

WSR 22-21-032

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed October 6, 2022, 8:00 p.m., effective November 6, 2022]

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

Purpose: To correct an administrative oversight in WAC 448-16-060(2) regarding the method for determining agreement between duplicate breath samples obtained during an evidential breath test.

WAC 448-16-060, in its current form, provides a method of determining agreement between duplicate breath samples by rounding the mean of the four results to the fourth decimal place. However, the evidential instrument, known as the Draeger Alcotest 9510, truncates to the fourth decimal place. This rule change is necessary to align the WAC language and the method employed by the Draeger Alcotest 9510.

Citation of Rules Affected by this Order: Amending WAC 448-16-060.

Statutory Authority for Adoption: RCW 46.61.506.

Adopted under notice filed as WSR 22-17-156 on August 24, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 3, 2022.

John R. Batiste
Chief

OTS-3911.1

AMENDATORY SECTION (Amending WSR 10-24-066, filed 11/30/10, effective 12/31/10)

WAC 448-16-060 Determining agreement of duplicate breath samples. Pursuant to RCW 46.61.506 the following method is approved for determining whether two breath samples agree to within plus or minus ~~((ten))~~ 10 percent of their mean.

(1) The breath test results will be reported, truncated to three decimal places.

(2) For the DataMaster instruments, the mean of the two breath test results will be calculated and rounded to four decimal places. For the Drager instrument, the mean of all four results will be calculated and ~~((rounded))~~ truncated to four decimal places.

(3) The lower acceptable limit will be determined by multiplying the above mean by 0.9, and truncating to three decimal places.

(4) The upper acceptable limit will be determined by multiplying the mean by 1.1 and truncating to three decimal places.

(5) If the individual results fall within and inclusive of the upper and lower acceptable limits, the two breath samples are valid.

[Statutory Authority: RCW 46.61.506. WSR 10-24-066, § 448-16-060, filed 11/30/10, effective 12/31/10; WSR 04-19-144, § 448-16-060, filed 9/22/04, effective 10/23/04.]