Include two reference materials of different concentrations each day of testing unknown samples, if these reference materials are available; or
  - (b) Follow an equivalent quality testing procedure that meets federal CLIA regulations.
- (5) For **qualitative tests**, the medical test site must perform quality control as follows:
  - (a) Use positive and negative reference material each day of testing unknown samples; or
  - (b) Follow an equivalent quality testing procedure that meets federal CLIA regulations.
- (6) The medical test site must:
  - (a) Use materials within their documented expiration date;
  - (b) Not interchange components of kits with different lot numbers, unless specified by the manufacturer;
  - (c) Determine the statistical limits for each lot number of unassayed reference materials through repeated testing;
  - (d) Use the manufacturer's reference material limits for assayed material, provided they are:
    - (i) Verified by the medical test site; and
    - (ii) Appropriate for the methods and instrument used by the medical test site;
  - (e) Make reference material limits readily available;
  - (f) Report patient results only when reference materials are within acceptable limits;
  - (g) Rotate control material testing among all persons who perform the test;

(h) Use calibration material from a different lot number than that used to establish a cut-off value or to calibrate the test system, if using calibration material as a control material;

(i) For each test system that has an extraction phase, include two control materials, including one that is capable of detecting errors in the extraction process;

(j) For each molecular amplification procedure, include two control materials and, if reaction inhibition is a significant source of false negative results, a control material capable of detecting the inhibition is required; and

(k) Comply with general quality control requirements as described in Table 090-1, unless otherwise specified in subsection (9) (a) through (l) of this section.

(7) The medical test site must perform, when applicable:

(a) Calibration and calibration verification for **moderate and high complexity testing** as described in Table 090-2;

(b) Validation for **moderate complexity testing** by verifying the following performance characteristics when the medical test site introduces a new procedure classified as moderate complexity:

(i) Accuracy;

(ii) Precision;

(iii) Reportable range of patient test results; and

(iv) If using the reference range provided by the manufacturer, that it is appropriate for the patient population;

(c) Validation for **high complexity testing**:

(i) When the medical test site introduces a new procedure classified as high complexity;

(ii) For each method that is developed in-house, is a modification of the manufacturer's test procedure, or is an instrument, kit or test system that has not been cleared by FDA; and

(iii) By verifying the following performance characteristics:

(A) Accuracy;

(B) Precision;

(C) Analytical sensitivity;

(D) Analytical specificity to include interfering substances;

(E) Reference ranges (normal values);

(F) Reportable range of patient test results; and

(G) Any other performance characteristic required for test performance.

(8) When patient values are above the maximum or below the minimum calibration point or the reportable range, the medical test site must:

(a) Report the patient results as greater than the upper limit or less than the lower limit or an equivalent designation; or

(b) Use an appropriate procedure to rerun the sample allowing results to fall within the established linear range.

**Table 090-1 General Quality Control Requirements**

	<b>Control Material</b>	<b>Frequency</b>	
(a)	Each batch or shipment of reagents, discs, antisera, and identification systems	• Appropriate control materials for positive and negative reactivity	• When prepared or opened, unless otherwise specified
(b)	Each batch or shipment of stains	• Appropriate control materials for positive and negative reactivity	• When prepared or opened; and • Each day of use, unless otherwise specified
(c)	Fluorescent and immunohistochemical stains	• Appropriate control materials for positive and negative reactivity	• Each time of use, unless otherwise specified

	Control Material	Frequency
(d) Quality control for each specialty and subspecialty	<ul style="list-style-type: none"> <li>• Appropriate control materials; or</li> <li>• Equivalent mechanism to assure the quality, accuracy, and precision of the test if reference materials are not available</li> </ul>	<ul style="list-style-type: none"> <li>• At least as frequently as specified in this section;</li> <li>• More frequently if recommended by the manufacturer of the instrument or test procedure; or</li> <li>• More frequently if specified by the medical test site</li> </ul>
(e) Direct antigen detection systems without procedural controls	<ul style="list-style-type: none"> <li>• Positive and negative controls that evaluate both the extraction and reaction phase</li> </ul>	<ul style="list-style-type: none"> <li>• Each batch, shipment, and new lot number; and</li> <li>• Each day of use</li> </ul>

**Table 090-2 Calibration and Calibration Verification—Moderate and High Complexity Testing**

	Calibration Material	Frequency
<b>CALIBRATION</b>	<ul style="list-style-type: none"> <li>• Calibration materials appropriate for methodology</li> </ul>	<ul style="list-style-type: none"> <li>• Initial on-site installation/implementation of instrument/method;</li> <li>• At the frequency recommended by the manufacturer; and</li> <li>• Whenever calibration verification fails to meet the medical test site's acceptable limits for calibration verification.</li> </ul>
<b>CALIBRATION VERIFICATION</b>	<ul style="list-style-type: none"> <li>• Use assayed material, if available, at the lower, mid-point, and upper limits of procedure's reportable range; or</li> <li>• Demonstrate alternate method of assuring accuracy at the lower, mid-point, and upper limits of procedure's reportable range</li> </ul>	<ul style="list-style-type: none"> <li>• At least every six months;</li> <li>• When there is a complete change of reagents (i.e., new lot number or different manufacturer) is introduced;</li> <li>• When major preventive maintenance is performed or there is a replacement of critical parts of equipment; or</li> <li>• When controls are outside of the medical test site's acceptable limits or exhibit trends.</li> </ul>

(9) The medical test site must perform quality control procedures as described for each specialty and subspecialty in (a) through (l) of this subsection.

**(a) Chemistry.**

Perform quality control procedures for chemistry as described in Table 090-3 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

**Table 090-3 Quality Control Procedures—Chemistry**

Subspecialty/Test	Qualitative		Quantitative	
	Control Material	Frequency	Control Material	Frequency
Routine Chemistry	<ul style="list-style-type: none"> <li>• Positive and negative reference material</li> </ul>	<ul style="list-style-type: none"> <li>• Each day of use</li> </ul>	<ul style="list-style-type: none"> <li>• Two levels of reference material in different concentrations</li> </ul>	<ul style="list-style-type: none"> <li>• Each day of use</li> </ul>
Toxicology	<ul style="list-style-type: none"> <li>• Analyte-specific control</li> </ul>	<ul style="list-style-type: none"> <li>• With each run of patient specimens</li> </ul>	<ul style="list-style-type: none"> <li>• Analyte-specific control</li> </ul>	<ul style="list-style-type: none"> <li>• With each analytical run</li> </ul>



Subspecialty/Test	Qualitative		Quantitative	
	Control Material	Frequency	Control Material	Frequency
• Urine drug screen	• Positive control containing at least one drug representative of each drug class to be reported; must go through each phase of use including extraction	• With each run of patient specimens		
Urinalysis			• Two levels of control material • Calibrate to zero with distilled water • One level of control material	• Each day of use • Each day of use
Blood Gas Analysis			• Calibration • One level of control material • One-point calibration or one control material	• Follow manufacturer's specifications and frequency • Each eight hours of testing, using both low and high values on each day of testing • Each time patient specimen is tested, unless automated instrument internally verifies calibration every <del>((thirty))</del> 30 minutes
Electrophoresis	• One control containing fractions representative of those routinely reported in patient specimens	• In each electrophoretic cell	• One control containing fractions representative of those routinely reported in patient specimens	• In each electrophoretic cell

(b) **Hematology.**

(i) Run patient and quality control samples in duplicate for manual cell counts;

(ii) If reference material is unavailable, document the mechanism used to assure the quality, accuracy, and precision of the test; and

(iii) Perform quality control procedures for hematology as described in Table 090-4 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

**Table 090-4 Quality Control Procedures—Hematology**

	Control Material	Frequency
Automated	• Two levels of reference material in different concentrations	• Each day that patient samples are tested
Manual Blood Counts	• One level of reference material	• Every eight hours that patient samples are tested
Qualitative Tests	• Positive and negative reference material	• Each day of testing

(c) **Coagulation.**

(i) Run patient and quality control samples in duplicate for manual coagulation test (tilt tube);

- (ii) If reference material is unavailable, document the mechanism used to assure the quality, accuracy, and precision of the test; and
- (iii) Perform quality control procedures for coagulation as described in Table 090-5 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

**Table 090-5 Quality Control Procedures—Coagulation**

	<b>Control Material</b>	<b>Frequency</b>
Automated	<ul style="list-style-type: none"> <li>• Two levels of reference material in different concentrations</li> </ul>	<ul style="list-style-type: none"> <li>• Every eight hours that patient samples are tested; and</li> <li>• Each time reagents are changed</li> </ul>
Manual Tilt Tube Method	<ul style="list-style-type: none"> <li>• Two levels of reference material in different concentrations</li> </ul>	<ul style="list-style-type: none"> <li>• Every eight hours that patient samples are tested; and</li> <li>• Each time reagents are changed</li> </ul>

(d) **General immunology.**

- (i) Employ reference materials for all test components to ensure reactivity;
- (ii) Report test results only when the predetermined reactivity pattern of the reference material is observed; and
- (iii) Perform quality control procedures for general immunology as described in Table 090-6 or follow an equivalent quality testing procedure that meets federal CLIA regulations.

**Table 090-6 Quality Control Procedures—General Immunology**

	<b>Control Material</b>	<b>Frequency</b>
Serologic tests on unknown specimens	<ul style="list-style-type: none"> <li>• Positive and negative reference material</li> </ul>	<ul style="list-style-type: none"> <li>• Each day of testing</li> </ul>
Kits with procedural (internal) controls	<ul style="list-style-type: none"> <li>• Positive and negative reference material (external controls)</li> <li>• Procedural (internal) controls</li> </ul>	<ul style="list-style-type: none"> <li>• When kit is opened; and</li> <li>• Each day of testing, or follow an equivalent quality testing procedure that meets federal CLIA regulations</li> <li>• Each time patient sample is tested</li> </ul>

(e) **Syphilis serology.**

- (i) Use equipment, glassware, reagents, controls, and techniques that conform to manufacturer's specifications;
- (ii) Employ reference materials for all test components to ensure reactivity; and
- (iii) Perform serologic tests on unknown specimens each day of testing with a positive serum reference material with known titer or graded reactivity and a negative reference material.

(f) **Microbiology.**

- (i) Have available and use:
  - (A) Appropriate stock organisms for quality control purposes; and
  - (B) A collection of slides, photographs, gross specimens, or text books for reference sources to aid in identification of microorganisms;
- (ii) Document all steps (reactions) used in the identification of microorganisms on patient specimens;
- (iii) For antimicrobial susceptibility testing:
  - (A) Record zone sizes or minimum inhibitory concentration for reference organisms; and
  - (B) Zone sizes or minimum inhibitory concentration for reference organisms must be within established limits before reporting patient results; and

(C) Perform quality control on antimicrobial susceptibility testing media as described in Table 090-8;

(iv) For noncommercial media, check each batch or shipment for sterility, ability to support growth and, if appropriate, selectivity, inhibition, or biochemical response;

(v) For commercial media:

(A) Verify that the product insert specifies that the quality control checks meet the requirements for media quality control as outlined by the Clinical Laboratory Standards Institute (CLSI). *M22-A3 Quality Control for Commercially Prepared Microbiological Culture Media; Approved Standard-Third Edition*. June 2004. (Volume 24, Number 19);

(B) Keep records of the manufacturer's quality control results;

(C) Document visual inspection of the media for proper filling of the plate, temperature or shipment damage, and contamination before use; and

(D) Follow the manufacturer's specifications for using the media; and

(vi) For microbiology subspecialties:

(A) **Bacteriology:** Perform quality control procedures for bacteriology as described in Tables 090-7 and 090-8.

**Table 090-7 Quality Control Procedures—Bacteriology**

	Control Material	Frequency
Reagents, disks, and identification systems Catalase, coagulase, oxidase, and Beta-lactamase Cefinase™ reagents Bacitracin, optochin, ONPG, X and V disks or strips	<ul style="list-style-type: none"> <li>Positive and negative reference organisms, unless otherwise specified</li> </ul>	<ul style="list-style-type: none"> <li>Each batch, shipment, and new lot number unless otherwise specified</li> </ul>
Stains, unless otherwise specified; DNA probes; and all beta-lactamase methods other than Cefinase™	<ul style="list-style-type: none"> <li>Positive and negative reference organisms</li> </ul>	<ul style="list-style-type: none"> <li>Each batch, shipment, and new lot number; and</li> <li>Each day of use</li> </ul>
Fluorescent stains	<ul style="list-style-type: none"> <li>Positive and negative reference organisms</li> </ul>	<ul style="list-style-type: none"> <li>Each batch, shipment, and new lot number; and</li> <li>Each time of use</li> </ul>
Gram stains	<ul style="list-style-type: none"> <li>Positive and negative reference organisms</li> </ul>	<ul style="list-style-type: none"> <li>Each batch, shipment, and new lot number; and</li> <li>Each week of use</li> </ul>
Direct antigen detection systems without procedural controls	<ul style="list-style-type: none"> <li>Positive and negative controls that evaluate both the extraction and reaction phase</li> </ul>	<ul style="list-style-type: none"> <li>Each batch, shipment, and new lot number; and</li> <li>Each day of use</li> </ul>
Test kits with procedural (internal) controls	<ul style="list-style-type: none"> <li>Positive and negative reference material (external) controls</li> <li>Procedural (internal) controls</li> </ul>	<ul style="list-style-type: none"> <li>Each batch, shipment, and new lot number; and</li> <li>Each day of testing, or follow an equivalent quality testing procedure that meets federal CLIA regulations</li> <li>Each time patient sample is tested</li> </ul>
Antisera	<ul style="list-style-type: none"> <li>Positive and negative reference material</li> </ul>	<ul style="list-style-type: none"> <li>Each batch, shipment, and new lot number; and</li> <li>Every six months</li> </ul>

**Table 090-8 Quality Control Procedures—Bacteriology - Media for Antimicrobial Susceptibility Testing**

	Control Material	Frequency
Check each new batch of media and each new lot of antimicrobial disks or other testing systems (MIC)	<ul style="list-style-type: none"> <li>Approved reference organisms (ATCC organisms)</li> </ul>	<ul style="list-style-type: none"> <li>Before initial use and each day of testing; or</li> <li>May be done weekly if the medical test site can meet the quality control requirements for antimicrobial disk susceptibility testing as outlined by CLSI <i>M100S Performance Standards for Antimicrobial Susceptibility Testing; Twenty-Sixth Edition.</i></li> </ul>

(B) **Mycobacteriology:** Perform quality control procedures for mycobacteriology as described in Table 090-9.

**Table 090-9 Quality Control Procedures—Mycobacteriology**

	Control Material	Frequency
All reagents or test procedures used for mycobacteria identification unless otherwise specified	<ul style="list-style-type: none"> <li>Acid-fast organism that produces a positive reaction and an acid-fast organism that produces a negative reaction</li> </ul>	<ul style="list-style-type: none"> <li>Each day of use</li> </ul>
Acid-fast stains	<ul style="list-style-type: none"> <li>Acid-fast organism that produces a positive reaction and an organism that produces a negative reaction</li> </ul>	<ul style="list-style-type: none"> <li>Each day of use</li> </ul>
Fluorochrome acid-fast stains	<ul style="list-style-type: none"> <li>Acid-fast organism that produces a positive reaction and an acid-fast organism that produces a negative reaction</li> </ul>	<ul style="list-style-type: none"> <li>Each time of use</li> </ul>
Susceptibility tests performed on <i>Mycobacterium tuberculosis</i> isolates	<ul style="list-style-type: none"> <li>Appropriate control organism(s)</li> </ul>	<ul style="list-style-type: none"> <li>Each batch of media, and each lot number and shipment of antimycobacterial agent(s) before, or concurrent with, initial use</li> <li>Each week of use</li> </ul>

(C) **Mycology:** Perform quality control procedures for mycology as described in Table 090-10.

**Table 090-10 Quality Control Procedures—Mycology**

	Control Material	Frequency
Susceptibility tests: Each drug NOTE: Establish control limits and criteria for acceptable control results prior to reporting patient results	<ul style="list-style-type: none"> <li>One control strain that is susceptible to the drug</li> </ul>	<ul style="list-style-type: none"> <li>Each day of use</li> </ul>
Lactophenol cotton blue stain	<ul style="list-style-type: none"> <li>Appropriate control organism(s)</li> </ul>	<ul style="list-style-type: none"> <li>Each batch or shipment and each lot number</li> </ul>
Acid-fast stains	<ul style="list-style-type: none"> <li>Organisms that produce positive and negative reactions</li> </ul>	<ul style="list-style-type: none"> <li>Each day of use</li> </ul>
Reagents for biochemical and other identification test procedures	<ul style="list-style-type: none"> <li>Appropriate control organism(s)</li> </ul>	<ul style="list-style-type: none"> <li>Each batch or shipment and each lot number</li> </ul>
Commercial identification systems utilizing two or more substrates	<ul style="list-style-type: none"> <li>Organisms that verify positive and negative reactivity of each media type</li> </ul>	<ul style="list-style-type: none"> <li>Each batch or shipment and each lot number</li> </ul>

(D) **Parasitology:**

(I) Have available and use:

- Reference collection of slides or photographs and, if available, gross specimens for parasite identification; and
- Calibrated ocular micrometer for determining the size of ova and parasites, if size is a critical parameter.

(II) Check permanent stains each month of use with reference materials.

(E) **Virology:**

(I) Have available:

- Host systems for isolation of viruses; and

- Test methods for identification of viruses that cover the entire range of viruses that are etiologically related to the clinical diseases for which services are offered; and
  - (II) Simultaneously culture uninoculated cells or cell substrate as a negative control when performing virus identification.
  - (g) **Histopathology:** Fluorescent and immunohistochemical stains must be checked for positive and negative reactivity each time of use. For all other differential or special stains, include a control slide of known reactivity with each slide or group of slides and document reactions.
  - (h) **Cytology.**
    - (i) Processing specimens:
      - (A) (~~Stain all gynecological smears~~) All gynecological slide preparations must be stained using a Papanicolaou or a modified Papanicolaou staining method;
      - (B) Have methods to prevent cross-contamination between gynecologic and nongynecologic specimens during the staining process; and
      - (C) Stain nongynecological specimens that have a high potential for cross-contamination separately from other nongynecological specimens, and filter or change the stains following staining.
    - (ii) Performing specimen examinations:
      - (A) All cytology preparations must be evaluated on the premises of the medical test site;
      - (B) Technical personnel must examine, unless federal law and regulation specify otherwise, no more than (~~one hundred~~) 100 cytological slides (one patient specimen per slide; gynecologic, nongynecologic, or both) in a (~~twenty-four~~) 24-hour period and in no less than an eight-hour work period;
      - (C) Previously examined negative, reactive, reparative, atypical, premalignant or malignant gynecological cases and previously examined nongynecologic cytology preparations and tissue pathology slides examined by a technical supervisor are not included in the (~~one hundred~~) 100 slide limit;
      - (D) Each nongynecologic slide preparation made using liquid-based slide preparatory techniques that result in cell dispersion over one-half or less of the total available slide may be counted as one-half slide; and
      - (E) Records of the total number of slides examined by each individual at all sites during each (~~twenty-four~~) 24-hour period must be maintained.
    - (iii) Establish and implement a quality assurance program that ensures:
      - (A) There is criteria for submission of material;
      - (B) All providers submitting specimens are informed of these criteria;
      - (C) All samples submitted are assessed for adequacy;
      - (D) Records of initial examinations and rescreening results are available and documented;
      - (E) Rescreening of benign gynecological slides is:
        - (I) Performed by an individual who meets the personnel requirements for technical or general supervisor in cytology as defined under 42 C.F.R. Part 493 Subpart M;
        - (II) Completed before reporting patient results on those selected cases;
        - (III) Performed and documented on:
          - No less than (~~ten~~) 10 percent of the benign gynecological slides; and

- Includes cases selected at random from the total caseload and from patients or groups of patients that are identified as having a high probability of developing cervical cancer, based on available patient information;

(F) The technical supervisor:

(I) Confirms all gynecological smears interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial neoplasia lesions including human papillomavirus-associated changes) or malignant category;

(II) Reviews all nongynecological cytological preparations; and

(III) Establishes, documents, and reassesses, at least every six months, the workload limits for each cytotechnologist;

(G) All cytology reports with a diagnosis of high-grade squamous intraepithelial lesion (HSIL), adenocarcinoma, or other malignant neoplasms are correlated with prior cytology reports and with histopathology reports if available, and the causes of any discrepancies are determined;

(H) Review of all normal or negative gynecological specimens received within the previous five years, if available in the laboratory system, or records of previous reviews, for each patient with a current high grade intraepithelial lesion or moderate dysplasia of CIN-2 or above;

(I) Notification of the patient's physician if significant discrepancies are found that would affect patient care and issuance of an amended report;

(J) An annual statistical evaluation of the number of cytology cases examined, number of specimens processed by specimen type, volume of patient cases reported by diagnosis, number of cases where cytology and histology are discrepant, number of cases where histology results were unavailable for comparison, and number of cases where rescreen of negative slides resulted in reclassification as abnormal; and

(K) Evaluation and documentation of the performance of each individual examining slides against the medical test site's overall statistical values, with documentation of any discrepancies, including reasons for the deviation and corrective action, if appropriate.

(i) **Immunoematology/transfusion services.**

(i) Perform ABO grouping, Rh (D) typing, antibody detection and identification, and compatibility testing as described by the Food and Drug Administration (FDA) under 21 C.F.R. Parts 606 and 640.

(A) Perform ABO grouping:

(I) By concurrently testing unknown red cells with FDA approved anti-A and anti-B grouping sera;

(II) Confirm ABO grouping of unknown serum with known A1 and B red cells;

(B) Perform Rh (D) typing by testing unknown red cells with anti-D (anti-Rh) blood grouping serum; and

(C) Perform quality control procedures for immunoematology as described in Table 090-11.

(ii) Blood and blood products:

(A) Collecting, processing, and distributing:

(I) Must comply with FDA requirements listed under 21 C.F.R. Parts 606, 610.40, 610.53, and 640; and

(II) Must establish, document, and follow policies to ensure positive identification of a blood or blood product recipient.

(B) Labeling and dating must comply with FDA requirements listed under 21 C.F.R. 606 Subpart G, and 610.53.

(C) Storing:

(I) There must be an adequate temperature alarm system that is regularly inspected.

(II) The system must have an audible alarm system that monitors proper blood and blood product storage temperature over a (~~twenty-four~~) 24-hour period.

(III) High and low temperature checks of the alarm system must be documented.

(D) Collection of heterologous or autologous blood products on-site:

(I) Must register with the FDA; and

(II) Have a current copy of the form FDA 2830 "Blood Establishment Registration and Product Listing."

(E) Retention of samples of transfused blood:

(I) Establish and follow procedures to retain samples of each unit of transfused blood for further testing in the event of transfusion reactions; and

(II) Promptly dispose of blood not retained for further testing that has passed its expiration date.

(iii) Must have an agreement approved by the director for procurement, transfer, and availability to receive products from outside entities.

(iv) Promptly investigate transfusion reactions according to established procedures, and take any necessary remedial action.

**Table 090-11 Quality Control Procedures—Immunoematology**

Reagent	Control Material	Frequency
ABO antisera	• Positive control	• Each day of use
Rh antisera	• Positive and negative controls • Patient control to detect false positive Rh test results	• Each day of use • When required by the manufacturer
Other antisera	• Positive and negative controls	• Each day of use
ABO reagent red cells	• Positive control	• Each day of use
Antibody screening cells	• Positive control using at least one known antibody	• Each day of use

(j) **Histocompatibility.**

(i) Use applicable quality control standards for immunoematology, transfusion services, and diagnostic immunology as described in this chapter; and

(ii) Meet the standards for histocompatibility as listed in 42 C.F.R. Part 493.1278, Standard: Histocompatibility, available from the department upon request.

(k) **Cytogenetics.**

(i) Document:

(A) Number of metaphase chromosome spreads and cells counted and karyotyped;

(B) Number of chromosomes counted for each metaphase spread;

(C) Media used;

(D) Reactions observed;

(E) Quality of banding; and

(F) Sufficient resolution appropriate for the type of tissue or specimen and the type of study required based on the clinical information provided;

(ii) Assure an adequate number of karyotypes are prepared for each patient according to the indication given for performing cytogenetics study;

(iii) Use an adequate patient identification system for:

(A) Patient specimens;

(B) Photographs, photographic negatives, or computer stored images of metaphase spreads and karyotypes;

(C) Slides; and

(D) Records; and

(iv) Perform full chromosome analysis for determination of sex.

(1) **Radiobioassay and radioimmunoassay.**

(i) Check the counting equipment for stability each day of use with radioactive standards or reference sources; and

(ii) Meet Washington state radiation standards described under chapter 70.98 RCW and chapters 246-220, 246-221, 246-222, 246-232, 246-233, 246-235, 246-239, 246-247, 246-249, and 246-254 WAC.



## WSR 24-20-103

## EXPEDITED RULES

## DEPARTMENT OF AGRICULTURE

[Filed September 30, 2024, 5:00 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-529 WAC, Washington alfalfa seed commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington alfalfa seed commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Shane Johnson, 6601 West Deschutes Avenue, Suite C-2, Kennewick, 509-585-5460.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Megan Finkenbinder, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, BEGINNING October 23, 8:00 a.m., AND RECEIVED BY December 3, 11:59 p.m.

September 30, 2024  
Derek I. Sandison  
Director

## OTS-5893.1

AMENDATORY SECTION (Amending WSR 17-05-035, filed 2/8/17, effective 3/11/17)

**WAC 16-529-010 Definitions.** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

"Act" means the Washington state agricultural commodity boards or chapter 15.65 RCW.

"Affected area" means that portion of the state of Washington located east of the summit of the Cascade Mountains.

"Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing, or distributing alfalfa seed not grown by ~~((him or her))~~ the affected handler.

"Affected producer" means any person who produces any variety of alfalfa seed in the state of Washington for market in commercial quantities: Provided, That for the purpose of election and membership on the commodity board, a producer-handler shall be considered as acting only as a producer.

"Affected unit" means ~~((one hundred))~~ 100 weight (cwt) of cleaned alfalfa seed as sold by an affected producer to a handler or other producer.

"Alfalfa seed" means the seed that is harvested from any variety of alfalfa plants.

"Alfalfa seed commodity commission" hereinafter referred to as "commission" means the commodity commission formed under the provisions of WAC 16-529-020 through 16-529-120.

"Commercial quantity" means all alfalfa seed produced in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or ~~((his or her))~~ the director's duly appointed representative.

"Disclosure" means inspection or copying.

"Marketing season" or "fiscal year" means the ~~((twelve))~~ 12-month period beginning with July 1st of any year and ending with June 30th of the year following, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a "producer" and as a "handler" with respect to the alfalfa seed which ~~((he/she))~~ they produce(~~(s)~~), and a handler with respect to the alfalfa seed which ~~((he/she))~~ they handle(~~(s)~~), including that produced by ~~((himself/herself))~~ themselves. "To produce" means to act as a producer. For the purposes of the alfalfa seed marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Public records" includes any writing containing information relating to the conduct of government or the performance of any govern-

mental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

AMENDATORY SECTION (Amending WSR 05-08-010, filed 3/25/05, effective 4/25/05)

**WAC 16-529-040 Board membership qualifications.** (1) The affected producer members of the board must be practical producers of alfalfa seed and each shall be a citizen and resident of this state, over the age of (~~eighteen~~) 18 years. Each affected producer board member must be and have been actually engaged in producing alfalfa seed within the state of Washington for a period of five years and has during that time derived a substantial portion of (~~his/her~~) their income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(2) The affected handler member of the board must be a practical handler of alfalfa seed and shall be a citizen and resident of this state, over the age of (~~eighteen~~) 18 years. The affected handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association, or cooperative, actually engaged in handling alfalfa seed within the state of Washington for a period of five years and has during that period derived a substantial portion of (~~his/her~~) their income therefrom.

(3) The qualifications of members of the board must continue during their term of office.

(4) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions 2, 4, 6, and 7 shall be forwarded to the director for appointment within (~~thirty~~) 30 days of the effective date of this amended marketing order.

AMENDATORY SECTION (Amending WSR 23-01-056, filed 12/14/22, effective 7/1/23)

**WAC 16-529-070 Election or advisory vote of board members.** (1) An election or advisory vote shall be conducted by secret ballot under the supervision of the director. Each affected producer and affected handler shall be entitled to one vote.

(2) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers statewide.

If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(3) An advisory vote shall be conducted for affected producer or affected handler board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only

two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(4) Not less than 10 days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers as maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing ((his/her)) their qualifications.

(5) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the election or advisory vote of any board member.

AMENDATORY SECTION (Amending WSR 08-16-014, filed 7/25/08, effective 8/25/08)

**WAC 16-529-110 Powers and duties of the board.** The board shall have the following powers and duties:

(1) To administer, enforce, and control the provisions of this chapter as the designee of the director.

(2) To elect a chairman and such other officers as the board deems advisable.

(3) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of this chapter and effectuate the declared policies of the act.

(4) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of this chapter. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(5) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating this chapter.

(6) To establish an "alfalfa seed revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed ((one hundred dollars)) \$100, shall be deposited each day or as often during the days as advisable.

(7) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the commission. A copy of such audit shall be delivered within ((thirty)) 30 days after the completion thereof to the governor, the director, the state auditor, and the board.

(8) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem neces-

sary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(9) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this chapter during each fiscal year. The board, at least (~~sixty~~) 60 days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(10) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(11) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(12) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this chapter and the act, along with the necessary authority and procedure for obtaining such information.

(13) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon (~~him~~) them by the act or this chapter.

(14) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(15) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(16) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(17) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(18) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of alfalfa seed.

(19) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(20) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(21) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of alfalfa seed including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(22) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the

value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(23) To maintain a list of the names and addresses of persons who handle alfalfa seed within the affected area and data on the amount and value of the alfalfa seed handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(24) To maintain a list of names and addresses of all affected persons who produce alfalfa seed and the amount, by unit, of alfalfa seed produced during the past three years pursuant to RCW 15.65.295.

(25) To maintain a list of all persons who handle alfalfa seed and the amount of alfalfa seed handled by each person during the past three years pursuant to RCW 15.65.295.

(26) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(27) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

AMENDATORY SECTION (Amending WSR 23-01-056, filed 12/14/22, effective 7/1/23)

**WAC 16-529-140 Assessments.** (1) The fixed annual assessment on all varieties of alfalfa seed subject to this marketing order shall be 75 cents per hundredweight of cleaned seed, which shall be paid by the producer thereof upon each and every unit sold, marketed, or delivered for sale by ~~((him))~~ the producer.

(2) First handlers or purchasers shall collect assessments at time of payment for seed from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board.

Producers and producer-handlers who ship their alfalfa seed direct to handlers outside of the state of Washington shall remit assessments to the board at time of shipment.

## WSR 24-20-104

## EXPEDITED RULES

## DEPARTMENT OF AGRICULTURE

[Filed September 30, 2024, 5:01 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-536 WAC, Washington pulse crops commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington pulse crops commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Tim McGreevy, 2780 West Pullman Road, Moscow, ID, 208-882-3023.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Megan Finkenbinder, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, BEGINNING October 23, 8:00 a.m., AND RECEIVED BY December 3, 11:59 p.m.

September 30, 2024  
Derek I. Sandison  
Director

OTS-5895.1

AMENDATORY SECTION (Amending WSR 16-15-004, filed 7/7/16, effective 8/7/16)

**WAC 16-536-010 Definitions.** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

"Act" means the Washington State Agricultural Commodity Boards Act, chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing pulse crops not produced by ~~((him or her))~~ them. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Affected producer" means any person who produces, or causes to be produced, in commercial quantities, pulse crops in the state of Washington.

"Affected unit" means ~~((one hundred))~~ 100 pounds of pulse crops.

"Chickpeas (garbanzo beans)" means all kinds and varieties of dry chickpeas grown in the state of Washington: Provided, That it shall not include dry chickpeas used by the producers thereof on ~~((his or her))~~ their premises for feed, seed, and personal consumption.

"Commercial quantity" means all the pulse crops produced for market in any calendar year by any producer.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or ~~((his or her))~~ the director's duly appointed representative.

"Dry peas" means all kinds and varieties of dry peas grown in the state of Washington, including commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed, and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

"Faba (fava) beans" means all kinds and varieties of dry faba beans grown in the state of Washington: Provided, That it shall not include faba beans used by the producers thereof on ~~((his or her))~~ their premises for feed, seed, and personal consumption.

"Lentils" means all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on ~~((his or her))~~ their premises for feed, seed, and personal consumption.

"Lupine (lupin)" means all kinds and varieties of dry lupine grown in the state of Washington: Provided, That it shall not include lupine used by the producers thereof on ~~((his or her))~~ their premises for feed, seed, and personal consumption.

"Marketing season" or "fiscal year" means the ~~((twelve))~~ 12-month period beginning with July 1st of any year and ending with the last day of June, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other



organization of individuals or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to pulse crops. A producer-handler shall be deemed to be a producer with respect to the pulse crops which (~~he or she~~) they produce(~~(s)~~), and a handler with respect to the pulse crops which (~~he or she~~) they handle(~~(s)~~), including those produced by (~~himself or herself~~) themselves. "To produce" means to act as a producer. For purposes of the pulse crops marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Pulse crops" means the following commodities marketed in their "dry" condition: Dry peas, chickpeas/garbanzo beans, lentils, faba beans, and lupine as defined in this marketing order.

"Pulse crops commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020 and renamed the Washington pulse crops commission.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

AMENDATORY SECTION (Amending WSR 21-15-117, filed 7/21/21, effective 8/21/21)

**WAC 16-536-020 The pulse crops board. (1) Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

**(2) Board membership.**

(a) The board shall consist of (~~ten~~) 10 members. Eight members shall be affected producers appointed as provided in this marketing order. One member shall be an affected handler appointed as provided in this marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington: Provided, That the addition of another member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

**(3) Board membership qualifications.**

(a) The producer members of the board must be practical producers of pulse crops in the district in and for which they are nominated and appointed and each shall be a citizen and resident of the state, over the age of (~~(eighteen)~~) 18 years. Each producer board member must be and have been actually engaged in producing pulse crops within the state of Washington for a period of five years and has during that time derived a substantial portion of (~~(his or her)~~) their income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The handler member of the board must be a practical handler of pulse crops and shall be a citizen and resident of the state, over the age of (~~(eighteen)~~) 18 years. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling pulse crops within the state of Washington for a period of five years and has during that period derived a substantial portion of (~~(his or her)~~) their income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

**(4) Term of office.**

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through eight, the affected handler shall have position nine and the member representing the director position ten.

(c) The term of office for the initial board members shall be as follows:

Positions seven, eight, nine, and ten - One year

Positions four, five and six - Two years

Positions one, two, and three - Three years

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within (~~(thirty)~~) 30 days of the effective date of this amended marketing order.

**(5) Nomination of director-appointed board members.**

(a) For the purpose of nominating candidates for appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call a nomination meeting for director-appointed board members in those districts whose board members term is about to expire. The meeting(s) shall be held at least (~~(thirty)~~) 30 days in advance of the date set by the director for the advisory vote of board members.

(c) Notice of a nomination meeting shall be published in newspapers of general circulation within the affected district not less than (~~(ten)~~) 10 days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district and handlers according to the list maintained by the board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at a nomination meeting.

(e) Any qualified affected producer or handler may be nominated orally for membership on the board at a nomination meeting. Nomina-

tions may also be made within five days after the meeting by written petition filed with the director signed by not less than five affected producers or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than (~~twenty~~) 20 days after the notice was mailed.

(g) When only one nominee is nominated for a director-appointed position, RCW 15.65.250 shall apply.

(6) **Advisory vote of board members.**

(a) An advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer and affected handler shall be entitled to one vote.

(b) An advisory vote shall be conducted for board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(c) Notice of every advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than (~~ten~~) 10 days in advance of the date of the advisory vote. Not less than (~~ten~~) 10 days prior to every advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing (~~his or her~~) their qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the advisory vote of any board member.

(7) **Vacancies.** In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to

the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed (~~two thousand dollars~~) \$2,000.

(f) To establish a "pulse crops board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed (~~one hundred dollars~~) \$100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within (~~thirty~~) 30 days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least (~~fifteen~~) 15 days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon (~~him~~) them by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of pulse crops.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of pulse crops including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle pulse crops within the affected area and data on the amount and value of the pulse crops handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce pulse crops and the amount, by unit, of pulse crops produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle pulse crops and the amount of pulse crops handled by each person during the past three years pursuant to RCW 15.65.295.

(aa) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

**(11) Procedures for board.**

(a) The board shall hold regular meetings with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least (~~twenty~~) 20 days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented

for discussion at the meeting. Notice of the annual meeting shall be given by the board at least (~~ten~~) 10 days prior to the meeting through regular wire news services and radio-television press.

(c) The board may call special meetings as provided under RCW 42.30.080.

AMENDATORY SECTION (Amending WSR 16-15-004, filed 7/7/16, effective 8/7/16)

**WAC 16-536-040 Assessments and collections. (1) Assessments.**

(a) The assessment on all varieties of pulse crops subject to this marketing order shall be one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) Assessments shall not be payable on any such pulse crops used by the producer thereof on (~~his or her~~) their premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of this marketing order, to all persons from whom moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding (~~ten~~) 10 percent of the unpaid assessment to defray the cost of enforcing the collecting of it. In the event of failure of such person or persons to pay any due and payable assessment or other such sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified (~~ten~~) 10 percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

## WSR 24-20-105

## EXPEDITED RULES

## DEPARTMENT OF AGRICULTURE

[Filed September 30, 2024, 5:01 p.m.]

Title of Rule and Other Identifying Information: Chapter 16-532 WAC, Washington hop commission.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In response to a petition for rule making, the department of agriculture (department) is proposing to clarify current rule language by replacing all gender-specific pronouns with modern gender-inclusive pronouns.

Reasons Supporting Proposal: RCW 43.01.160 requires state agencies to use gender-neutral terms in rules unless a specification of gender is intended. Replacing gender-specific terminology supports the department's commitment to integrate inclusive policies and procedures.

Gender-inclusive pronouns are pronouns that are not specifically gendered and can be utilized when referring to each other in the third person. They are linguistic tools that we use to refer to people. Using gender-neutral pronouns can help create a more inclusive and welcoming environment and show respect for people's gender identities.

Statutory Authority for Adoption: RCW 43.23.025.

Statute Being Implemented: Chapter 15.65 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington hop commission, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Finkenbinder, 1111 Washington Street S.E., Olympia, 360-902-1887; Implementation and Enforcement: Jessica Stevens, 32 North 3rd Street, Yakima, 509-453-4749.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited process is appropriate due to it being name changes and no impact to rule effects.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Megan Finkenbinder, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1887, fax 360-902-2092, email mfinkenbinder@agr.wa.gov, BEGINNING October 23, 8:00 a.m., AND RECEIVED BY December 3, 11:59 p.m.

September 30, 2024  
Derek I. Sandison  
Director

OTS-5894.1

AMENDATORY SECTION (Amending WSR 17-16-004, filed 7/20/17, effective 8/20/17)

**WAC 16-532-010 Definitions.** For the purpose of this marketing order:

"Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.

"Affected unit" means one pound net of dried hops, or the amount of lupulin, extract or oil produced from pound net of dried hops.

"Commercial quantity" means any hops produced for market by a producer in any calendar year.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or ((his)) the director's duly appointed representative.

"Disclosure" means inspection or copying.

"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by ((him)) them.

"Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.

"Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.

"Marketing season" means the ((twelve)) 12-month period beginning with January 1st of any year and ending December 31st, both dates being inclusive.

"Person" means any person, firm, association or corporation.

"Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, wet (fresh) or dried hop cones, whether loose or baled.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which ((he)) they produce((s)) and a handler with respect to the hops which ((he)) they handle((s)), including those produced by ((himself)) themselves.

"Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.



AMENDATORY SECTION (Amending WSR 11-10-074, filed 5/3/11, effective 6/3/11)

**WAC 16-532-020 Hop board.** (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of eight members. Seven members shall be affected producers elected as provided in this section. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the entire state of Washington.

(3) **Board membership qualifications.**

The affected producer members of the board shall be practical producers of hops and shall be citizens and residents of the state of Washington, over the age of (~~twenty-five~~) 25 years, each of whom is and has been actually engaged in producing hops within the state of Washington for a period of five years and has during that time derived a substantial portion of (~~his~~) their income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

(4) **Term of office.**

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through seven and the member appointed by the director position eight.

(c) The term of office for the initial board members shall be as follows:

Positions one, two, three and ten - Until June 30, 1967

Positions four, five and six - Until June 30, 1966

Positions seven, eight and nine - Until June 30, 1965

(d) Terms of office for the board members serving at the time of the 1992 amendment of this section shall be as follows:

Positions one, two, three and ten - Until December 31, 1994

Positions four, five and six - Until December 31, 1993

Positions seven, eight and nine - Until December 31, 1992

(e) The term of office for the remaining producer board members serving at the time of the effective date of the 2005 amended marketing order shall be as follows:

Positions four, five, and six - Until December 31, 2005

Positions one and two - Until December 31, 2006

Positions three and seven - Until December 31, 2007

(5) **Nomination and election of board members.** Each year the director shall call for a nomination meeting. Such meeting shall be held at least (~~thirty~~) 30 days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the major production area not less than (~~ten~~) 10 days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers according to the list main-

tained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meetings. Nominations may also be made within five days after any such meetings by written petition filed with the director signed by not less than five affected producers. At the inception of this order nominations may be made at the issuance hearing.

(6) **Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the major production area not less than (~~ten~~) 10 days in advance of the date of such election. Not less than (~~ten~~) 10 days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing (~~his~~) their qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board member.

(7) **Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member shall be reimbursed for actual subsistence and traveling expenses incurred through attendance at meetings or other board activities: Provided, That such expenses shall be authorized by resolution by unanimous approval of the board at a regular meeting.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such

manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "hop board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed (~~one hundred dollars~~) \$100, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within (~~thirty~~) 30 days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon (~~him~~) them by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least (~~ten~~) 10 days prior to the meeting by

written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

AMENDATORY SECTION (Amending WSR 92-09-068, filed 4/14/92, effective 5/15/92)

**WAC 16-532-030 Marketing order purposes.** The order is to promote the general welfare of the state, to enable producers of hops to help themselves establish orderly, fair, sound, efficient, unhampered marketing and standardization of hops and regulate unfair trade practices within the industry. ~~((+1))~~ To carry out the purposes of the order the board may provide for a program in one or more of the following areas:

~~((+a))~~ (1) Establish plans and conduct programs for advertising, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for hops. Such programs shall be directed toward increasing the sale of hops without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of hops nor disparage the quality, value, sale or use of any other agricultural commodity.

~~((+b))~~ (2) Provide for research in the production, processing and/or distribution of hops and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have the facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

~~((+e))~~ (3) Provide by rules and regulations for:

~~((+i))~~ (a) Establishing uniform labels and labeling requirements for hops or any products thereof, requiring producers, handlers and other persons to conform to standards for the placing of labels, trademarks, insignia or brands on bales or packages, provided, that all licensed hop dealers or brokers are entitled to use on the face of their product any particular trademark, insignia, brand or label that they may now have or will have. That established brands, labels, trademarks or insignias may be properly used in selling or commercially disposing of hops and hop products or in offering the same for sale, advertising and/or delivering said hops or hop products;

~~((+ii))~~ (b) Providing for inspection and enforcement to ascertain and effectuate compliance;

~~((+iii))~~ (c) Establishing rules and regulations respecting the foregoing.

~~((+d))~~ (4) Prohibit and/or otherwise regulate any one or more or all of the practices listed to the extent that such practices affect, directly or indirectly, hops or any product thereof, but only with respect to persons who engage in such practices with the intent of or with the reasonably foreseeable effect of inducing any purchaser to become ~~((his))~~ their customer or ~~((his))~~ their supplier or of otherwise dealing or trading with ~~((him))~~ them or of diverting trade from a competitor, to wit:

- ~~((i))~~ (a) Paying rebates, commissions or unearned discounts;
- ~~((ii))~~ (b) Unfairly extending privileges or benefits (pertaining to price, to credit, to the loan, lease or giving away of facilities, equipment or other property or to any other matter or thing) to any customer, supplier or other person;
- ~~((iii))~~ (c) Discriminating between customers, or suppliers of a like class;
- ~~((iv))~~ (d) Making or publishing false or misleading advertising. Such regulation may authorize uniform trade practices applicable to all similarly situated handlers and/or other persons.
- ~~((e))~~ (5) The board may authorize use of any money received and of any persons employed thereunder for legal proceedings, of any type and in the name of any person, directed to enforcement of this or any other law in force in the state of Washington relating to the prevention of unfair trade practices.
- ~~((f))~~ (6) Provide for marketing information and services to affected producers for the verification of grades, standards, weights, tests and sampling of quality and quantity of hops purchased by handlers from affected producers.
- ~~((g))~~ (7) Participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.58.030(29) or any agricultural chemical which is of use or potential use in producing hops.

AMENDATORY SECTION (Amending Marketing Order Article VI, § A, filed 7/1/64)

**WAC 16-532-060 Termination of the order.** The order shall be terminated if the director finds that ~~((fifty-one))~~ 51 percent by numbers and ~~((fifty-one))~~ 51 percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever ~~((twenty))~~ 20 percent by numbers or ~~((twenty))~~ 20 percent by volume of production of the affected producers file written application with ~~((him))~~ the director for such termination. The termination shall not, however, become effective until the expiration of the marketing season.

AMENDATORY SECTION (Amending WSR 17-16-004, filed 7/20/17, effective 8/20/17)

**WAC 16-532-135 Requests for public records.** (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail at P.O. Box 2885, Yakima, WA 98907 or by email at washingtonhopcommission@gmail.com. The written request should include:

- (a) The name of the person requesting the record and ~~((his or her))~~ their contact information;
- (b) The calendar date on which the request is made;
- (c) Sufficient information to readily identify the records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the department's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee.

(c) Public records may not be marked or altered in any manner during inspection.

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

## WSR 24-20-109

## EXPEDITED RULES

## DEPARTMENT OF REVENUE

[Filed October 1, 2024, 8:38 a.m.]

Title of Rule and Other Identifying Information: WAC 458-18-220 Refunds—Rate of interest, 458-30-262 Agricultural land valuation—Interest rate—Property tax component, and 458-30-590 Rates of inflation—Publication—Interest rate—Calculation.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of revenue (DOR) proposes to amend:

WAC 458-18-220 to provide the rate of interest for treasury bill auction year 2024, which is used when refunding property taxes paid in 2025, as required by RCW 84.69.100.

WAC 458-30-262 to provide the interest rate and property tax component used when valuing classified farm and agricultural land during the 2025 assessment year, as required by RCW 84.34.065.

WAC 458-30-590 to provide the rate of inflation published in 2024, which is used in calculating interest for deferred special benefit assessments of land removed or withdrawn from classification during 2025, as required by RCW 84.34.310.

Reasons Supporting Proposal: DOR is specifically and explicitly required by statute to annually update these rules to provide the information identified above.

Statutory Authority for Adoption: RCW 84.34.065, 84.34.141, 84.34.360, and 84.69.100.

Statute Being Implemented: RCW 84.34.055, 84.34.065, 84.34.141, 84.34.310, 84.34.360, 84.68.030, and 84.69.100.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DOR, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Jeannette Gute, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1599.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: DOR is required by Washington state statutes to annually update these rules.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU

OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leslie Mullin, DOR, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, BEGINNING October 2, 2024, 12:00 a.m., AND RECEIVED BY December 2, 2024, 11:59 p.m.

October 1, 2024  
 Brenton Madison  
 Rules Coordinator

**OTS-5897.1**

AMENDATORY SECTION (Amending WSR 24-03-001, filed 1/3/24, effective 1/3/24)

**WAC 458-18-220 Refunds—Rate of interest.** (1) **Introduction.** Interest applies to refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. Interest also applies to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030.

(2) **Calculation of interest rate.** The interest rate is calculated from the equivalent coupon issue yield of the average bill rate for 26-week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid.

(3) **Interest rates.** The following rates are applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1984	1983	9.29%
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%



Year tax paid	Auction Year	Rate
2004	2003	0.95%
2005	2004	1.73%
2006	2005	3.33%
2007	2006	5.09%
2008	2007	4.81%
2009	2008	2.14%
2010	2009	0.29%
2011	2010	0.21%
2012	2011	0.08%
2013	2012	0.15%
2014	2013	0.085%
2015	2014	0.060%
2016	2015	0.085%
2017	2016	0.340%
2018	2017	1.130%
2019	2018	2.085%
2020	2019	2.040%
2021	2020	0.165%
2022	2021	0.050%
2023	2022	2.50%
2024	2023	5.26%
<u>2025</u>	<u>2024</u>	<u>5.115%</u>

**OTS-5898.1**

AMENDATORY SECTION (Amending WSR 24-03-001, filed 1/3/24, effective 1/3/24)

**WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.** For assessment year ((2024)) 2025, the interest rate and the property tax component that are used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ((6.03)) 6.58 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	((1.05)) <u>1.06</u>	Lewis	((0.78)) <u>0.71</u>
Asotin	((1.12)) <u>1.08</u>	Lincoln	((1.03)) <u>0.96</u>
Benton	0.88	Mason	((0.87)) <u>0.78</u>
Chelan	((0.81)) <u>0.76</u>	Okanogan	((0.93)) <u>0.85</u>
Clallam	((0.82)) <u>0.79</u>	Pacific	((0.77)) <u>0.70</u>

COUNTY	PERCENT	COUNTY	PERCENT
Clark	<del>((0.92))</del> <u>0.89</u>	Pend Oreille	<del>((0.86))</del> <u>0.84</u>
Columbia	<del>((1.11))</del> <u>1.09</u>	Pierce	<del>((0.98))</del> <u>1.01</u>
Cowlitz	<del>((0.89))</del> <u>0.84</u>	San Juan	<del>((0.59))</del> <u>0.54</u>
Douglas	<del>((0.95))</del> <u>0.82</u>	Skagit	<del>((0.88))</del> <u>0.86</u>
Ferry	<del>((0.88))</del> <u>0.87</u>	Skamania	<del>((0.89))</del> <u>0.85</u>
Franklin	<del>((0.84))</del> <u>0.78</u>	Snohomish	<del>((0.76))</del> <u>0.83</u>
Garfield	1.09	Spokane	0.93
Grant	<del>((0.98))</del> <u>0.96</u>	Stevens	<del>((0.81))</del> <u>0.76</u>
Grays Harbor	<del>((0.89))</del> <u>0.85</u>	Thurston	<del>((0.95))</del> <u>0.97</u>
Island	<del>((0.74))</del> <u>0.73</u>	Wahkiakum	<del>((0.60))</del> <u>0.58</u>
Jefferson	<del>((0.80))</del> <u>0.83</u>	Walla Walla	<del>((1.00))</del> <u>0.95</u>
King	<del>((0.83))</del> <u>0.92</u>	Whatcom	<del>((0.85))</del> <u>0.76</u>
Kitsap	<del>((0.85))</del> <u>0.83</u>	Whitman	<del>((1.42))</del> <u>1.34</u>
Kittitas	<del>((0.77))</del> <u>0.69</u>	Yakima	<del>((0.96))</del> <u>0.87</u>
Klickitat	<del>((0.87))</del> <u>0.86</u>		

**OTS-5899.1**

AMENDATORY SECTION (Amending WSR 24-03-001, filed 1/3/24, effective 1/3/24)

**WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.** (1) **Introduction.** This rule provides the rates of inflation discussed in RCW 84.34.330 and WAC 458-30-550 Exemption—Removal or withdrawal. It also explains the department of revenue's (department) obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department - Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based on the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from the farm and agricultural or timber land classifications that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 2010 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 2017, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 2010 through 2017. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42	2007	2.08
2008	4.527	2009	-0.85 (negative)
2010	1.539	2011	2.755
2012	1.295	2013	1.314
2014	1.591	2015	0.251
2016	0.953	2017	1.553
2018	2.169	2019	1.396
2020	0.602	2021	3.860

YEAR	PERCENT	YEAR	PERCENT
2022	6.457	2023	3.67
<u>2024</u>	<u>2.57</u>		

**WSR 24-20-114**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed October 1, 2024, 9:25 a.m.]

Title of Rule and Other Identifying Information: New chapter 296-830 WAC, Workplace violence in health care.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this expedited proposal is to create new chapter 296-830 WAC, Workplace violence in health care, to adopt into rule statutory requirements under chapter 49.19 RCW, Safety—Health care settings; chapter 72.23 RCW, Public and private facilities for mentally ill; and chapter 49.95 RCW, Long-term care workers. The requirements under these existing statutes require employers in covered health care settings to establish a program to address workplace violence and abusive behavior in health care settings, which includes creating policies, providing training to employees, and recording incidents. Prior to this rule making, the department of labor and industries' (L&I) division of occupational safety and health (DOSH) has addressed enforcement of the requirements under chapters 49.19 and 72.23 RCW, and through DOSH Directive 5.07.

Reasons Supporting Proposal: This proposal adds the statutory requirements into rule, providing additional clarity to employers and employees in these health care settings on the requirements, and provide additional transparency to identify and track violations.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060; chapters 49.19, 49.95, and 72.23 RCW.

Statute Being Implemented: Chapters 49.17, 49.19, 49.95, and 72.23 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy West, Tumwater, Washington, 509-237-2372; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed language adopts without material change the workplace violence prevention requirements described under chapters 49.19, 49.95, and 72.23 RCW.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU

OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Tari Enos, Administrative Regulations Analyst, L&I, DOSH, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5541, fax 360-902-5619, email Tari.Enos@Lni.wa.gov, BEGINNING October 2, 2024, 8:00 a.m., AND RECEIVED BY December 2, 2024, 5:00 p.m.

October 1, 2024  
Joel Sacks  
Director

**OTS-5653.2**

**Chapter 296-830 WAC  
WORKPLACE VIOLENCE IN HEALTH CARE**

NEW SECTION

**WAC 296-830-100 Scope and application.** (1) The purpose of this section is to establish requirements for employers to have a basic, proactive program to address workplace violence and abusive conduct in the workplace, including setting policies, providing training and tracking incidents as required in chapters 49.19 and 49.95 RCW and RCW 72.23.400.

(2) This section applies to employers with the following workplaces:

- (a) Hospitals as defined in RCW 70.41.020;
- (b) Evaluation and treatment facilities as defined in RCW 71.05.020;
- (c) Behavioral health programs as defined in RCW 71.24.025;
- (d) Ambulatory surgical facilities as defined in RCW 70.230.010;
- (e) State hospitals, including child study and treatment centers, operated and maintained by the state of Washington for the care of the mentally ill; and
- (f) Homes serviced by home care employers:
  - (i) A consumer directed employer as defined in RCW 74.39A.009;
  - and
  - (ii) A home care agency as defined in RCW 70.127.010.

(3) Individual care recipients are not employers for the purpose of this section.

(4) Workplace violence and abusive conduct is a hazard in other health care facilities. Those facilities will be considered in compliance with WISHA rules if following this rule. Other rules applicable to violence in the workplace include:

- (a) WAC 296-800-140, accident prevention program (APP);
- (b) WAC 296-800-130, safety committees and safety meetings;
- (c) WAC 296-800-110, employer responsibilities: Safe workplace;
- (d) WAC 296-800-160, personal protective equipment (PPE); and
- (e) Chapter 296-27 WAC, recordkeeping and reporting.

NEW SECTION

**WAC 296-830-200 Definitions.** (1) **Abusive conduct.** Conduct in a work setting that qualifies as workplace aggression, workplace violence, aggravated workplace violence, physical sexual aggression, rape, attempted rape, sexual contact, sexual harassment, workplace physical aggression, workplace verbal aggression, or inappropriate sexual behavior. For service recipients, behavior that meets the definition of challenging behavior as defined in subsection (3) of this section is not considered abusive conduct for the purposes of this chapter if expressly exempted from the applicable definition.

(2) **Aggravated workplace violence, aggravated violence, or aggravated violent act.** Assault or physically threatening behavior involving the use of a lethal weapon or a common object used as a lethal weapon, regardless of whether the use of a lethal weapon resulted in injury.

(3) **Challenging behavior.** Behavior by a service recipient that is specifically caused by or related to a disability that might be experienced by a long-term care worker as offensive or presenting a safety risk.

(4) **Department.** The department of labor and industries.

(5) **Discrimination.** Employment discrimination prohibited by chapter 49.60 RCW, including discriminatory harassment. It does not constitute discrimination for a recipient of personal care services as defined in RCW 74.39A.009 to refuse to hire or terminate an employment relationship with an employee based on gender preferences.

(6) **Discriminatory harassment.** Unwelcome conduct that is based on a protected class listed in RCW 49.60.030(1) where the conduct is enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. "Discriminatory harassment" includes sexual harassment. For service recipients, behavior that meets the definition of challenging behavior of this section is not considered discriminatory harassment for purposes of this chapter.

(7) **Inappropriate sexual behavior.** Nonphysical acts of a sexual nature that a reasonable person would consider offensive or intimidating, such as sexual comments, unwanted requests for dates or sexual favors, or leaving sexually explicit material in view. An act may be considered inappropriate sexual behavior independent of whether the act is severe or pervasive enough to be considered sexual harassment. For service recipients, behavior that meets the definition of challenging behavior is not considered inappropriate sexual behavior for purposes of this chapter.

(8) **Must** means mandatory.

(9) **Physical sexual aggression.** Any type of sexual contact or behavior, other than rape or attempted rape, that occurs without the explicit consent of the recipient. For service recipients, behavior that meets the definition of challenging behavior defined in subsection (3) of this section is not considered physical sexual aggression for the purposes of this chapter.

(10) **Rape or attempted rape.** As defined in RCW 9A.44.040, 9A.44.050, and 9A.44.060.

(11) **Sexual harassment.** As defined in RCW 28A.640.020. For service recipients, behavior that meets the definition of challenging behavior is not considered sexual harassment for purposes of this chapter.

(12) **Trauma-informed care.** Strength-based service delivery approach that:

(a) Is grounded in the understanding of and responsiveness to the impact of trauma;

(b) Emphasizes physical, psychological, and emotional safety for both providers and survivors; and

(c) Creates opportunities for survivors to rebuild a sense of control and empowerment.

(13) **Workplace physical aggression.** An occurrence of physically threatening behavior in a work setting, including threats of physical harm, or an occurrence of slapping, biting, or intentionally bumping. For service recipients, behavior that meets the definition of challenging behavior is not considered workplace physical aggression for purposes of this chapter.

(14) **Workplace verbal aggression.** Acts of nonphysical hostility or threats of violence in the work setting. "Workplace verbal aggression" includes verbal aggression such as insulting or belittling an individual. For service recipients, behavior that meets the definition of challenging behavior is not considered workplace verbal aggression.

(15) **Workplace violence, violence, or violent act.** Any physical assault or verbal threat of physical assault against an employee of a health care setting on the property of the health care setting. "Workplace violence," "violence," or "violent act" includes any physical assault or verbal threat of physical assault involving the use of a weapon, including a firearm as defined in RCW 9.41.010, or a common object used as a weapon, regardless of whether the use of a weapon resulted in an injury.

#### NEW SECTION

**WAC 296-830-300 Workplace violence plan.** (Worksites other than home care.)

(1) Employers must develop and implement a plan to prevent and protect employees from violence at each health care facility or group of facilities and workplaces that have common management. Employers with a safety committee for the facility or workplaces covered by the plan must work with the safety committee to develop, implement, and monitor progress on the plan. If there is no safety committee, the plan must be reviewed at safety meetings.

(2) The plan developed under subsection (1) of this section must outline strategies aimed at addressing security considerations and factors that may contribute to, or prevent the risk of violence including, but not limited to, the following:

(a) The physical attributes of the health care setting, including security systems, alarms, emergency response, and security personnel available;

(b) Staffing, including staffing patterns, patient classifications, and procedures to mitigate employee's time spent alone working in areas at high risk for workplace violence;

(c) Job design, equipment, and facilities;

(d) First-aid and emergency procedures;

(e) The reporting of violent acts;

(f) Employee education and training requirements and implementation strategy;

(g) Security risks associated with specific units, areas of the facility with uncontrolled access, late night or early morning shifts,



and employee security in areas surrounding the facility such as employee parking areas; and

(h) Processes and expected interventions to provide assistance to an employee directly affected by a violent act.

(3) Each employer must annually review the frequency of incidents of workplace violence including identification of the causes for and consequences of, violent acts at the setting, and any emerging issues that contribute to workplace violence. For workplaces without a safety committee, the results of the review must be presented to workers at a safety meeting.

(4) The employer must adjust the plan developed under subsection (1) of this section as necessary based on the annual review in coordination with the safety committee, or taking input at a safety meeting when there is no safety committee.

(5) In developing the plan required by subsection (1) of this section, the health care setting must consider any guidelines on violence in the workplace or in health care settings issued by the Washington state department of health, the department of social and health services, the department of labor and industries, the federal occupational safety and health administration, medicare, and health care setting accrediting organizations.

#### NEW SECTION

**WAC 296-830-310 Workplace violence training.** (Worksites other than home care.)

(1) The employer must provide violence prevention training to all applicable employees, volunteers, and contracted security personnel.

(2) Initial training must occur within 90 days of the employee's initial hiring date. Temporary employees and employees of other employers at the worksite may be trained by their direct employer or the facility.

(3) The method and frequency of training may vary according to the information and strategies identified in the facility workplace violence plan. Trainings may include, but are not limited to, classes that provide an opportunity for interactive questions and answers, hands-on training, video training, brochures, verbal training, or other verbal or written training that is determined to be appropriate under the plan. Trainings must address the following topics, as appropriate to the particular setting and to the duties and responsibilities of the particular employee being trained, based upon the hazards identified in the plan required under WAC 296-830-300:

(a) The health care facilities workplace violence prevention plan;

(b) General safety procedures;

(c) Violence predicting behaviors and factors;

(d) The violence escalation cycle;

(e) De-escalation techniques to minimize violent behavior;

(f) Strategies to prevent physical harm with hands-on practice or role play;

(g) Response team processes;

(h) Proper application and use of restraints, both physical and chemical restraints;

(i) Documentation and reporting incidents;

(j) The debrief process for affected employees following violent acts; and

(k) Resources available to employees for coping with the effects of violence.

#### NEW SECTION

**WAC 296-830-320 Records of violent acts.** (Worksites other than home care.)

Employers must keep a record of any violent act against an employee, a patient, or a visitor occurring at the setting. Each record must be kept for at least five years following the act reported, during which time it must be available for inspection by the department upon request. At a minimum, the record must include:

- (1) The health care setting's name and address;
- (2) The date, time, and specific location at the health care setting where the act occurred;
- (3) The name, job title, department or ward assignment, and staff identification or Social Security number of the victim if an employee;
- (4) A description of the person against whom the act was committed as:
  - (a) A patient;
  - (b) A visitor;
  - (c) An employee; or
  - (d) Other;
- (5) A description of the person committing the act as:
  - (a) A patient;
  - (b) A visitor;
  - (c) An employee; or
  - (d) Other;
- (6) A description of the type of violent act as a:
  - (a) Threat of assault with no physical contact;
  - (b) Physical assault with contact but no physical injury;
  - (c) Physical assault with mild soreness, surface abrasions, scratches, or small bruises;
  - (d) Physical assault with major soreness, cuts, or large bruises;
  - (e) Physical assault with severe lacerations, a bone fracture, or a head injury; or
  - (f) Physical assault with loss of limb or death;
- (7) An identification of any body part injured;
- (8) A description of any weapon used;
- (9) The number of employees in the vicinity of the act when it occurred; and
- (10) A description of actions taken by employees and the health care setting in response to the act.

#### NEW SECTION

**WAC 296-830-330 Written policy requirement for home care settings.** (1) Employers must adopt and maintain a comprehensive written policy concerning how the employer addresses instances of discrimination, abusive conduct, and challenging behavior, and resolve issues impacting the provision of personal care.

(2) Provide the comprehensive written policy to each employee at the beginning of employment, annually, and on the issuance of any substantive update to the comprehensive written policy.

(3) Make the policy available in plain English and in each of the three languages spoken most by long-term care workers in the state.

(4) Review and update the adopted policy annually.

(5) Ensure that all employees are aware of the current policy and the changes from the previous policy.

(6) At a minimum, the comprehensive written policy must include:

(a) A definition of discrimination, harassment, abusive conduct, and challenging behavior;

(b) A description of the types of discrimination and abusive conduct covered by the policy, with examples relevant to the long-term care workforce;

(c) The identification of multiple persons to whom an employee may report discrimination, abusive conduct, and challenging behavior;

(d) Stated permission and a process for allowing workers to leave situations where they feel their safety is at immediate risk. This process must include a requirement to notify the employer and applicable third parties, such as department of social and health services case managers, emergency services, or service recipient decision makers as soon as possible. The process must not authorize abandonment as defined in RCW 74.34.020, unless the worker has called the phone number provided by the employer for emergency assistance and has a reasonable fear of imminent bodily harm;

(e) A stated prohibition against retaliation for actions related to disclosing, challenging, reporting, testifying, or assisting in an investigation regarding allegations of discrimination, abusive conduct, or challenging behavior, and a description of how the employer will protect employees against retaliation;

(f) A list of resources about discrimination and harassment for long-term care workers to utilize. At a minimum, the resources must include contact information of the equal employment opportunity commission, the Washington state human rights commission, and local advocacy groups focused on preventing harassment and discrimination and providing support for survivors; and

(g) Any additional components recommended by the work group established in RCW 49.95.060 for the purpose of preventing discrimination and abusive conduct and responding to challenging behavior.

#### NEW SECTION

**WAC 296-830-340 Abusive conduct, challenging behavior prevention and assistance plan for home care settings.** (1) The employer must implement a plan to prevent and protect employees from abusive conduct, to assist employees working in environments with challenging behavior, and work to resolve issues impacting the provision of personal care.

(2) This plan must be reviewed and updated as necessary and at least once every three years.

(3) The plan must be developed and monitored by the workplace safety committee. The members of the workplace safety committee must consist of individuals that are employee-elected, employer-selected, and include at least one service recipient representative. The number of employee-elected members must equal or exceed the number of employer-selected members. A labor management committee established by a

collective bargaining agreement that receives formal input from representatives of service recipients who wish to participate in the committee's deliberations is sufficient to fulfill the requirement for a workplace safety committee in this chapter.

(4) The plan developed under subsection (1) of this section, at a minimum, must include:

(a) Processes for intervening and providing assistance to an employee directly affected by challenging behavior including accessing technical assistance or similar resources, if available, to assist employees when challenging behavior occurs;

(b) The employer's processes to engage appropriate members of the care team, such as case managers or health professionals when allegations of discrimination, abusive conduct, or challenging behaviors occur;

(c) The development of processes for reporting, intervening, and providing assistance to an employee directly affected by abusive conduct; and

(d) The employer's processes to engage the service recipient in problem resolution with the goal of ending abusive or discriminatory conduct while working to address issues impacting the provision of personal care.

(5) Each employer and workplace safety committee must annually review the frequency of incidents of discrimination and abusive conduct in the home care setting, including identification of the causes for, and consequences of, abusive conduct and any emerging issues that contribute to abusive conduct. As part of its annual review, the workplace safety committee must also review the number of miscategorizations in aggregate. The employer must adjust the plan developed under subsection (1) of this section as necessary based on this annual review.

(6) In developing the plan required by subsection (1) of this section, the employer must consider any guidelines on violence in the workplace or in health care settings issued by the department of health, the department of social and health services, the department of labor and industries, the federal occupational safety and health administration, and the work group created in RCW 49.95.060.

(7) Nothing in this chapter requires an individual recipient of services to develop or implement the plan required by this section.

#### NEW SECTION

##### **WAC 296-830-350 Employer duty to inform home care workers. (1)**

Employers must inform an employee of instances of discrimination and abusive conduct occurring in or around the service recipient's home care setting prior to assigning the employee to that service recipient, and throughout the duration of service, if those instances are:

(a) Documented by the employer; or

(b) Documented by the department of social and health services and communicated to the employer.

(2) Employers must inform an employee, prior to assigning the employee to a service recipient, of a service recipient's challenging behavior that is documented:

(a) In the service recipient's care plan;

(b) By the employer; or

(c) By the department of social and health services and communicated to the employer.

(3) Communication of the information in subsection (1) of this section must be tailored to respect the privacy of service recipients in accordance with the federal Health Insurance Portability and Accountability Act of 1996. Upon request of the service recipient, employers must provide a copy of the information the employer communicated to the employee under subsection (1) of this section.

(4) If an employer miscategorizes an instance as discrimination or abusive conduct that should have been categorized as challenging behavior, or if an employer miscategorizes an instance as challenging behavior that should have been categorized as discrimination or abusive conduct, the employer must correct the categorization, correct how the instance was reported under RCW 49.95.050, and comply with any provisions under this chapter applicable to addressing the behavior or conduct.

(5) An employer may not terminate an employee, reduce the pay of an employee, or not offer future assignments to an employee for requesting reassignment due to alleged discrimination, abusive conduct, or challenging behavior.

(6) Nothing in this section prevents an employer from:

(a) Disciplining or terminating an employee if an allegation or request for reassignment was reasonably determined to be false or not made in good faith;

(b) Terminating an employee or reducing hours due to lack of suitable work; or

(c) Disciplining or terminating an employee for lawful reasons unrelated to their request for reassignment.

(7) Nothing in this section requires an individual recipient of services to provide information required by this section to an employee. Nothing in this chapter limits the rights of a recipient of services under chapter 74.39A RCW to select, dismiss, assign hours, and supervise the work of individual providers as in RCW 74.39A.500

(1) (b) .

#### NEW SECTION

**WAC 296-830-360 Required records of incidents reported in home care settings.** (1) Employers are required to keep a record of any reported incidents of discrimination or abusive conduct experienced by an employee during the provision of paid personal care services. The records must be kept for at least five years following the reported act and must be made available for inspection by the department or its agents upon request. If the employer makes its records available to the exclusive bargaining representative representing the employer's employees, the exclusive bargaining representative may assess whether the employer is meeting the data collection requirements in this section. The department must take into consideration the exclusive bargaining representative's assessment when determining whether an employer is in compliance with this section.

(2) The retained records must include:

(a) The employer's name and address;

(b) The date, time, and location of where the act occurred;

(c) The reporting method;

(d) The name of the person who experienced the act;

- (e) A description of the person committing the act as:
    - (i) A service recipient;
    - (ii) Another resident of the home care setting;
    - (iii) A visitor to the home care setting;
    - (iv) Another employee;
    - (v) A manager or supervisor; or
    - (vi) Other;
  - (f) A description of the type of act as one or more of the following:
    - (i) Discrimination, including discriminatory harassment;
    - (ii) Sexual harassment, inappropriate sexual behavior, or sexual contact;
    - (iii) Physical sexual aggression;
    - (iv) Rape or attempted rape;
    - (v) Workplace verbal aggression;
    - (vi) Workplace violence;
    - (vii) Workplace physical aggression; or
    - (viii) Aggravated workplace violence;
  - (g) A description of the actions taken by the employee and the employer in response to the act; and
  - (h) A description of how the incident was resolved.
- (3) Nothing in this section requires an individual recipient of services to keep, collect, or provide any data required by this section to the department.
- (4) Communication of the information in this section must be tailored to respect the privacy of service recipients in accordance with the federal Health Insurance Portability and Accountability Act of 1996.

**WSR 24-20-135**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed October 1, 2024, 4:37 p.m.]

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing to amend WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for basic food?, 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?, 388-470-0005 How do resources affect my eligibility for cash assistance and basic food?, and 388-478-0060 What are the income limits and maximum benefit amounts for basic food?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This filing is necessary to implement Supplemental Nutrition Assistance Program cost-of-living adjustments received August 3, 2024, from the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), and must be in place by October 1, 2024. DSHS has filed an emergency rule under WSR 24-20-081.

Reasons Supporting Proposal: USDA, FNS issued annual updates to standards for the upcoming federal fiscal year, effective October 1, 2024. These updates affect the standard deduction, shelter deduction, homeless shelter deduction, utility deduction, and minimum and maximum allotments for the basic food program.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.04.200, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, [no information supplied by agency].

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Alexis Miller, P.O. Box 45470, Olympia, WA 98504-5470, 253-579-3144.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: These changes are governed by changes to federal regulations and aren't subject to revision.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE

RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DSHS, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, BEGINNING noon on October 2, 2024, AND RECEIVED BY 5:00 p.m. on December 3, 2024.

October 1, 2024  
 Katherine I. Vasquez  
 Rules Coordinator

**SHS-5054.2**

AMENDATORY SECTION (Amending WSR 24-06-065, filed 3/4/24, effective 4/4/24)

**WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?** (1) We determine if your assistance unit (AU) is eligible for basic food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

(2) Under these federal laws, we subtract the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(a) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
3 or fewer	(( <del>\$198</del> ) <u>\$204</u> )
4	(( <del>\$208</del> ) <u>\$217</u> )
5	(( <del>\$244</del> ) <u>\$254</u> )
6 or more	(( <del>\$279</del> ) <u>\$291</u> )

(b) ((~~20%~~) Twenty percent) of your AU's gross earned income (earned income deduction);

(c) Your AU's expected monthly dependent care expense needed for an AU member to:

(i) Keep work, look for work, or accept work;

(ii) Attend training or education to prepare for employment; or

(iii) Meet employment and training requirements under chapter 388-444 WAC;

(d) Medical expenses over \$35 a month owed or anticipated by an elderly or disabled person as defined in WAC 388-400-0040 in your AU as allowed under WAC 388-450-0200; and

(e) A portion of your shelter costs as described in WAC 388-450-0190.



AMENDATORY SECTION (Amending WSR 24-06-065, filed 3/4/24, effective 4/4/24)

**WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food?** The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
- (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
- (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
  - (i) AU intends to return to the home;
  - (ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and
  - (iii) AU's home is not being leased or rented during your AU's absence.

(h) A homeless AU with shelter costs is eligible for a homeless shelter expense deduction of (~~(\$179)~~) \$190. If the homeless AU has shelter costs in excess of this amount, the AU has the option to claim either:

- (i) The homeless shelter deduction; or
  - (ii) Actual shelter costs.
- (2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2) (a) through (2) (d) from your AU's gross income. The result is your AU's countable income.
- (3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:
- (a) Up to a maximum of (~~(\$672)~~) \$712 if no one in your AU is elderly or disabled as defined in WAC 388-400-0040; or
  - (b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over (~~(\$672)~~) \$712.

AMENDATORY SECTION (Amending WSR 24-06-065, filed 3/4/24, effective 4/4/24)

**WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?** (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

- (a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the following amounts if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than \$20 in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of ~~((\$483))~~ \$502.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of ~~((\$483))~~ \$502.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of ~~((\$383))~~ \$396.

(d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of ~~((\$58))~~ \$56.

(3) "Utility costs" include the following:

- (a) Heating or cooling fuel;
- (b) Electricity or gas;
- (c) Water;
- (d) Sewer;
- (e) Well installation/maintenance;
- (f) Septic tank installation/maintenance;
- (g) Garbage/trash collection; and
- (h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive ~~((low income energy assistance program (LIHEAP)))~~ LIHEAP, you do not receive a utility allowance.

AMENDATORY SECTION (Amending WSR 23-24-007, filed 11/27/23, effective 2/1/24)

**WAC 388-470-0005 How do resources affect my eligibility for cash assistance and basic food?** (1) The following definitions apply to this chapter:

(a) "**We**" means the department of social and health services.

(b) "**You**" means a person applying for or getting benefits from the department.

(c) "**Fair market value**" or "**FMV**" means the price at which you could reasonably sell the resource.

(d) "**Equity value**" means the FMV minus any amount you owe on the resource.

(e) "**Community property**" means a resource in the name of the husband, wife, or both.

(f) "**Separate property**" means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance or basic food when:

(a) It is a resource we must count under WAC 388-470-0045 for cash assistance or WAC 388-470-0055 for basic food;

(b) You own the resource and we consider you to own a resource if:

(i) Your name is on the title to the property; or

(ii) You have property that does not have a title;

(c) You have control over the resource, which means the resource is actually available to you; and

(d) You could legally sell the resource or convert it into cash within 20 days.

(3) For cash assistance, you must try to make your resources available even if it will take you more than 20 days to do so, unless:

(a) There is a legal barrier; or

(b) You must petition the court to release part or all of a resource.

(4) When you apply for assistance, we count your resources as of:

(a) The date of your interview, if you are required to have an interview; or

(b) The date of your application, if you are not required to have an interview.

(5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.

(6) For cash assistance, there is an equity value resource limit of \$12,000.

(7) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for basic food.

(8) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for basic food:

(a) (~~(\$4,250)~~) \$4,500 if your AU has either an elderly or disabled individual as defined in WAC 388-400-0040; or

(b) (~~(\$2,750)~~) \$3,000 for all other AUs.

(9) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:

(a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.

(b) For basic food, we count the entire amount unless you can prove that the entire amount is not available to you.

(10) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.

(11) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.

(12) We do not count the resources of victims of family violence when:

(a) The resource is owned jointly with members of the former household;

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the client at risk of harm.

(13) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:

(a) Who owns a resource;

(b) Who has legal control of a resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property you or another person owns.

AMENDATORY SECTION (Amending WSR 24-06-065, filed 3/4/24, effective 4/4/24)

**WAC 388-478-0060 What are the income limits and maximum benefit amounts for basic food?** (1) If your assistance unit (AU) meets all other eligibility requirements for basic food, your AU must have income at or below the limits in columns B and C of this subsection to get basic food, unless you meet one of the exceptions listed below in subsection (2) of this section.

The maximum monthly food assistance benefit your AU could receive is listed in column D of this subsection.

EFFECTIVE (~~10/1/2023~~) 10/1/2024

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income (130% of Poverty Level)	Column C Maximum Net (Countable) Monthly Income (100% of Poverty Level)	Column D Maximum Allotment	Column E 165% of Poverty Level
1	<del>(\$1,580)</del> <u>\$1,632</u>	<del>(\$1,215)</del> <u>\$1,255</u>	<del>(\$291)</del> <u>\$292</u>	<del>(\$2,005)</del> <u>\$2,071</u>
2	<del>((2,137))</del> <u>2,215</u>	<del>((1,644))</del> <u>1,704</u>	<del>((535))</del> <u>536</u>	<del>((2,712))</del> <u>2,811</u>
3	<del>((2,694))</del> <u>2,798</u>	<del>((2,072))</del> <u>2,152</u>	<del>((766))</del> <u>768</u>	<del>((3,419))</del> <u>3,551</u>
4	<del>((3,250))</del> <u>3,380</u>	<del>((2,500))</del> <u>2,600</u>	<del>((973))</del> <u>975</u>	<del>((4,125))</del> <u>4,290</u>
5	<del>((3,807))</del> <u>3,963</u>	<del>((2,929))</del> <u>3,049</u>	<del>((1,155))</del> <u>1,158</u>	<del>((4,832))</del> <u>5,030</u>
6	<del>((4,364))</del> <u>4,546</u>	<del>((3,357))</del> <u>3,497</u>	<del>((1,386))</del> <u>1,390</u>	<del>((5,539))</del> <u>5,770</u>
7	<del>((4,921))</del> <u>5,129</u>	<del>((3,785))</del> <u>3,945</u>	<del>((1,532))</del> <u>1,536</u>	<del>((6,246))</del> <u>6,510</u>
8	<del>((5,478))</del> <u>5,712</u>	<del>((4,214))</del> <u>4,394</u>	<del>((1,751))</del> <u>1,756</u>	<del>((6,952))</del> <u>7,249</u>
9	<del>((6,035))</del> <u>6,295</u>	<del>((4,643))</del> <u>4,843</u>	<del>((1,970))</del> <u>1,976</u>	<del>((7,659))</del> <u>7,989</u>
10	<del>((6,592))</del> <u>6,878</u>	<del>((5,072))</del> <u>5,292</u>	<del>((2,189))</del> <u>2,196</u>	<del>((8,366))</del> <u>8,729</u>
Each Additional Member	+ <del>((557))</del> <u>583</u>	+ <del>((429))</del> <u>449</u>	+ <del>((219))</del> <u>220</u>	+ <del>((707))</del> <u>740</u>

(2) Exceptions:

(a) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C of subsection (1) of this section. We budget your AU's income to decide the amount of basic food your AU will receive.

(b) If your AU includes a member who is 60 years of age or older or has a disability, your AU's income must be at or below the limit in column C of subsection (1) of this section.

(c) If you are 60 years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E of subsection (1) of this section to decide if you can be a separate AU.

(d) If your AU has zero income, your benefits are the maximum allotment in column D of subsection (1) of this section, based on the number of eligible members in your AU.

## WSR 24-20-141

## EXPEDITED RULES

## DEPARTMENT OF LICENSING

[Filed October 2, 2024, 9:09 a.m.]

Title of Rule and Other Identifying Information: Amending WAC 308-104-014 Application for driver's license or identicard, to align with recent statutory changes under SB 5800, allowing a "responsible adult," as defined within the act, to sign on behalf of a minor for their driver license application.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Effective January 1, 2025, SB 5800 will allow a "responsible adult" to sign on behalf of a minor for their driver license application and/or motorcycle endorsement. This rule making will codify changes made during the 2024 legislative session.

Reasons Supporting Proposal: The department of licensing (DOL) is proposing amendments to include a "responsible adult" as being eligible to sign on behalf of a minor for a driver license application, pursuant to implementation of SB 5800 passed during the 2024 legislative session.

Statutory Authority for Adoption: SB 5800 and RCW 46.01.110 Rule-making authority.

Statute Being Implemented: SB 5800.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DOL, governmental.

Name of Agency Personnel Responsible for Drafting: Colton Myers, 1125 Washington Street S.E., Olympia, WA 98501, 360-634-5094; Implementation and Enforcement: Charlotte Anderson, 405 Black Lake Boulevard S.W., Olympia, WA 98502, 360-791-8287.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: SB 5800 was DOL agency request legislation. It was already vetted with external partners prior to the legislative session when proposed language was drafted. DOL also worked closely with legislators to amend language through passage.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ellis Starrett, DOL, 1125 Washington Street S.E., Olympia, WA 98504, phone 360-902-3846, email rulescoordinator@dol.wa.gov, BEGINNING October 2, 2024, AND RECEIVED BY December 2, 2024.

October 2, 2024

Ellis Starrett

Rules and Policy Manager

OTS-5845.1

AMENDATORY SECTION (Amending WSR 21-02-030, filed 12/28/20, effective 1/28/21)

**WAC 308-104-014 Application for driver's license or identicard.**

A person applying for a driver's license, instruction permit, or identification card must provide the following information:

(1) (a) The person's full name, current mailing and Washington residential address, and telephone number;

(b) A person applying for an identicard who does not have a permanent primary resident address may be issued an identicard at the cost of production if the person:

(i) Is under the age of (~~eighteen~~) 18;

(ii) Applies in person;

(iii) Attests to a lack of permanent primary resident address at each application; and

(iv) Provides a temporary mailing address where the identicard can be mailed(~~(-)~~);

(2) The person's physical description, including sex, height, weight, and eye color;

(3) The person's date of birth;

(4) (a) The person's Social Security number, if the Social Security number is required by state or federal law. If the person's Social Security number is not required by state or federal law, the person may voluntarily provide (~~(his or her)~~) their Social Security number in order to assist the department in verifying identity;

(b) If the Social Security number is required by state or federal law and the person has not been issued a Social Security number, the person must submit a sworn affidavit, under penalty of perjury, stating that (~~(he or she does)~~) they do not have a Social Security number. The department may require that a person who is applying for a license and who has signed an affidavit under this subsection provide additional documentation satisfactory to the department establishing the person's Washington residence address;

(5) Whether the person is one of multiple siblings born at the same time;

(6) If the application is for a driver's license or instruction permit, whether the person has been previously licensed, where such license was issued, and under what name;

(7) If the application is for a driver's license or instruction permit, whether the person has ever had (~~(his or her)~~) their driver's license or driving privilege suspended, revoked, canceled, disqualified, withheld, or denied, and if so, where and when such driving sanction was imposed and the reason for such action;

(8) If the application is for a driver's license or instruction permit, whether the person has had a mental or physical condition or is taking any medication which could impair (~~(his or her)~~) their ability to operate a motor vehicle;

(9) If the application is for a driver's license and the person is under the age of (~~eighteen~~) 18, a declaration by the person's parent, guardian, (~~(or)~~) employer, or responsible adult as defined in RCW 46.20.075 that (~~(he or she has)~~) they have read and understand(~~(s)~~) the intermediate license restrictions, and a declaration by the person that (~~(he or she has)~~) they have read and understand(~~(s)~~) the intermediate license restrictions;

(10) The person's signature and, if the application is for a driver's license or instruction permit and the person is under the age of (~~eighteen~~) 18, the signature of the person's custodial parent

~~((e#))~~, legal guardian, or responsible adult as defined in RCW  
46.20.075; and

(11) Any supplementary documentation as may be necessary to verify any of the information required by this section.

## WSR 24-20-142

## EXPEDITED RULES

## DEPARTMENT OF LICENSING

[Filed October 2, 2024, 9:12 a.m.]

Title of Rule and Other Identifying Information: WAC 308-104-150  
Address requests—Terms and fees.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of licensing (department) is proposing the repeal of WAC 308-104-150. The rule is redundant as records requests go through our public disclosure department, codified in chapter 308-10 WAC, Public records disclosure.

Reasons Supporting Proposal: Where not otherwise prohibited by law or rule, the department makes available the address of a person whose driving record or identicard record is maintained by the department. A request for an address must be in writing and must include the full name and the driver's license number or date of birth of the person whose address is requested.

Change: The department shall no longer collect a fee of \$2.00 for each address requested, unless otherwise prohibited by law. These requests are handled through public disclosure or our data privacy group. The repeal of the rule should not impact customers' ability to obtain records.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapter 42.56 RCW, Public Records Act.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Danielle Rannow, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3745; Enforcement: Eric Shields, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3673.

This notice meets the following criteria to use the expedited repeal process for these rules:

Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule making pertains to internal government operations. This rule making should not cause any individual to incur fees, nor should it impact a benefit or a right of a person in Washington state. This rule repeal makes clear that there are not two different service channels for these types of requests. All public records requests should go through the public disclosure process.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ellis Starrett, Department of Licensing, 1125 Washington Street S.E., Olympia, WA 98504, phone 360-902-3846, email rulescoordinator@dol.wa.gov, BEGINNING October 2, 2024, AND RECEIVED BY December 2, 2024.

October 2, 2024  
Ellis Starrett



**OTS-5847.1**

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-104-150      Address requests—Terms and fees.