

WSR 24-09-007

EXPEDITED RULES

HEALTH CARE AUTHORITY

[Filed April 4, 2024, 1:43 p.m.]

Title of Rule and Other Identifying Information: WAC 182-526-0040  
Service of documents on another party.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The health care authority (HCA) is amending this rule to clarify language regarding service by mail.

Reasons Supporting Proposal: HCA is amending the rule to clarify that state agency use of the department of enterprise services' consolidated mail services is equivalent to use of United States mail to effect service.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 43.19.710, 43.19.715.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Kerry Breen, P.O. Box 42700, Olympia, WA 98504-2700, 1-844-728-5212.

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: The expedited rule-making process is appropriate because the proposed rule clarifies the rule's language without changing its 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 Rules Coordinator, HCA, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, fax 360-586-9272, email arc@hca.wa.gov, AND RECEIVED BY June 18, 2024.

April 4, 2024  
Wendy Barcus  
Rules Coordinator

OTS-5311.2

AMENDATORY SECTION (Amending WSR 21-18-063, filed 8/26/21, effective 9/26/21)

**WAC 182-526-0040 Service of documents on another party.** (1)

When the rules in this chapter or in other program rules or statutes require a party to serve copies of documents on other parties, the party must send copies of the documents to all other parties or their representatives.

(2) When sending documents to the office of administrative hearings (OAH) or the board of appeals (BOA), the party must file the documents at one of the locations listed in WAC 182-526-0025(2) for OAH or in WAC 182-526-0030 for BOA.

(3) When sending documents to the assigned OAH field office, the parties should use the address of the assigned OAH listed on the notice of hearing. If a field office has not been assigned, all written communication about the hearing must be sent to the OAH Olympia field office, which sends the communication to the correct office. Documents may be sent only as described in this section to accomplish service.

(4) Unless otherwise stated in law, a party may serve someone by:

(a) Personal service (hand delivery);

(b) First class, registered, or certified mail;

(c) Fax;

(d) Electronic service;

(e) Commercial delivery service; ~~((e))~~

(f) Legal messenger service; or

(g) Department of enterprise services consolidated mail services if the serving party is a state agency, including the agency and OAH. See RCW 43.19.710.

(5) A party must serve all other parties or their representatives whenever the party files a pleading, brief, or other document with ~~((the office of administrative hearings (OAH) or the board of appeals (BOA)))~~ OAH or BOA, or when required by law.

(6) Service is complete when:

(a) Personal service is made;

(b) Mail is properly stamped, addressed, and deposited in the United States mail;

(c) Mail is placed in consolidated mail services to be mailed by United States mail first class, postage prepaid, by a state agency for outgoing mail delivery;

(d) A fax produces proof of transmission;

~~((d))~~ (e) Electronic service is sent;

~~((e))~~ (f) A parcel is delivered to a commercial delivery service with charges prepaid; or

~~((f))~~ (g) A parcel is delivered to a legal messenger service with charges prepaid.

(7) A party may prove service by providing any of the following:

(a) A sworn statement;

(b) The certified mail receipt signed by the person who received the envelope;

(c) An affidavit or certificate of mailing;

(d) A signed receipt from the person who accepted the commercial delivery service or legal messenger service package; or

(e) Proof of fax or electronic service transmission.

(8) The OAH or BOA may serve documents, including notices, initial orders, and final orders, by email only if the other parties have agreed to accept electronically served documents.

**WSR 24-09-016**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Long-Term Support Administration)  
[Filed April 8, 2024, 9:10 a.m.]

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is planning to amend WAC 388-71-0752, 388-71-1055, 388-112A-0090, 388-112A-0495, 388-112A-0610, 388-112A-0611, 388-112A-0612, 388-112A-1240, and 388-112A-1245.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the amendments is to update training rules to recognize registered nurses licensed under new chapter 18.80 RCW, Interstate nurse licensure compact. Other minor edits related to grammar and consistency are also included.

Reasons Supporting Proposal: The 2023 legislature passed SSB 5499 which created chapter 18.80 RCW establishing participation in the interstate nurse licensure compact (INLC). Under INLC, the licenses of registered nurses credentialed in other participating states will be recognized in Washington state.

Current training rules only reference registered nurses licensed in Washington. These changes are necessary to provide clarity that the rules also apply to nurses licensed under INLC. Editorial changes are also included to improve clarity and conform to current instructions on style. Note: Similar changes to WAC 388-71-0839 and 388-71-1001 will be made under a separate filing.

Statutory Authority for Adoption: RCW 70.128.230, 74.39A.009, 74.39A.070, 74.39A.074; and chapter 18.80 RCW.

Statute Being Implemented: Chapter 18.80 RCW, Interstate nurse licensure compact.

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

Name of Proponent: David Chappell, DSHS, aging and long-term support administration (ALTSA), home and community services, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: David Chappell, ALTSA Headquarters, Blake West, 360-725-2516.

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: Recognition is needed for registered nurses licensed under the new interstate nurse licensure 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 Katherine I. Vasquez, Rules Coordinator, DSHS, P.O. Box 45850, Olympia, WA 98504, phone 360-664-6097, fax 360-664-6085, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m. on June 17, 2024.

April 8, 2024  
Katherine I. Vasquez  
Rules Coordinator

## SHS-5005.2

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0752 What are the adult day centers' staffing qualifications and requirements?** (1) Staff selection is dependent on participant needs, program design, and contracting requirements. The center must have the proper balance of professionals and paraprofessionals or nonprofessionals to adequately meet the needs of participants. Services must be delivered by those with adequate professional training. A staff person can have multiple functions, such as an administrator who is also responsible for providing nursing services or social services.

(2) To ensure continuity of direction and supervision, there must be a clear division of responsibility between the governing body and the adult day center administrator.

(3) The administrator must be given full authority and responsibility to plan, staff, direct, and implement the program. The administrator must also have the responsibility for establishing collaborative relations with other community organizations to ensure necessary support services to participants and their families(+) or caregivers.

(4) The administrator must be on site to manage the center's day-to-day operations during hours of operation. If the administrator is responsible for more than one site, or has duties not related to adult day center administration or provision of services, a program director must be designated for each additional site and must report to the administrator.

(5) The administrator must be responsible for the development of a written plan of operation with approval of the governing body and the development, coordination, supervision, fiscal control, and evaluation of services provided through the adult day center.

(6) A nurse or other personnel with a current first aid and CPR card must be on-site whenever participants are attending the adult day care or health program.

(7) Required credentials must be verified to ensure that they are current and in good standing for licensed and certified staff.

(8) Adult day centers may utilize a range of staff under contract or consulting from a larger parent organization or from a private entity to provide services.

(9) Staff commonly utilized by both adult day care and adult day health centers must meet the following requirements:

(a) An activity coordinator must have a bachelor's degree in recreational therapy or a related field and one year of experience (full-time equivalent) in social or health services; or an associate degree in recreational therapy or a related field plus two years of appropriate experience; or three years of paid experience in an activity program and expertise with the population served at the center.

(b) The nurse must be a registered nurse (RN) with valid ~~((state))~~ Washington or multistate credentials in good standing and have at least one-year applicable experience (full-time equivalent) in ambulatory care or hospital nursing or geriatric or preferably in home health or older adult community-based nursing ~~((and/))~~ or work with disabled clients. In addition to a registered nurse, an adult day center can utilize a licensed practical nurse (LPN), but the LPN must be supervised in compliance with all applicable nurse practice acts and standards. The LPN must have valid state credentials in good standing and at least one-year applicable experience (full-time equivalent) in ambulatory care or hospital nursing or geriatric or preferably in home health or older adult community-based nursing ~~((and/))~~ or work with disabled clients. In the adult day care center, the RN ~~((/))~~ or LPN does not need to be on site during all hours of operation. In the adult day health (ADH) center, the RN ~~((and/))~~ or LPN must be on site when the attending participants ~~((↓))~~ who need nursing services are attending the ADH program. If there are no participants who have nursing service interventions identified on their negotiated care plan in attendance, then the nurse is not required to be on site during the ADH program time.

(c) The social services professional must have a master's degree in social work, gerontology, or other human services field, or counseling and at least one year of professional work experience (full-time equivalent), or a bachelor's degree in social work, counseling, or a related field and two years of experience in a human services field.

(d) Program assistant ~~((/))~~ and aides or personal care aides must have the appropriate knowledge, skills, and training to meet the individual needs of the participants before they are allowed to provide care and services. The assistant ~~((/))~~ and aide competencies must be documented demonstrating their qualification to meet the needs of the center's participants within their job description.

(e) Consultants from a larger parent organization without formal contracts may be utilized whenever the center is part of a larger organization that has the ability to provide professional services within the larger framework.

(f) Consultants, with appropriate, valid state credentials may be utilized as needed to meet the requirements outlined in this chapter. The rehabilitative consultants must perform the professional assessment of the participant, train the staff regarding the participant's therapy needs and therapeutic ~~((intervention/s))~~ interventions, monitor the rehabilitation program and evaluate the participant's progress for discharge planning.

(g) ~~((Secretary/))~~ Secretaries and bookkeepers must have at least a high school diploma or equivalent and skills and training to carry out the duties of the position.

(h) If the adult day center provides transportation, drivers must have a valid and appropriate state driver's license, a safe driving record, and training in first aid and CPR. The driver must meet all state requirements for licensure or certification.

(i) Volunteers may be individuals or groups who desire to work with adult day center clients and must take part in program orientation and training. Volunteers and staff must mutually determine the duties of volunteers. Duties to be performed under the supervision of a staff member must either supplement staff in established activities or provide additional services for which the volunteer has special talents. Volunteers will be included in the staff ratio only when they conform to the same standards and requirements as paid staff, meet the job qualification standards of the organization, and have designated responsibilities.

(j) Dietitians must be certified with valid state credentials and have a minimum of one year applicable experience (full-time equivalent).

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-1055 What are the minimum qualifications for an instructor for basic (including 30-hour and seven-hour DDA parent providers), population specific, on-the-job, nurse delegation core, and nurse delegation specialized diabetes trainings?** An instructor for basic (including 30-hour and seven-hour DDA parent providers), population specific, on-the-job, nurse delegation core, and nurse delegation specialized diabetes training must meet the following minimum qualifications:

- (1) Be at least 21 years of age;
- (2) Has not had a professional health care, adult family home, enhanced services facility, assisted living facility, or social services license or certification revoked in Washington state; and
- (3) Meets one or more of the following education or work experience requirements upon initial approval or hire:
  - (a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting; or
  - (b) Has an associate degree or higher degree in the field of health or human services and six months of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living facility, supported living through DDA, or home care setting; or
  - (c) Has a high school diploma, or equivalent, and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living facility, supported living through DDA, or home care setting.
- (4) Meets one or more of the following teaching experience requirements:
  - (a) 100 hours of teaching adults in an appropriate setting on topics directly related to the basic training or basic training topics that may be offered as continuing education; or
  - (b) 40 hours of teaching basic training while being mentored by an instructor who is approved to teach basic training;

(5) Except for instructors for nurse delegation core and specialized diabetes training, completion of a class on adult education that meets the requirements in WAC 388-71-1066;

(6) The instructor must be experienced in caregiving practices and demonstrate competency with respect to teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing; and

(8) Community instructors for nurse delegation core and specialized diabetes trainings must have a current Washington (~~state~~) or multistate registered nurse (RN) license in good standing without practice restrictions.

AMENDATORY SECTION (Amending WSR 20-14-088, filed 6/30/20, effective 7/31/20)

**WAC 388-112A-0090 Which long-term care workers are exempt from the (~~seventy~~) 70-hour long-term care worker basic training requirement?** The following long-term care workers are exempt from the (~~seventy~~) 70-hour long-term care worker basic training requirement:

(1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;

(2) An individual previously employed as a long-term care worker who complied with the basic training requirements in effect on the date of hire and was employed as a long-term care worker at some time between January 1, 2011, and January 6, 2012;

(3) A registered nurse, licensed practical nurse, and advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW;

(4) A nursing assistant certified under chapter 18.88A RCW and a person in an approved training program for certified nursing assistants under chapter 18.88A RCW provided they complete the training program within (~~one hundred twenty~~) 120 days of the date of hire and the department of health has issued the nursing assistant certified credential within (~~two hundred~~) 200 days of the date of hire;

(5) A home health aide who was employed by a medicare certified home health agency within the year before the individual was hired as a long-term care worker and who has met the requirements of 42 C.F.R. Sec. 484.36;

(6) An individual with special education training with an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and

(7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 20-14-088, filed 6/30/20, effective 7/31/20)

**WAC 388-112A-0495 What are the specialty training and supervision requirements for long-term care workers in adult family homes, assisted living facilities, and enhanced services facilities?**

**Adult family homes.**

(1) If an adult family home serves one or more residents with special needs, the adult family home must ensure that a long-term care worker employed by the home completes and demonstrates competency in specialty training as described in WAC 388-112A-0400 within (~~one hundred twenty~~) 120 days of hire.

(2) Until a long-term care worker completes the requirements of subsection (1) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision, unless indirect supervision is allowed under subsection (3) of this section.

(3) The long-term care worker may provide personal care with indirect supervision if one or more of the following requirements are met:

(a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;

(b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;

(c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 or 18.80 RCW;

(d) The long-term care worker is a registered nurse (RN) under chapter 18.79 or 18.80 RCW; or

(e) The long-term care worker is exempt from the (~~seventy~~) 70-hour basic training under WAC 388-112A-0090.

**Assisted living facilities.**

(4) If an assisted living facility serves one or more residents with special needs, the assisted living facility must ensure that a long-term care worker employed by the facility demonstrates completion of, or completes and demonstrates competency in specialty training within (~~one hundred twenty~~) 120 days of hire. However, if specialty training is not integrated with basic training, the specialty training must be completed within (~~ninety~~) 90 days of completion of basic training.

(5) Until a long-term care worker completes the specialty training and demonstrates competency as required under subsection (4) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision, unless indirect supervision is allowed under subsection (6) of this section.

(6) The long-term care worker may provide personal care with indirect supervision if one or more of the following requirements are met:

(a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;

(b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;

(c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 or 18.80 RCW;

(d) The long-term care worker is a registered nurse (RN) under chapter 18.79 or 18.80 RCW; or

(e) The long-term care worker is exempt from the (~~seventy~~) 70-hour basic training under WAC 388-112A-0090.

**Enhanced services facilities.**

(7) All long-term care workers in enhanced services facilities must complete and demonstrate competency in mental health and dementia specialty training prior to providing client services.



AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0610 Who in an adult family home is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?**

(1) The continuing education training requirements that apply to certain individuals working in adult family homes are described (~~below~~) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

(i) A certified home care aide;

(ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing assistant, and a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) An adult family home provider, entity representative, and resident manager as provided under WAC 388-112A-0050.

(b) A long-term care worker who is a certified home care aide, must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete 12 hours of continuing education within 45 calendar days of being hired by the adult family home or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the hours of credit earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) A long-term care worker who completed basic or modified basic training after June 30, 2005, is not required to have a food handler's permit. For a long-term care worker who completed basic or modified basic caregiver training before June 30, 2005, and does not maintain a food handler's permit, continuing education must include one half hour per year on safe food handling in adult family homes as described in RCW 70.128.250.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0611 Who in an assisted living facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?**

(1) The continuing education training requirements that apply to certain individuals working in assisted living facilities are described (~~below~~) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

(i) A certified home care aide;

(ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing assistant;

(iv) A person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(v) An assisted living facility administrator or the administrator designee as provided under WAC 388-112A-0060.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete and provide documentation of 12 hours of continuing education within 45 calendar days of being hired by the assisted living facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of initial certification, no continuing education will be due for the first renewal period.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0612 Who in an enhanced services facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?** (1) The continuing education training requirements that apply

to certain individuals working in enhanced services facilities are described (~~below~~) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

(i) A certified home care aide;

(ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing assistant, and a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) An enhanced services facility applicant, facility representative, administrator, or the administrator designee as provided under WAC 388-112A-0070.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete 12 hours of continuing education within 45 calendar days of being hired by the enhanced services facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) Enhanced services facility certified home care aide staff and nursing assistant certified staff must have 10 of the 12 hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility as provided in WAC 388-107-0660.

(g) In addition to the annual continuing education requirements for individual staff, the enhanced services facility must provide three hours of staff education per quarter on topics relevant to the needs of the population served.

(2) A long-term care worker who does not complete continuing education as required in this chapter must not provide care until the required continuing education is completed.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-1240 What are the minimum qualifications for an instructor for core basic, population specific, on-the-job, residential**

**care administrator, nurse delegation core, and specialized diabetes trainings?** An instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and nurse delegation specialized diabetes trainings must meet the following minimum qualifications:

(1) Be at least 21 years of age;

(2) Has not had a professional health care, adult family home, assisted living facility, or social services license or certification revoked in Washington state;

(3) Meets one or more of the following education or work experience requirements upon initial approval or hire:

(a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting;

(b) Has an associate degree or higher degree in the field of health or human services and six months professional or caregiving experience within the last five years in a community-based setting or an adult family home, enhanced services facility, assisted living facility, supported living through the developmental disabilities administration (DDA), or home care setting; or

(c) Has a high school diploma or equivalent and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living, supported living through DDA, or home care setting;

(4) Meets one or more of the following teaching experience requirements:

(a) 100 hours of experience teaching adults in an appropriate setting on topics directly related to basic training or basic training topics that may be offered as continuing education;

(b) 40 hours of teaching basic training while being mentored by an instructor who is approved to teach basic training; or

(c) Instructors with adult family homes, enhanced services facilities, and assisted living facilities who do not have the experience described in (a) or (b) of this subsection, must have and attest to the following experience and plans in their application:

(i) 40 hours of informal teaching experiences unrelated to basic training topics such as guest lecturing, team teaching, and volunteer teaching with parks, local high schools, 4-H groups, English as a second language (ESL) groups, senior organizations, or religious organizations;

(ii) Three adult learning techniques that the instructor will implement in the long-term care worker training; and

(iii) Three ways the instructor plans on improving instructional skills and the method the instructor will use to measure improvement such as submitting the continuous improvement plan feedback from the DSHS adult education class;

(5) Except for instructors for nurse delegation core and diabetes training, completion of a class on adult education that meets the requirements of WAC 388-112A-1297;

(6) The instructor must be experienced in caregiving practices and demonstrate competency for teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing;

(8) Community instructors for nurse delegation core and diabetes training must have a current Washington or multistate registered nurse (RN) license in good standing without practice restrictions; and

(9) Facility instructors must be approved and contracted by the department as a community instructor in order to be approved to teach the following classes:

- (a) Nurse delegation core;
- (b) Nurse delegation specialized diabetes training; or
- (c) DSHS adult education training curriculum.

AMENDATORY SECTION (Amending WSR 22-10-053, filed 4/29/22, effective 5/30/22)

**WAC 388-112A-1245 What are the requirements and minimum qualifications for high school instructors and programs that offer core basic, population specific, nurse delegation, and specialty trainings?**

(1) A high school instructor teaching core basic, population specific, nurse delegation core, nurse delegation special focus on diabetes, specialty and expanded specialty trainings must meet the following minimum qualifications:

- (a) Be at least 21 years of age;
- (b) Not have had a professional, adult family home, assisted living facility, or social services license or certification revoked in Washington state;

(c) ~~((Meet the following education and work experience requirements upon))~~ Upon initial approval or hire ~~((+~~

~~(i) Have))~~, have a valid teaching credential with a related endorsement such as career and technical education, science, health, or special education; and

~~((A))~~ (i) Have caregiving experience within the last five years in a school, community-based, or home setting; or

~~((B))~~ (ii) Be a registered nurse with direct care experience within the last five years; or

~~((C))~~ (iii) Be certificated under the vocational code V511614; or

~~((D))~~ (iv) Have successfully completed core basic training taught by a DSHS approved instructor; or

~~((E))~~ (v) Have taught 40 hours of basic training while being mentored by an instructor who is approved to teach basic training;

(d) Have at least 100 hours teaching experience;

(e) Be knowledgeable in caregiving practices and demonstrate competency for teaching the course content or units being taught; and

(f) Have successfully completed a specialty or expanded specialty training class before providing training in that curriculum to others;

(2) In addition to requirements under subsection (1) of this section, an instructor for nurse delegation core or diabetes must have a current Washington or multistate registered nurse (RN) license in good standing without practice restrictions.

(3) A high school home care aide training program must be approved and contracted by the department as a community instructor program.

**WSR 24-09-019**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-15—Filed April 8, 2024, 3:01 p.m.]

Title of Rule and Other Identifying Information: Chapter 220-460 WAC, Commercial whale watching.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state legislature adopted ESSB 5371 in the 2023 legislative session. The bill changes the commercial whale watching license structure: It defines a paddle tour business license, separates the licensing of paddle tour businesses and guides from commercial watching businesses (where they were previously lumped), and changes other licensing requirements. The bill also modifies the fee structure, changing some fees and eliminating others. Following the original legislation creating the commercial whale watching licenses in 2019 (2SSB 5577), the Washington department of fish and wildlife (WDFW) initiated the rule-making process directed in the bill, which resulted in the creation of chapter 220-460 WAC on the commercial whale watching license and rules applicable to license holders. This language was updated in 2021 due to passage of ESB 5330. With the passage of ESSB 5371, some language in chapter 220-460 WAC is once again no longer in alignment with RCW 77.65.615. In the drafting of the revisions to chapter 220-460 WAC, WDFW also edited typographical errors and clarified existing rule language.

This rule-making process would: (1) Adopt content explicitly directed in Washington state statute by updating and aligning the definitions and language in chapter 220-460 WAC with the modifications to RCW 77.65.615; and (2) correct typographical errors and clarify language of the rule without changing its effect.

Reasons Supporting Proposal: ESSB 5371 was passed by the Washington legislature in April of 2023 and goes into effect in July 2023. The changes in this bill affect the current license year. This made chapter 220-460 WAC out of alignment with the 2023 revisions in RCW 77.65.615. These revisions have urgent effect on both license holders and WDFW, the entity responsible for providing licenses and enforcing requirements for license holders. This proposal modifies chapter 220-460 WAC to align with the modifications to RCW 77.65.615 while correcting some typographical errors and clarifying language of the rule without changing its effect.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, 77.65.620.

Statute Being Implemented: RCW 77.65.615, 77.65.620.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Julie Watson, Olympia, Washington, 360-902-2580; Implementation: Peter Vernie, Olympia, Washington, 360-902-2302; and Enforcement: Captain Alan Myers, Mill Creek, Washington, 425-775-1311 ext. 115.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Expedited rule making is appropriate because ESSB 5371 was passed in April of 2023 and affects the current license year. This made chapter 220-460 WAC out of alignment with the 2023 revisions in RCW 77.65.615. These revisions have urgent effect on both license holders and WDFW, the entity

responsible for providing licenses and enforcing requirements for license holders. This proposal modifies chapter 220-460 WAC to align with the modifications to RCW 77.65.615 while correcting some typographical errors and clarifying language of the rule without changing its effect.

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.
- Content is explicitly and specifically dictated by statute.

#### 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 Scott Bird, Rules Coordinator, WDFW, P.O. Box 43200, Olympia, WA 98506, phone 360-995-2442, fax 360-902-2155, email rules.coordinator@dfw.wa.gov, AND RECEIVED BY June 17, 2024.

April 8, 2024  
 Scott Bird  
 Rules Coordinator

OTS-4836.2

### **Chapter 220-460 WAC COMMERCIAL WHALE WATCHING AND PADDLE TOURS**

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-010 Definitions.** For the purposes of this chapter, the following definitions apply:

(1) **Commercial whale watching.**

"Commercial whale watching" shall be defined as the act of taking, or offering to take, passengers aboard a motorized or sailing vessel (~~or guided kayak tour in order~~) to view marine mammals in their natural habitat for a fee.

(2) **Commercial whale watching business.**

"Commercial whale watching business" means a business that engages in the activity of commercial whale watching.

(3) **Commercial whale watching operator.**

"Commercial whale watching operator" means a person who operates a motorized or sailing vessel engaged in the business of whale watching.

(4) (~~Kayak guide.~~

~~"Kayak guide" means a person who conducts guided kayak tours on behalf of a commercial whale watching business. The term kayak guide includes anyone who directs the movement or positioning of any nonmotorized commercial whale watching vessel(s) involved in a tour.~~

~~(5-))~~ **Paddle tour.**

"Paddle tour" means the act of guiding or offering to take people aboard nonmotorized or human-powered vessels, such as kayaks or paddle boards, on a trip, tour, or guided lesson that involves viewing marine mammals in their natural habitat for a fee.

**(5) Paddle tour business.**

"Paddle tour business" means a business that conducts paddle tours.

**(6) Paddle guide.**

"Paddle guide" means a person who conducts guided tours on behalf of a paddle tour business. The term paddle guide includes anyone who directs the movement or positioning of any nonmotorized commercial whale watching vessel(s) involved in a tour.

**(7) Commercial whale watching license.**

"Commercial whale watching license" means a commercial whale watching business license(~~(7)~~) or a commercial whale watching operator license(~~(7 or a kayak guide license)~~) as defined in this section.

(a) "Commercial whale watching business license" means a department-issued license to operate a commercial whale watching business.

(b) "Commercial whale watching operator license" means a department-issued license to operate a commercial motorized or sailing vessel on behalf of a commercial whale watching business.

~~((c) "Kayak guide license" means a department-issued license to conduct commercial guided kayak tours on behalf of a commercial whale watching business.~~

~~**(6) Commercial whale watching vessel.**~~

~~"Commercial whale watching vessel" means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.)~~ **(8) Paddle tour license.**

"Paddle tour license" means a paddle tour business license or a paddle guide license as defined in this section.

(a) "Paddle tour business license" means a department-issued license to operate a business that conducts paddle tours.

(b) "Paddle guide license" means a department-issued license to conduct commercial guided paddle tours on behalf of a paddle tour business.

**(9) Vessel.**

"Vessel" includes aircraft while on the surface of the water, and every description of watercraft on the water that is used or capable of being used as a means of transportation on the water.

(a) "Commercial whale watching vessel" means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.

(b) "Motorized commercial whale watching vessel" shall be defined as any vessel with an engine being used as a means of transportation for individuals to engage in commercial whale watching, regardless of whether the engine is in use. This definition includes sailboats with inboard or outboard motors.

~~((b))~~ (c) "Nonmotorized (~~(commercial whale watching)~~) vessel" or "paddle tour vessel" shall be defined as any vessel without an engine being used as a means of transportation for individuals to engage in (~~(commercial whale watching)~~) a paddle tour. This definition includes human-powered watercraft such as kayaks and paddleboards. ((~~¶~~



~~this chapter, the terms "kayak," "kayak guide," and "kayak tour" encompass any nonmotorized vessels used for whale watching.~~

~~((7))~~ **(10) Group of southern resident killer whales.**

"Group of southern resident killer whales" is defined as a single southern resident killer whale or an assemblage of southern resident killer whales wherein each member is within one nautical mile of at least one other southern resident killer whale. Any individual(s) farther than one nautical mile constitutes a separate group.

~~((8))~~ **(11) Vicinity.**

"Vicinity" is defined as one-half nautical mile from all southern resident killer whales in the group. References to "vicinity" in this chapter do not permit operators to approach a southern resident killer whale closer than the statutorily defined distances in RCW 77.15.740.

~~((9))~~ **(12) Vicinity instance.** Each time any commercial whale watching vessel or nonmotorized vessel operating under a license enters within one-half nautical mile of a southern resident killer whale will count as one vicinity instance associated with that license.

~~((10))~~ **(13) Automatic identification system (AIS).** AIS refers to a maritime navigation safety communications system standardized by the International Telecommunication Union, adopted by the International Maritime Organization, that:

(a) Provides vessel information, including the vessel's identity, type, position, course, speed, navigational status and other safety-related information automatically to appropriately equipped shore stations, other ships, and aircraft;

(b) Receives automatically such information from similarly fitted ships, monitors and tracks ships; and

(c) Exchanges data with shore-based facilities.

~~((11))~~ **(14) Inland waters of Washington.**

"Inland waters of Washington" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on July 1, 2007.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-020 Commercial whale watching and paddle tour licenses—Application process and deadline.** (1) License requirements.

(a) A commercial whale watching business license is required for commercial whale watching businesses (~~(, motorized and sailing vessel operators, and kayak guides)~~) as defined in this chapter.

(b) A paddle tour business license is required for paddle tour businesses as defined in this chapter.

(c) A commercial whale watching operator license is required for commercial whale watching operators as defined in this chapter.

(d) A paddle guide license is required for paddle guides as defined in this chapter.

(2) Applicants must be at least ~~((sixteen))~~ 16 years of age and possess a driver's license or other government-issued identification number and jurisdiction of issuance.

(3) Applicants for a commercial whale watching business license or paddle tour business license must be authorized to conduct business within the state of Washington. However, the residency and business requirements of RCW 77.65.040 (2) and (3) do not apply to Canadian individuals or corporations applying for and holding Washington commercial whale watching licenses.

(4) The commercial whale watching or paddle tour business license application must include the following information regarding the whale watching or paddle tour business:

(a) The applicant must identify the (~~whale watching~~) business name, type of business (i.e., sole proprietor, partnership, corporation), and for all associated business owner(s): Full name, association to the business, email address, telephone number, and Social Security number if the business owner is a United States citizen or resident.

(b) The applicant must identify and confirm the (~~whale watching~~) business is registered to conduct business within the state by providing the unified business identifier (UBI) number. Canadian commercial whale watching businesses are exempt from this requirement.

(5) (~~The commercial whale watching~~) Any business license applicant must also designate, as applicable, all commercial whale watching operators authorized to operate a motorized or sailing vessel (~~and all kayak~~) or all paddle guides authorized to guide a (~~kayak~~) paddle tour on behalf of the business. The applicant must identify (~~the~~) each operator's or (~~kayak~~) paddle guide's full name and date of birth.

(6) On the commercial whale watching business license application, the applicant must designate all commercial whale watching vessels to be used while engaging in commercial whale watching.

(a) The applicant must indicate either motorized or sailing vessels (~~or kayaks~~) on the application.

(b) (~~If motorized or sailing vessels are selected, then~~) The applicant must select the appropriate option for the passenger capacity on (~~the~~) each designated vessel.

(7) Commercial whale watching operator license applicants and (~~kayak~~) paddle guide license applicants must provide their full name, date of birth, Social Security number (U.S. citizens and residents only), gender, hair, eyes, weight, height, physical address, mailing address, email address, and telephone number.

(8) An application submitted to the department shall contain the applicant's declaration under penalty of perjury that the information on the application is true and correct.

(9) Applications must be completed and submitted online through the department-provided commercial licensing system, or by mailing the application to:

Washington Department of Fish and Wildlife  
Attn: Commercial License Sales  
P.O. Box 43154  
Olympia, WA 98504-3154

(10) If the required fields are blank or omitted from the application, then the department will consider the application to be incomplete, and it will not be processed.

AMENDATORY SECTION (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-030 Commercial whale watching and paddle tour license cards—Replacements.** (1) Upon lawful application, a commercial whale watching license or paddle tour license in the form of a license card or certificate will be issued by the department.

(2) The fee to replace a license card that has been lost or destroyed is ~~((twenty dollars))~~ \$20.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-040 Commercial whale watching ~~((licensing business organizations))~~ and paddle tour businesses—Operator or guide designation.** (1) Any person that holds a commercial whale watching business license or paddle tour business license may designate other persons associated with the business to act on behalf of the license holder to update the business information within the organization's account.

(2) A commercial whale watching business license holder or paddle tour business license holder may designate an unlimited number of operators or ~~((kayak))~~ paddle guides, respectively, so long as each individual obtains the license required under WAC 220-460-070.

(3) A commercial whale watching business license holder or paddle tour business license holder must maintain an accurate record with the department of operators authorized to operate motorized vessels ~~((and kayak))~~ or paddle guides authorized to guide ~~((kayak))~~ paddle tours on behalf of the business. Commercial whale watching or paddle tour business license holders may add operators ~~((and kayak))~~ or paddle guides to the list associated with the business license by entering the operator's or ~~((kayak))~~ paddle guide's full name and date of birth in the business account through the commercial licensing system.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-050 Whale watching vessel designation requirements and required operator and paddle guide documentation.** (1) RCW 77.65.615 requires commercial whale watching businesses to designate the motorized vessel(s) ~~((and indicate if kayaks))~~ that will be used for commercial whale watching. It is unlawful to engage in commercial whale watching activities unless:

(a) The licensee has designated all commercial whale watching motorized, including sailing, vessels to be used ~~((, and has designated if kayaks will be used))~~;

(b) The department has issued a commercial license to the licensee showing the motorized vessel ~~((or kayaks))~~ so designated; and

(c) The person conducting commercial whale watching activities on behalf of the business has the appropriate documentation in physical possession.

~~((i))~~ The operator of a motorized or sailing vessel must have both the commercial whale watching business license listing the vessel

and their individual operator license for the current calendar year in physical possession.

~~((ii) The guide of a commercial kayak tour must have their individual kayak guide license in physical possession and must have either the commercial whale watching business license for the current calendar year or a printed or digital scan thereof.))~~

(2) The licensee does not have to own the vessel being designated on the license.

(3) For motorized or sailing vessels, the commercial whale watching business licensee must provide applicable documentation numbers such as a hull identification number (HIN), current United States Coast Guard or Transport Canada certification inspection documentation, and/or a vessel registration number.

(4) It is unlawful to engage in paddle tour activities unless the person conducting paddle tour activities on behalf of the business has the appropriate documentation in physical possession.

The guide of a commercial paddle tour must have their individual paddle guide license in physical possession and must have either the commercial whale watching business license for the current calendar year or a printed or digital scan thereof.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-060 Whale watching vessel ((substitutions—Fees)) changes.** The holder of a commercial whale watching business license may ~~((add or substitute a vessel designated on))~~ designate an additional vessel on the license within the calendar year if the license holder ~~((:~~

- ~~(1) Surrenders the previously issued license to the department;~~
- ~~(2))~~ submits to the department ((a substitution)) an application ((and application fee)) that identifies the ((currently assigned vessel, and the)) vessel proposed to be designated((; and
- ~~(3) Submits vessel substitution fees corresponding to the size of the vessel))~~ and any other information required by the department.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-070 Whale watching operator and ((kayak)) paddle guide license requirements.** (1) A person may operate a motorized or sailing vessel designated on the commercial whale watching business license only if:

- (a) The person holds a valid commercial whale watching operator license issued from the department;
- (b) The operator is designated on the underlying commercial whale watching business license; and
- (c) The person has both the commercial whale watching business license listing the vessel and their individual operator license for the current calendar year in physical possession.

(2) A person may lead a guided ~~((kayak))~~ paddle tour on behalf of the commercial whale watching business only if:

(a) The person holds a valid ((kayak)) paddle guide license issued from the department;

(b) The ((kayak)) paddle guide is designated on the underlying ((commercial whale watching)) paddle tour business license; and

(c) The person has their individual ((kayak)) paddle guide license in physical possession and must have either the ((commercial whale watching)) paddle tour business license for the current calendar year or a printed or digital scan thereof.

(3) Only an individual at least ((sixteen)) 16 years of age may hold an operator license or ((kayak)) paddle guide license.

(4) An individual may hold only one commercial whale watching operator license. Holders of an operator license may be designated on an unlimited number of commercial whale watching business licenses.

(5) An individual may hold only one ((kayak)) paddle guide license. Holders of a ((kayak)) paddle guide license may be designated on an unlimited number of ((commercial whale watching)) paddle tour business licenses.

AMENDATORY SECTION (Amending WSR 21-01-216, filed 12/23/20, effective 1/23/21)

**WAC 220-460-080 Expiration and renewal of licenses.** Commercial whale watching and paddle tour licenses expire at midnight on December 31st of the calendar year for which they are issued. Licenses may be renewed annually upon application and payment of the prescribed license fees.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-090 Commercial whale watching of southern resident killer whales and paddle tours operating near southern resident killer whales—General.** (1) It is unlawful for a commercial whale watching operator or ((kayak)) paddle guide to violate any of the restrictions in RCW 77.15.740.

(2) ((A commercial whale watching license is)) Licenses issued by the department under this chapter are not an exemption under RCW 77.15.740 (2) (c).

(3) The rules and requirements outlined in this chapter regarding southern resident killer whales apply to commercial whale watching and paddle tour activity in the inland waters of Washington.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-100 Areas closed to commercial whale watching.** (1) It is unlawful for operators of motorized commercial whale watching vessels to operate one-quarter nautical mile from shore from Mitchell Point to Cattle Point on the west side of San Juan Island or within one-half nautical mile of Lime Kiln Point State Park. ((Kayak)) Paddle

guides and all vessels on guided ((~~kayak~~)) paddle tours must stay within ((~~one hundred~~)) 100 yards of shore within this zone except when safety conditions preclude it.

(2) Modifications or additions to closed areas may be issued by the department by rule. Violation of such rules shall be unlawful.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-130 Nonmotorized ((~~commercial whale watching~~)) pad-  
dle tour vessels.** (1) Tours involving any nonmotorized watercraft used for the purposes of ((~~commercial whale watching~~)) paddle tours, such as kayaks, are subject to these requirements. Such watercraft constitute ((~~commercial whale watching~~)) paddle tour vessels and are referred to as "vessels" in this chapter. Regardless of the type of nonmotorized watercraft involved, the person operating on behalf of the business to conduct the tour is referred to as a "((~~kayak~~)) paddle guide" in this chapter.

(2) ((~~Kayak~~)) Paddle guides must prevent all vessels in their tour group from disturbing southern resident killer whales. All vessels in the tour group must adhere to the following requirements:

(a) It is unlawful to launch if southern resident killer whales are within one-half nautical mile of the launch location.

(b) Vessels are prohibited from being paddled, positioned, or waiting in the path of a southern resident killer whale. If a southern resident killer whale is moving towards a vessel, the vessel must immediately be moved out of the path of the whale.

(c) If a vessel or vessels inadvertently encounter a southern resident killer whale, they must immediately be moved as close to shore as possible and secured, or be rafted up close to shore or in a kelp bed, and paddling shall cease until any and all killer whales have moved to at least ((~~four hundred~~)) 400 yards away from the vessels. Rafting up is defined as manually holding vessels close together, maintaining a tight grouping.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-140 Commercial whale watching and paddle tour compliance and reporting.** (1) An automatic identification system (AIS) must be fitted aboard all motorized commercial whale watching vessels. The AIS must be capable of providing information about the vessel (including the vessel's identity, type, position, course, speed, and navigational status) to state and federal authorities automatically. Operators must maintain the AIS in operation at all times that the vessel is conveying passengers for a fee.

(2) All commercial whale watching and paddle tour license holders must complete annual training from the department on marine mammals, distances on the water, impacts of whale watching on marine mammals, and southern resident killer whale-related rules and reporting.

(a) At completion of training, license holders must demonstrate adequate understanding of course materials.

(b) It is unlawful to operate a commercial whale watching vessel or guide a tour of nonmotorized vessels without completing the training for the current calendar year.

(c) Naturalists and others who work upon commercial whale watching vessels but are not license holders are encouraged to participate in the annual training.

(3) All commercial whale watching and paddle tour license holders shall maintain accurate logs on each instance a vessel operating under a license enters within one-half nautical mile vicinity of southern resident killer whales and submit copies of the logs to the department.

(a) Logs must include business license holder name; vessel operator or (~~kayak~~) paddle guide name; other staff names and roles; vessel name; port(s) of departure; departure time(s); return time(s); number of passengers; location(s) (Lat/Long) of southern resident killer whales encountered; time(s) entering and departing the one-half nautical mile vicinity of southern resident killer whales; time(s) entering and departing within (~~four hundred~~) 400 yards of southern resident killer whales; and qualitative details of southern resident killer whale encounters including whale identification, whale behavior and health, other vessel behavior, and any operator behavior, including contact with other boaters or government entities, and resulting outcomes.

(b) Information from the logs shall be submitted to the department on the following schedule:

(i) All vicinity instances in July must be reported by August 15th.

(ii) All vicinity instances in August must be reported by September 15th.

(iii) All vicinity instances in September must be reported by October 15th.

(iv) Operators of motorized commercial whale watching vessels must report vicinity instances that happen outside of the permitted hours and days described in WAC 220-460-120 within (~~twenty-four~~) 24 hours.

(v) (~~Kayak~~) Paddle guides must report vicinity instances that happen October through June within one week.

(c) It is unlawful to fail to report a vicinity instance or to fraudulently report the details of a vicinity instance.

(d) Logs must be provided for inspection on request of department law enforcement.

(4) All motorized commercial whale watching license holders must log accurate, complete sighting information to the WhaleReport application for the whale report alert system (WRAS), or to a successor transboundary notification system designated by the department that is adopted by the international shipping community in the Salish Sea, immediately upon entering within one-half nautical mile of a southern resident killer whale.

AMENDATORY SECTION (Amending WSR 21-23-070, filed 11/15/21, effective 12/16/21)

**WAC 220-460-150 Penalties.** (1) Commercial whale watching or paddle tour license holders in violation of WAC 220-460-090 may be issued a notice of infraction punishable under chapter 7.84 RCW that

carries a fine of (~~five hundred dollars~~) \$500, not including statutory assessments added pursuant to RCW 3.62.090.

(2) Commercial whale watching or paddle tour license holders out of compliance with WAC 220-460-100, 220-460-110, 220-460-120, 220-460-130, or 220-460-140 may be issued a notice of infraction that carries a fine of up to (~~five hundred dollars~~) \$500, not including statutory assessments added pursuant to RCW 3.62.090.

(3) Nothing in this chapter prohibits the filing of criminal charges for violations of RCW 77.15.815 in lieu of issuance of a notice of infraction.



**WSR 24-09-035**

**WITHDRAWAL OF**

**EXPEDITED RULE MAKING**

**HEALTH CARE AUTHORITY**

[Filed April 11, 2024, 11:18 a.m.]

The health care authority (HCA) requests withdrawal of expedited rule making filed as WSR 24-06-072, distributed in issue 24-06 of the Washington State Register. HCA will file this rule making under a CR-101 preproposal statement of inquiry.

Wendy Barcus  
Rules Coordinator

WSR 24-09-042

EXPEDITED RULES

BELLEVUE COLLEGE

[Filed April 12, 2024, 1:38 p.m.]

Title of Rule and Other Identifying Information: Chapter 132H-131 WAC, Scholarships and financial aid.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Delete this chapter.

Reasons Supporting Proposal: The chapter provides no substance and no information other than the address of the college. Under new rules coordinator and in coordination with relevant offices, it was determined this chapter is not needed in Bellevue College's WAC.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140.

Statute Being Implemented: RCW 34.05.353.

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

Name of Proponent: Bellevue College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Loreen M. Keller, 3000 Landerholm Circle S.E., A-201, Bellevue, WA 98007, 425-564-6155.

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

The rule is no longer necessary because of changed circumstances.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The rule is no longer necessary because of changed circumstances.

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 Loreen M. Keller, Bellevue College, 3000 Landerholm Circle S.E., phone 425-564-6155, email loreen.keller@bellevuecollege.edu, AND RECEIVED BY July 23, 2024.

April 12, 2024  
Loreen M. Keller  
Associate Director  
Policies and Special Projects

OTS-5235.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132H-131-010 Scholarships.
- WAC 132H-131-020 Financial aid.



**WSR 24-09-054**  
**EXPEDITED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Commission Docket A-231001—Filed April 15, 2024, 11:56 a.m.]

**Title of Rule and Other Identifying Information:** This rule making would revise adoption-by-reference dates and correct ministerial errors in Title 480 WAC to incorporate the most recent version of adopted federal rules and other adopted publications and provide corrected phone numbers and reference links.

Rules affected include: WAC 480-14-999, 480-15-999, 480-30-999, 480-31-999, 480-62-235, 480-62-245, 480-62-999, 480-70-999, 480-75-999, 480-90-999, 480-93-999, 480-100-999, 480-120-999, and 480-123-999.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** This proposal would revise the adoption-by-reference dates to reflect the current version(s) of adopted materials and make other minor administrative updates and corrections.

**Reasons Supporting Proposal:** The utilities and transportation commission (commission) adopts by reference several parts in Title 18, Title 47, and Title 49 C.F.R. and other state rules and national standards. This adoption package will make commission rules consistent with current published versions of federal rules and reflect the most current versions of the national safety standards.

**Statutory Authority for Adoption:** RCW 80.10.040, 80.04.160, 81.04.160, and 34.05.353.

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

**Name of Proponent:** 621 Woodland Square Loop S.E., Lacey, WA 98503, governmental.

**Name of Agency Personnel Responsible for Drafting:** Paige Doyle, Administrative Law Judge, 621 Woodland Square Loop S.E., Lacey, WA 98503, 360-664-1140; **Implementation and Enforcement:** Jeff Killip, Executive Director and Secretary, 621 Woodland Square Loop S.E., Lacey, WA 98503, 360-664-1173.

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.

**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 Jeff Killip,

Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, phone 360-664-1160, email records@utc.wa.gov, AND RECEIVED BY June 17, 2024.

April 15, 2024

Jeff Killip

Executive Director and Secretary

### OTS-5339.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-14-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publication, effective dates, references within this chapter, and availability of the resource is within Title 49 Code of Federal Regulations (C.F.R.), including all appendices and amendments is published by the United States Government Printing Office.

(1) The commission adopts the version in effect on December 31, ((2022)) 2023, for 49 C.F.R. Parts 171, 172 and 173.

(2) This publication is referenced in WAC 480-14-250 (Insurance requirements).

(3) Copies of Title 49 C.F.R. are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

### OTS-5340.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-15-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **North American Standard Out-of-Service Criteria** (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ((2023)) 2024.

(b) This publication is referenced in WAC 480-15-560 ((~~Equipment~~)) Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-15-560 ((~~Equipment~~)) Vehicle and driver safety requirements) ((~~and WAC 480-15-570 (Driver safety requirements)~~)).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

### OTS-5341.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-30-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **North American Standard Out-of-Service Criteria** (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ((2023)) 2024.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements) and WAC 480-30-226 (Intrastate medical waivers).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

### OTS-5342.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-31-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **North American Standard Out-of-Service Criteria** (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ((2023)) 2024.

(b) This publication is referenced in WAC 480-31-120 (Equipment—Inspection—Ordered for repairs).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-31-100 (Equipment—Safety), WAC 480-31-120 (Equipment—Inspection—Ordered for repairs), and WAC 480-31-130 (Operation of motor vehicles).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

## OTS-5338.2

AMENDATORY SECTION (Amending WSR 11-04-041, filed 1/25/11, effective 2/25/11)

**WAC 480-62-235 Flaggers.** (1) The rules in this section apply whenever a railroad company engages in the maintenance, repair, or construction of a grade crossing or grade separated crossing; however, they do not apply when flaggers are provided only because of a crossing signal malfunction or only because of inspections or repairs to a crossing signal system. The latter circumstances are covered by 49 C.F.R., Part 234. In addition, 49 C.F.R. Part 234.5 recommends that railroad companies follow the requirements of Part VI of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) to the extent possible. The commission further recommends that railroads also abide by the following rules to the extent possible in situations covered by 49 C.F.R. Part 234.

(2) Except as otherwise required in this section, traffic control devices, signs, barricades, and signaling methods must be set up in accordance with the provisions of the Manual on Uniform Traffic Control Devices (MUTCD). The commission adopts, by reference, specific portions of the MUTCD, as follows:

(a) Chapter ((8A.08)) 8A.13, Temporary Traffic Control Zones;

(b) Chapter ((6A)) 6A.01, General;

(c) Chapter ((6B)) 6A.02, Fundamental Principles of Temporary Traffic Control;

(d) Chapter ((6D)) 6C, Pedestrian and Worker Safety;

(e) Chapter ((6E)) 6D, Flagger Control;

(f) Chapter ((6G.18)) 6N.17, Work in the Vicinity of a Grade Crossing.

(3) Flaggers are to be used only when other reasonable means of control will not adequately control traffic in work zones. It may be

reasonable in some cases to close the road on which the crossing is located, but only if agreed to by the public authority responsible for the roadway.

(4) Standards for high-visibility safety apparel.

(a) While flagging during daylight hours, a flagger must, at a minimum, wear:

- A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 207-~~((2006))~~ 2020, American National Standard for High-Visibility Public Safety Vests ~~((, specifically, a garment containing at least seven hundred seventy-five square inches of background material and two hundred one square inches of retro-reflective material)); and~~

- A high-visibility hard hat.

(b) While flagging at night, a flagger must, at a minimum, wear:

- A high-visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 207-~~((2006))~~ 2020 over white coveralls, or other coveralls or trousers designed according to ANSI/ISEA 207-~~((2006))~~ 2020 standards; and

- A high-visibility hard hat ~~((that is marked with at least twelve square inches of reflectorized material providing three hundred sixty degrees of visibility))~~.

(c) While flagging during inclement weather, yellow rain gear, white rain gear, or rain gear designed according to ANSI/ISEA 207-~~((2006))~~ 2020 may be substituted for white coveralls.

(5) Railroad companies must develop and use a method to ensure that whenever there is any potential hazard associated with motor vehicles, construction equipment, or on-track equipment, that flaggers have adequate warning of objects approaching from behind the flagger.

Note: The following are some nonmandatory examples of methods that may be used to adequately warn flaggers:

- Mount a mirror on the flagger's hard hat;
- Use a motion detector with audible warning; or
- Use a spotter.

(6) (a) Railroad companies must conduct an on-site safety briefing for flaggers each time a flagger reports for duty, and also when job site conditions change significantly. The briefing must include applicable portions of the traffic control plan and any changes applicable during the flagger's shift. If not covered in the traffic control plan, the briefing must also include:

- The flagger's role and location at the job site;
- Motor vehicles and equipment in operation at the site;
- Job site traffic patterns;
- Communications and signals to be used between flaggers and equipment operators;
- Expected train and other on-track equipment movements;
- On-foot escape route; and
- Other hazards specific to the job site.

(b) When flaggers are used on a job site at a roadway allowing speeds of ~~((forty-five))~~ 45 mph or more and the job will last more than one day, the railroad company must keep on the site a current site-specific traffic control plan. The purpose of this plan is to help move traffic through or around the construction zone in a way that protects the safety of the traveling public, pedestrians and workers. The plan must include, but is not limited to, such items as:

- Sign use and placement;
- Application and removal of pavement markings;
- Construction;
- Scheduling;



- Methods and devices for delineation and channelization;
- Placement and maintenance of devices;
- Placement of flaggers;
- Roadway lighting;
- Traffic regulations; and
- Surveillance and inspection.

(7) (a) Where flaggers are used on roads allowing speeds of at least (~~forty-five~~) 45 mph, the railroad company must provide an additional warning sign marked "BE PREPARED TO STOP."

(b) This sign is in addition to those required by Part VI of the Manual on Uniform Traffic Control Devices. It should be placed between the last two warning signs in the series or on the opposite side of the road when used on undivided roads.

(c) This additional sign does not increase the required advance warning area.

(d) The purpose of this additional sign is to clearly point out that a flagger will be encountered and the driver should be prepared to stop.

(8) To protect flaggers, railroad companies must ensure that:

(a) Flagger workstations are illuminated at night and during inclement weather by floodlights. It is important to adequately illuminate the workstation without creating glare in the eyes of approaching drivers. The adequacy and proper placement of floodlights can best be determined by driving through and observing the workstation from each direction on the roadway.

(b) Warning signs reflect the actual condition of the work zone. When not in use, warning signs should either be taken down or covered.

(c) Flaggers are not assigned other duties while engaging in flagging activities.

(d) Flaggers do not use devices (e.g., cell phones, pagers, or radio headphones) that may distract the vision, hearing, or attention of the flagger. Devices such as two-way radios used for communication between flaggers to direct traffic or ensure flagger safety are acceptable.

(e) Flaggers receive appropriate breaks from flagging so they can remain attentive and alert.

(9) Unless an emergency makes it impossible, before performing any work, railroad companies must coordinate all repair, maintenance, and construction work with the governing authority responsible for the road on which the crossing exists.

(10) Information about Title 49 C.F.R., the Manual on Uniform Traffic Control Devices, and ANSI/ISEA 207-~~(2006)~~ 2020 regarding the versions adopted and where to obtain them is set out in WAC 480-62-999.

AMENDATORY SECTION (Amending WSR 18-10-001, filed 4/18/18, effective 5/19/18)

**WAC 480-62-245 Railroad owned or operated passenger carrying vehicles—Operation. (1) General.**

(a) All passenger carrying motor vehicles must be operated in compliance with state law no matter where the vehicle is operated.

(b) Drivers must operate vehicles in a careful and prudent manner and at reasonable and proper speeds, with due regard to circumstances and to the use of highways by others.

(2) **Minimum age, skill, and physical condition of drivers.**

(a) Drivers of passenger carrying vehicles must be at least (~~eighteen~~) 18 years old.

(b) Before being allowed to drive or operate a passenger carrying vehicle, drivers must have demonstrated the physical capability of handling the controls of the vehicle with ease.

(c) Before driving a vehicle, drivers or operators must obtain either a valid Washington state driver's license or a valid license from the state of the driver's residence. The driver must carry the license at all times while operating a vehicle. If the passenger carrying vehicle is a type for which the state of Washington requires an extraordinary license or endorsement, the driver must have such license or endorsement.

(3) **Driver's daily hours of service.** No driver of any passenger carrying vehicle may drive for more than (~~ten~~) 10 hours without resting afterward for a minimum of eight consecutive hours.

(4) **Refueling.** No driver or any employee of a railroad company operating within the state may:

(a) Fuel a passenger carrying vehicle with the engine running;

(b) Smoke or expose any flame in the vicinity of a vehicle being fueled;

(c) Fuel a passenger carrying vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank;

(d) Insofar as practicable, permit any other person to engage in activities that might result in a fire or explosion;

(e) Except on buses, all occupants of the vehicle, except the driver and those within the operating cab, must dismount and stand clear while the vehicle is being refueled.

(5) **Driving rules.**

(a) Drivers must bring vehicles to a complete stop not less than (~~fifteen~~) 15 feet from the nearest rail of any at-grade crossing before crossing the track except:

(i) Where traffic is controlled by a police officer or a duly authorized flagger;

(ii) Where traffic is regulated by a traffic control signal;

(iii) Where traffic is controlled by crossing gate arms or an alternately flashing light signal intended to give warning of the approach of a train; or

(iv) Where an official traffic control device as designated by the commission pursuant to RCW 81.53.060 (i.e., an "EXEMPT" sign, specified as R15-3P by the Manual on Uniform Traffic Control Devices) gives notice that the stopping requirement imposed by this section does not apply. Information about the Manual on Uniform Traffic Control Devices regarding the version adopted and where to obtain it is set out in WAC 480-62-999.

(b) Drivers must not change gears while crossing any railroad tracks.

(c) No driver may consume alcohol or ingest any controlled substance while on duty, or drive while affected by the use of intoxicating liquor or other substance that might impair the ability to drive.

(d) No driver may proceed down a grade with the gears in neutral or the clutch disengaged.

(e) At the beginning of his or her use of a vehicle, the driver must perform a brake test immediately before, and immediately after, the vehicle begins moving to ensure that the brakes are functioning properly.

**(6) Loading and carrying of passengers.**

(a) Drivers are in charge of the vehicle and must require passengers to observe vehicle rules.

(b) Passengers may not enter or exit from the vehicle while it is in motion, or ride on running boards, fenders, bumpers, tops of cabs, or with any part of their body projecting beyond the sides or the ends of the vehicle.

**(7) Carrying equipment or tools.**

(a) When equipment or tools are carried inside the vehicle, they must be stored in enclosed racks or boxes that are secured to the vehicle in a manner that prevents employees from being struck in the event of sudden starts, stops, or turns.

(b) All tools and equipment, including cylinders, containers, or drums must be properly secured so they will not interfere with the use of any exit.

(c) The driver must ensure that equipment and tools are properly secured before moving the vehicle.

**(8) Limitation on transportation of explosives, gasoline, and other hazardous materials on passenger carrying vehicles.**

(a) Explosives other than track torpedoes and fusees may not be carried in or on any vehicle while the vehicle is being used to transport crew members in a passenger compartment.

(b) If track torpedoes or fusees are carried in a passenger carrying vehicle, they must be carried in a separate compartment or container provided for that purpose.

(c) Gasoline, or other hazardous materials, must not be carried in either the cab or in the passenger compartment; however, oxygen or acetylene cylinders may be carried if gauges and regulators have been removed with caps in place before loading.

(d) Passenger carrying vehicles may be used to carry flammable materials when they are located outside of and isolated from the passenger carrying area, and are stored in containers approved by the Underwriters Laboratories, Inc. Containers for fuel must be vented in a manner that prevents the hazardous concentration of fumes.

(e) A passenger carrying vehicle containing hazardous materials must not be parked within (~~three hundred~~) 300 feet of an open fire.

(f) Smoking is prohibited within (~~fifty~~) 50 feet of a vehicle carrying explosive or flammable materials.

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-62-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-62-160 (Compliance policy), WAC 480-62-200 (Roadway worker safety and operating rules and statutes), WAC 480-62-205 (Track safety standards), WAC 480-62-210 (Crossing signal circuitry), WAC 480-62-215 (Hazardous materials regulations), WAC 480-62-235 (Flaggers), WAC 480-62-240 (Railroad owned or operated passenger carrying vehicles—Equipment), WAC 480-62-278 (Contract crew transportation vehicle and driver safety requirements), and WAC 480-62-293 (Contract crew transportation enforcement).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

(2) **Manual on Uniform Traffic Control Devices**, cited as Manual on Uniform Traffic Control Devices, or MUTCD, is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-62-230 (Traffic control devices), WAC 480-62-235 (Flaggers), and WAC 480-62-245 (Railroad owned or operated passenger carrying vehicles—Operation).

(c) Copies of the MUTCD are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **ANSI/ISEA Z308.1 - 2021 American National Standard for Minimum Requirements for Workplace First Aid Kits** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-62-240 (Passenger carrying vehicles—Equipment).

(c) Copies of ANSI/ISEA Z308.1 - 2021 American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies are available from American National Standards Institute.

(4) **ANSI/ISEA 207-2011 - American National Standard for High-Visibility ((Public)) Safety ((Vests)) Apparel** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-62-235 (Flaggers).

(c) Copies of ANSI/ISEA 207-2011 - American National Standard for High-Visibility ((Public)) Safety ((Vests)) Apparel are available from American National Standards Institute.

(5) **North American Standard Out-of-Service Criteria** (OOSC) is published by the *Commercial Vehicle Safety Alliance* (CVSA).

(a) The commission adopts the version in effect on April 1, ((2023)) 2024.

(b) This publication is referenced in WAC 480-62-278 (Contract crew transportation vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

**OTS-5343.1**

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-70-999 Adoption by reference.** In this chapter, the commission adopts by reference all, or portions of, regulations and standards identified below. They are available for inspection at the commission library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **The North American Standard Out-of-Service Criteria** is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ((2023)) 2024.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA.

(2) **Title 40 Code of Federal Regulations**, cited as 40 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-70-041 (Definitions, general).

(c) Copies of Title 40 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements), WAC 480-70-431 (Biomedical waste, adoption of federal regulations), and WAC 480-70-486 (Hazardous waste, adoption of federal regulations).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

#### OTS-5344.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-75-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 C.F.R., Parts 190.221, 190.223, 195, 196, 198, and 199 including all appendices and amendments except for 49 C.F.R. Sections 195.0, 195.1, 199.1,

199.2, and 196.1 published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, ((2022)) 2023.

(b) This publication is referenced in WAC 480-75-100 (Definitions), WAC 480-75-370 (Design factor (*F*) for steel pipe), WAC 480-75-250 (Civil penalty for violation of chapter 81.88 RCW), WAC 480-75-650 (Annual reports), and WAC 480-75-660 (Procedural manual for operations, maintenance, and emergencies).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>.

(2) **The American Society of Mechanical Engineers (ASME) B31.4**, 2006 edition, October 20, 2006.

(a) This publication is referenced in WAC 480-75-350 (Design specifications for new pipeline ((projects))), WAC 480-75-440 (Pipeline repairs), and WAC 480-75-450 (Construction specifications).

(b) Copies of ASME B31.4 are available from ASME, <https://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The 2007 edition, July 2007, of **Section IX of the ASME Boiler and Pressure Vessel Code**.

(a) This publication is referenced in WAC 480-75-430 (Welding procedures).

(b) Copies of the 2007 edition, of *Section IX of the ASME Boiler and Pressure Vessel Code* are available from ASME, <https://www.asme.org/codes/>. It is also available for inspection at the commission.

(4) The commission adopts **American Petroleum Institute (API) standard 1104** (20th edition 2005, including errata/addendum July 2007 and errata 2 (December 2008)).

(a) This publication is referenced in WAC 480-75-430 (Welding procedures) and WAC 480-75-460 (Welding inspection requirements).

(b) Copies of API standard 1104 (20th edition 2005, including errata/addendum July 2007 and errata December 2008) are available from the Office of API Publishing Services, <https://www.api.org/>. It is also available for inspection at the commission.

## OTS-5345.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-90-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 C.F.R., including all appendices and amendments is published by the United States Government Publishing Office.

(a) The commission adopts the version in effect on ((April 1, 2023)) March 8, 2024.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-90-203 (Accounting system requirements), WAC 480-90-244 (Transferring cash or assuming obligations), WAC 480-90-252 (Federal Energy Regulatory Commission (FERC) Form No. 2), and WAC 480-90-268 (Essential utilities services contracts report).

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Publishing Office in Washington, D.C., or online at <https://www.gpo.gov/>, and from various third-party vendors. It is also available for inspection at the commission branch of the state library.

(2) The **Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 2007.

(b) This publication is referenced in WAC 480-90-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities* is a copyrighted document. Copies are available from NARUC, in Washington, D.C. or at NARUC publications store online: <https://maxxwww.naruc.org/forms/store/ProductFormPublic/regulations-to-govern-the-preservation-of-records>. It is also available for inspection at the commission branch of the state library.

## OTS-5346.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-93-999 Adoption by reference.** In this chapter, the commission adopts by reference each of the regulations and/or standards identified below. Each regulation or standard is listed by publication, publisher, scope of what the commission is adopting, effective date of the regulation or standard, the place within the commission's rules the regulation or standard is referenced, and where to obtain the regulation or standard.

(1) Parts 190.221, 190.223, 191, 192, 193, 196, 198, and 199 of Title 49 Code of Federal Regulations, including all appendices and amendments thereto as published by the United States Government Printing Office.

(a) The commission adopts the version of the above regulations that were in effect on December 31, (~~(2022)~~) 2023, except the following sections are not adopted by reference: 191.1, 192.1(a), 193.2001(a), 196.1, 198.1, 199.1. In addition, please note that in WAC 480-93-013, the commission includes "new construction" in the definition of "covered task," as defined in 49 C.F.R. Sec. 192.801 (b) (2).

(b) This publication is referenced in WAC 480-93-005 (Definitions), WAC 480-93-015 (Odorization of gas), WAC 480-93-018 (Records), WAC 480-93-080 (Welder and plastic joiner identification and qualification), WAC 480-93-100 (Valves), WAC 480-93-110 (Corrosion control), WAC 480-93-124 (Pipeline markers), WAC 480-93-160 (Reporting

requirements of proposed construction), WAC 480-93-170 (Tests and reports for gas pipelines), WAC 480-93-180 (Plans and procedures), WAC 480-93-223 (Civil penalty for violation of chapter 81.88 RCW and commission gas safety rules), and WAC 480-93-18601 (Leak classification and action criteria—Grade—Definition—Priority of leak repair).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>. It is also available for inspection at the commission.

(2) Section IX of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code.

(a) The commission adopts the 2007 edition, July 1, 2007, of Section IX of the ASME Boiler and Pressure Vessel Code.

(b) This publication is referenced in WAC 480-93-080.

(c) Copies of Section IX of the ASME Boiler and Pressure Vessel Code (2007 edition, including addenda through July 1, 2005) are available from ASME, <https://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The American Petroleum Institute (API) standard 1104 (20th edition October 2005, including errata/addendum July 2007 and errata 2 (2008)).

(a) The commission adopts the 20th edition 2005, including errata/addendum July 2007 and errata 2 (2008) of this standard.

(b) This standard is referenced in WAC 480-93-080.

(c) Copies of API standard 1104 (20th edition 2005, including errata/addendum July 2007 and errata December 2008) are available from the Office of API Publishing Services, <https://www.api.org/>. It is also available for inspection at the commission.

## OTS-5347.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-100-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 C.F.R., including all appendices and amendments is published by the United States Government Publishing Office.

(a) The commission adopts the version in effect on (~~April 1, 2023~~) March 8, 2024.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-100-203 (Accounting system requirements), WAC 480-100-244 (Transferring cash or assuming obligations), WAC 480-100-252 (Federal Energy Regulatory Commission (FERC) Form No. 1), and WAC 480-100-268 (Essential utilities services contracts report).



(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Publishing Office in Washington D.C., or on-line at <https://www.gpo.gov/>, and from various third-party vendors. It is also available for inspection at the commission library.

(2) The **Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 2007.

(b) This publication is referenced in WAC 480-100-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities* is a copyrighted document. Copies are available from NARUC in Washington, D.C. or at NARUC publications store online: <https://maxxwww.naruc.org/forms/store/ProductFormPublic/regulations-to-govern-the-preservation-of-records>. It is also available for inspection at the commission branch of the state library.

(3) The **National Electrical Code** is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the edition effective in ((~~2017, including errata 70-17-1 published September 29, 2016, errata 70-17-2 published December 16, 2016, 70-17-3 published January 11, 2017, 70-17-4 published March 13, 2017, errata 70-21-1 published October 10, 2019, errata 70-20-2 published December 23, 2019, and errata 70-20-3 published March 10, 2020~~)) 2023.

(b) This publication is referenced in WAC 480-100-163 (Service entrance facilities).

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA at 1 Batterymarch Park, Quincy, Massachusetts 02169, or at internet address <https://www.nfpa.org/>.

(4) The **American National Standard for Electric Meters: Code for Electricity Metering**, ANSI C12.1 is published by the American National Standards Institute.

(a) The commission adopts the version published in ((~~2016~~)) 2022.

(b) This publication is referenced in WAC 480-100-318 (Meter readings, multipliers, and test constants), WAC 480-100-338 (Accuracy requirements for electric meters), and WAC 480-100-343 (Statement of meter test procedures).

(c) The ANSI C12.1 is a copyrighted document. ANSI C12.1 - 2016 is available at American National Standards Institute website <https://webstore.ansi.org/> (PDF) or at IHS Standards Store website <https://global.ihs.com/> (PDF and print).

## OTS-5348.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-120-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **American National Standards for Telecommunications** - "*Network Performance Parameters for Dedicated Digital Services for Rates Up To and Including DS3 - Specifications*" (ATIS 0100510) is published by the American National Standards Institute (ANSI).

(a) The commission adopts the version in effect on December 29, 1999, and reaffirmed (~~(2013)~~) 2018.

(b) This publication is referenced in WAC 480-120-401 (Network performance standards).

(c) The American National Standards for Telecommunications "*Network Performance Parameters for Dedicated Digital Services for Rates Up To and Including DS3 - Specifications*" is a copyrighted document. Copies are available from ANSI in Washington, D.C. and from various third-party vendors.

(2) **The Institute of Electrical And Electronic Engineers (IEEE) Standard Telephone Loop Performance Characteristics** (IEEE Std 820-~~(2005)~~) 2021) is published by the IEEE.

(a) The commission adopts the version in effect as published in (~~(2005, and reaffirmed in 2010)~~) 2022.

(b) This publication is referenced in WAC 480-120-401 (Network performance standards).

(c) *The IEEE Standard Telephone Loop Performance Characteristics* is a copyrighted document. Copies are available from ANSI and IEEE in Washington, D.C. and from various third-party vendors.

(3) **The National Electrical Safety Code** is published by the IEEE.

(a) The commission adopts the 2023 edition.

(b) This publication is referenced in WAC 480-120-402 (Safety).

(c) *The National Electrical Safety Code* is a copyrighted document. Copies are available from IEEE in Washington, D.C. and from various third-party vendors.

(4) **Title 47 Code of Federal Regulations**, cited as 47 C.F.R., is published by the United States Government Printing Office.

(a) For this publication as referenced in WAC 480-120-359 (Accounting requirements for companies not classified as competitive) and WAC 480-120-349 (Retaining and preserving records and reports), the commission adopts the version of the relevant sections in effect on December 31, (~~(2021)~~) 2023.

(b) For this publication as referenced in WAC 480-120-202 (Customer proprietary network information), WAC 480-120-146 (Changing service providers from one local exchange company to another), and any other reference in chapter 480-120 WAC, the commission adopts the version of the relevant sections in effect on December 31, (~~(2022)~~) 2023.

(c) The (~~(2022)~~) 2023 version of C.F.R. Title 47 is available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

## OTS-5349.1

AMENDATORY SECTION (Amending WSR 23-13-003, filed 6/7/23, effective 7/8/23)

**WAC 480-123-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the

commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) The Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

(a) The commission adopts the version (~~in effect on March 1,~~) copyrighted in 2023.

(b) This publication is referenced in WAC 480-123-030 (contents of petition for eligible telecommunications carriers).

(c) Copies of the CTIA Consumer Code for Wireless Service are available at <https://www.ctia.org/the-wireless-industry/industry-commitments/consumer-code-for-wireless-service>.

(2) Title 47, Code of Federal Regulations, cited as 47 C.F.R., is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on December 31, (~~2022~~) 2023.

(b) This publication is referenced in WAC 480-123-010 (Federal universal service contracts), WAC 480-123-060 (Annual certification of eligible telecommunications carriers), WAC 480-123-070 (Annual certifications and reports), WAC 480-123-100 (Prerequisites for requesting program support), and WAC 480-123-110 (Petitions for eligibility to receive program support).

(c) The (~~2022~~) 2023 version of C.F.R. Title 47 is available from the U.S. Government Online Bookstore, <https://bookstore.gpo.gov/>, and from various third-party vendors.

## WSR 24-09-074

## EXPEDITED RULES

## DEPARTMENT OF AGRICULTURE

[Filed April 17, 2024, 8:48 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-310 WAC, Accreditation of cannabis laboratories. The department of agriculture (department) is proposing to establish a new chapter in WAC for the accreditation of cannabis laboratories in accordance with the standards set forth in chapter 16-309 WAC. The purpose of this rule is to ensure that laboratory standards described in chapter 16-309 WAC are followed when testing cannabis and cannabis products in Washington state.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under 2019 HB 2052, the department of ecology (ecology) was to take over the accreditation of cannabis laboratories, and began creating a fee-based program to audit and accredit the laboratories. In the process of writing cannabis laboratory standards, the department identified an opportunity to save costs to laboratories and streamline the hiring and work process related to laboratory standards and accreditation by taking on the task of laboratory audits and accreditation. The department wrote an agency request bill replacing ecology with the department as the accrediting agency and requesting continuous funding and expedited rule-making authority to do this work. The bill, SSHB 2151, passed in 2024 and was signed by the governor. The bill authorized the creation of a new rule chapter to implement auditing and accrediting laboratories by the department's cannabis lab accreditation standards program. The bill also changes some components of the audit program, as audit fees will remain at a similar level to their current state. Laboratories will no longer be accredited by a third-party consultant and will instead be audited and accredited by a team at the department.

Reasons Supporting Proposal: The department has a statutory obligation to write rules that establish a cannabis laboratory accreditation program by July 1, 2024, and an obligation to audit and accredit the labs under the authority of RCW 69.50.348.

Statutory Authority for Adoption: RCW 69.50.348.

Statute Being Implemented: RCW 69.50.348.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Trecia Ehrlich, 1111 Washington Street, Olympia, WA 98504, 360-584-3711.

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: Expedited rule making was explicitly required as stated in SSHB 2151 and the associated session law.

## 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 Gloriann Robinson, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, email [wsdarulescomments@agr.wa.gov](mailto:wsdarulescomments@agr.wa.gov), AND RECEIVED BY June 17, 2024.

April 17, 2024  
Kelly McLain  
Assistant Director

OTS-5317.2

**Chapter 16-310 WAC  
ACCREDITATION OF CANNABIS LABORATORIES**

NEW SECTION

**WAC 16-310-010 Purpose of chapter.** Under the authority of RCW 69.50.348, the department adopts rules to establish a state program for the accreditation of cannabis laboratories in accordance with chapter 16-309 WAC. The purpose of this program is to ensure the laboratory standards described in chapter 16-309 WAC are followed when testing cannabis and cannabis products under chapter 314-55 WAC.

NEW SECTION

**WAC 16-310-020 Scope.** (1) This chapter applies to cannabis laboratories that conduct tests for or prepare analytical data on cannabis in Washington state.

(2) Accreditation does not guarantee validity of all analytical data submitted by the accredited laboratory but rather assures that the laboratory has demonstrated its capability to generate and report the analytical data.

NEW SECTION

**WAC 16-310-030 Definitions.** "Accreditation" means the formal recognition by the department that a cannabis laboratory is capable of producing accurate and defensible analytical data. This recognition is signified by the issuance of a written accreditation letter, accompanied by a scope of accreditation indicating the parameters for which the laboratory is accredited.

"Accreditation year" means the one-year period as stated on the letter of accreditation.

"Analyte" means the constituent or property of a sample measured using an analytical method.

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

"Analytical method" means a written procedure for acquiring analytical data.

"Audit" means an inspection and evaluation of laboratory methods, instrumentation, facilities, equipment, records, and staff.

"Board" means the Washington state liquor and cannabis board.

"Cannabis laboratory" or "laboratory" means a facility:

(a) Under the ownership and technical management of a single entity in a single geographical location;

(b) Where scientific determinations are performed on samples taken from cannabis plants and products; and

(c) Where data is submitted to the customer or regulatory agency, or other entity requiring the use of an accredited laboratory under provisions of a regulation, permit, or contractual agreement.

"Data pack" means documentation created that supports each sample collected and sent to the laboratory for testing to include, but not limited to, any and all chain of custodies, manifests, worksheets, testing data including repeat testing, calibration data, quality control data, final report to customer, and any document created or received for that sample from time of receipt to disposal of sample.

"Data traceability" or "traceability" means the ability to recreate the final result by means of records.

(a) Records must be an unbroken trail of accountability for verifying or validating the chain of custody of samples, the data, the documentation of a procedure, certificates of analysis, and the values of a standard.

(b) This unbroken trail begins upon receipt of the samples at the laboratory.

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

"Good standing" means the laboratory has met all its obligations to the state to remain certified by the board such as passing proficiency testing, current with any and all payments required, current with all accreditation requirements, and has no outstanding obligations to the board.

"Interlaboratory comparison" means a method used in quality control to evaluate the consistency and accuracy of test results across multiple laboratories. It involves sending sample replicates to different labs and comparing the results to identify discrepancies or variations.

"Matrix" means the material to be analyzed including, but not limited to, flower, trim, leaves, other plant matter, cannabis concentrate, cannabis infused, and edibles.

"Parameter" means the combination of one or more analytes determined by a specific analytical method.

"Precision" means the closeness of agreement between independent test results obtained under specified conditions. This is described by statistical methods such as a standard deviation (SD), coefficient of variation (CV), or confidence limit of test results.

"Proficiency testing (PT)" means evaluation of the results from the analysis of samples, the true values of which are known to the supplier of the samples but unknown to the laboratory conducting the analyses.

"Proficiency testing provider" means a third-party company, organization, or entity not associated with certified laboratories or a laboratory seeking accreditation that is approved by the department and provides samples for use in PT testing.

"Quality assurance (QA) manual" means a written record intended to assure the reliability of measurement data. A QA manual documents policies, organization, objectives, and specific QC and QA activities.

"Quality control (QC)" means the routine application of statistically based procedures to evaluate and control the accuracy of analytical results.

"Regular business hours" means the time frame during which the laboratory conducts testing or normal business. Should a laboratory have multiple shifts to conduct testing, normal business hours would include these shifts.

"Sample" means a representative portion of material taken from a larger quantity of homogenate for the purpose of examination or analysis, which can be used for judging the quality of a larger quantity for the purpose of compliance.

"Standard operating procedures (SOP)" means a written document that details the method for an operation, analysis, or action with thoroughly prescribed techniques and steps, and that is officially approved as the method for performing certain routine or repetitive tasks.

"Validation" means the process of demonstrating or confirming the performance characteristics through assessments of data quality indicators for a method of analysis.

#### NEW SECTION

**WAC 16-310-040 Accreditation during transition period.** (1) Laboratory accreditations issued by the board in 2023 will remain valid through their expiration date in 2024.

(2) Accreditation issued by the department prior to December 31, 2024, will be based on the laboratory standard set forth in chapter 314-55 WAC and be considered accreditation renewal. Accreditation will expire in one calendar year after issuance.

(3) After December 31, 2024, all laboratories must comply with the standard set forth in chapter 16-309 WAC in order to maintain accreditation.

(4) Laboratories must submit validation studies for their cannabinoid concentration analysis, residual solvent testing, pesticide testing, and heavy metals testing to the department for their methods prior to November 1, 2024.

(5) Laboratories that have not received approval for a validation study by January 1, 2025, will not be able to test for that parameter until the parameter is approved.

(6) Laboratories that have been accredited in 2024 to the standard identified in chapter 314-55 WAC must fill out an initial accreditation application in order to transfer to the department's accreditation program beginning January 1, 2025.

NEW SECTION**WAC 16-310-050 Laboratory initial accreditation application.**

(1) A laboratory that has yet to become accredited must complete an initial application provided by the department to apply for accreditation to perform cannabis and cannabis product testing.

(2) The applying laboratory must submit an initial application fee with the application to the department before an initial inspection can be scheduled.

(3) Prior to the first audit, the laboratory must successfully complete a round of proficiency testing for each parameter the laboratory intends to be accredited for. Proficiency testing must come from a vendor approved by the department and graded results must be sent to the department for review.

(4) The laboratory must include the following pre-audit materials with the application:

(a) Current information on its testing operation to include a list of analytes tested with method and instrument(s) used.

(b) A schedule of its operations listing the days and hours for various processes of operations.

(c) A list of staff along with their qualifications and job function(s).

(d) A map of the facilities and description detailing security of the premises along with the location of the lab and locations where different types of testing are performed.

(e) A description of the laboratory computer systems describing any hardware, software, firewalls, both internal and external to the laboratory, that are used in the testing or reporting of cannabis. Sufficient information must be available to allow inspectors to verify compliance with program requirements.

(f) A copy of the current quality assurance manual.

(g) Validation studies for each method for which the laboratory is seeking accreditation.

(h) The department may request additional documents as necessary.

(5) Once all required conditions and documents are reviewed and accepted by the department, an audit will be scheduled to occur within 30 days.

NEW SECTION

**WAC 16-310-060 Laboratory continued accreditation.** (1) Laboratories must apply for accreditation renewal each year after initial accreditation to maintain their accreditation status.

(2) Renewal application documents must be submitted to the department at least 60 days prior to their accreditation expiration date. Documents may be submitted electronically.

(3) The laboratory must include the following pre-audit materials with the application:

(a) Current information on its testing operation to include a list of analytes tested with method and instrument(s) used.

(b) A schedule of its operations listing the days and hours for various processes of operations.

(c) A list of staff along with their qualifications and job function(s).



(d) A map of the facilities and description detailing security of the premises along with the location of the lab and locations where different types of testing are performed.

(e) A description of the laboratory computer systems describing any hardware, software, firewalls, both internal and external to the laboratory, that are used in the testing or reporting of cannabis. Sufficient information must be available to allow inspectors to verify compliance with program requirements.

(f) A copy of the current quality assurance manual.

(g) A complete data pack containing all testing performed on designated samples as determined by the department during the accreditation period.

(h) Notification of any major changes to methods or procedures from the previous audit such as changes in instrumentation, new extraction method, software changes, or updates to quality assurance procedures.

(i) The department may request additional documents as necessary.

#### NEW SECTION

**WAC 16-310-070 Application review and approval process.** Upon review of the accreditation application and required documents, the department will either:

(1) Notify the applicant laboratory of any missing items or amendments necessary to approve the application.

(2) Approve the application, schedule an audit, and accredit the laboratory for initial, or renewed status upon successful completion of the audit.

(3) Extend a laboratory's current accreditation by a maximum of 60 days for the purpose of scheduling.

(4) Deny the application and deny accreditation. If the department denies accreditation or denies a subset of requested parameters, the department will notify the laboratory of the deficiencies.

#### NEW SECTION

**WAC 16-310-080 Quality assurance manual.** (1) The department will review and approve the laboratory's quality assurance (QA) manual prior to the department's initial and continued accreditation on-site audit of the lab.

(2) The QA manual submitted concurrently with the application must be in detail and scope commensurate with the size and mission of the laboratory. Instructions for contents of the QA manual are in WAC 16-309-120.

#### NEW SECTION

**WAC 16-310-090 Standard operating procedures.** (1) The department will review the laboratory's standard operating procedures (SOP) on-site during each audit.

(2) The SOP must be in detail sufficient to assure consistent and replicable results by any qualified employee at the laboratory.

(3) Guidelines for contents of a standard operating procedure are in WAC 16-309-090, the cannabis testing laboratory standards manual, and other guidance documents that may be published by the department.

#### NEW SECTION

**WAC 16-310-100 Data and record traceability.** (1) During audits and when necessary, the department will ask the lab to demonstrate data and record traceability with documentation. To demonstrate this, a cannabis laboratory must:

(a) Be able to recreate sample results by means of records in entirety, starting at receipt of the samples by the laboratory and ending at the final report or certificate of analysis, known as a data pack;

(b) Document validation of any chemical, reagent, and/or media used by an analytical method;

(c) Document storage of samples as required by the specific analytical method and regulations;

(d) Document that all temperature-based equipment such as a refrigerator, oven, or incubator is within control at the time of testing. When electronic recordkeeping equipment is used, these records must be monitored by lab personnel to verify that temperatures meet relevant method and regulatory requirements;

(e) Keep a log for all instruments, including documentation of installation, setup, maintenance, and removal from service; and

(f) Document preparation and quality control (QC) of chemicals, reagents, and media used in support of the analyses.

(2) When records are handwritten, they must be in indelible ink and comply with the relevant method requirements and include the date, technician's initials, and temperature when relevant. Any changes to handwritten records should be single line crossed out, initialed, and dated.

(3) Unmonitored use of continuous data-loggers is not an acceptable substitute when methods and regulations require temperature checks. Use of electronic recordkeeping equipment is allowed when:

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

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

(c) It is reviewed for failure each day instrument or equipment is used.

(4) (a) Certificates of analysis must be consistent with laboratory data.

(b) Reference labs must be named on the certificate of analysis when used.

#### NEW SECTION

**WAC 16-310-110 Proficiency testing.** (1) The laboratory must participate in an approved proficiency testing (PT) program on an on-

going basis and achieve a passing score for each field of testing parameter for which the lab will be or is accredited.

(2) The cost of obtaining and testing PT samples is the sole responsibility of the laboratory.

(3) The department will maintain a list of approved proficiency tests and proficiency test providers that laboratories can use.

(4) A laboratory must successfully complete a minimum of one round of PT for each field of testing the lab seeks to be accredited for and provide proof of the successful PT results to the accrediting authority prior to initial accreditation.

(5) Accredited laboratories must successfully analyze a minimum of two PT samples for each parameter per year.

(6) The closing dates of a PT study for a particular field of accreditation can be no more than seven months apart, and the opening date of a PT study for a particular parameter must be at least seven calendar days after the closing date of the previous PT study for the same parameter or field of testing.

(7) At least one of the scores must be from a round of PT that occurs within six months prior to the laboratory's accreditation renewal date.

(8) To maintain accreditation, the laboratory must continue to pass each PT and parameter for which the lab is accredited.

(9) If the laboratory fails to achieve a pass for a parameter, the laboratory must investigate the root cause of the laboratory's performance and establish a corrective action plan for each unsatisfactory analytical result within five business days and report its finding and resolution to the department.

(10) If the corrective action has not resolved the analytical deficiency, the laboratory must suspend testing of that parameter, even if they have not yet been contacted by the department to do so first. The laboratory must then work with the department to resolve the issue and must receive authorization from the department before they can re-start testing for that parameter.

(11) The department may require the laboratory to submit raw data along with the report of analysis of PT samples.

(12) If the PT provider does not provide individual acceptance criteria for each analyte, the following criteria will be applied to determine whether the lab achieves a passing score for the round of PT:

(a) +/- 30 percent recovery from the reference value for residual solvent testing; or

(b) +/- 3 z or 3 standard deviations from the reference value for all other fields of testing.

(13) The department may waive proficiency tests for certain parameters if approved PT samples are not readily available or for other valid reasons.

(a) If a proficiency test is not available for any parameter for which the laboratory is accredited or applying for accreditation, the laboratory must implement an alternative assessment procedure for the affected analyte(s) approved by the department.

(b) An alternative assessment requirement can be fulfilled via a split-sample analysis sent to testing staff as a blind or potential customer sample unknown to the analyst.

(14) (a) PTs must undergo the identical preparation and analytical processes that are used for customer samples including, but not limited to, adhering to the same sample tracking, sample preparation,

analysis methods, standard operating procedures, calibrations, quality control, and acceptance criteria used in testing customer samples.

(b) Should a PT provider require a sample preparation step such as spiking a standard onto a matrix or hydrating a sample, the laboratory must prepare the sample according to their instructions. Testing a spiking solution independently is not allowed.

(15) The laboratory is responsible for ensuring the department receives all PT results directly from the PT provider.

(16) The laboratory must ensure that the information provided to the PT provider reflects accurate information about the laboratory that corresponds to the information in the laboratory's accreditation or application for accreditation including, but not limited to:

(a) The laboratory's name and address;

(b) The laboratory's ID number; and

(c) The method and analyte codes.

(17) For pesticide and cannabinoid concentration analyses, a laboratory must use PT samples made with a useable cannabis matrix.

(a) If a useable cannabis matrix is unavailable, then a PT sample made with useable hemp matrix may be used.

(b) If a PT sample made with a useable hemp matrix is used for accreditation of cannabinoid concentration analysis, then the PT vendor must prepare the sample in useable hemp material itself and may not provide a separate spiking solution with the sample.

(18) Presence-absence microbiology parameters must correctly detect the presence or absence of target organisms on all replicates in their PTs to be considered acceptable.

(19) It is strictly prohibited for laboratories to communicate with other laboratories about proficiency testing samples prior to the final results reported back to the laboratory by the proficiency testing provider.

(20) It is strictly prohibited for laboratories to send PT samples to another laboratory for testing.

(21) Laboratories must participate in interlaboratory comparison testing when the department provides samples.

(a) Testing and reporting of interlaboratory comparison sample results to the department must be conducted within five business days of receipt of samples.

(b) The cost of performing interlaboratory comparison testing is the sole responsibility of the laboratory.

(c) To be considered acceptable, results from interlaboratory comparison testing must be within:

(i) +/- 30 percent recovery from the reference value for residual solvent testing; or

(ii) +/- 3 z or 3 standard deviations from the reference value for all other fields of testing.

(d) If a laboratory fails an interlaboratory comparison test, they must investigate the root cause of the laboratory's performance and establish a corrective action plan for each unsatisfactory analytical result within five business days and report its finding and resolution to the department.

(e) Failure to correct deficiencies or findings of misconduct identified from interlaboratory comparison testing could lead to suspension of accreditation.

(f) Laboratories will not be required to perform interlaboratory comparison testing on more than five samples per year per parameter being investigated.

NEW SECTION

**WAC 16-310-120 Audits.** (1) A laboratory must undergo an audit by the department to assess critical elements and areas of required standard practices.

(a) All accredited laboratories will be audited on an annual basis. The laboratory must assist or accommodate department personnel and auditors during audits as necessary.

(b) Audits will be performed on-site.

(c) Off-site audits will only be available at the discretion of the department.

(2) The laboratory must successfully show that they meet the minimum standards for each of the critical elements. Critical elements of accreditation are components of a cannabis laboratory's operations which are critical to the consistent generation of accurate and defensible data and keep the laboratory compliant with regulations.

(3) Critical elements include:

(a) Analytical methods. The laboratory must demonstrate that documentation of analytical methods the laboratory employs:

(i) Are present at the laboratory;

(ii) Are approved by the scientific director;

(iii) Are readily available to analysts; and

(iv) Have been validated and implemented before testing customer samples.

(b) Equipment and supplies. The laboratory must demonstrate that sufficient equipment and supplies as required by analytical methods are:

(i) Available at the laboratory;

(ii) Being adequately maintained;

(iii) Have been validated before placing into service; and

(iv) In a condition to allow successful performance of applicable analytical procedures.

(c) QA and QC records. The laboratory must maintain and make available QA and QC records. QA and QC records must monitor laboratory testing and functions to demonstrate analytical performance and compliance requirements.

(d) Sample management. The laboratory must demonstrate that its procedures for sample receipt, analysis, storage, and disposal are sufficient to meet regulatory requirements.

(e) Data management. The laboratory must demonstrate that data management requirements are being met. The audit includes a review of activities necessary to assure accurate management of laboratory data including:

(i) Raw data;

(ii) Calculations;

(iii) Transcription;

(iv) Computer data entry; and

(v) Reports of analytical results.

The department may deny, revoke, or suspend accreditation for deficiencies in critical elements.

(4) The laboratory must successfully show that they meet the minimal requirements of required standard practices. Standard practices are those elements of laboratory operations which might affect efficiency, safety, and other administrative functions, but may not affect quality of analytical data. Typically, deficiencies to standard practices are not grounds for significant accreditation actions but can be if a specific finding directly affects the laboratory's ability to

meet a critical element for accreditation or presents a significant safety concern. Standard practices include:

(a) Personnel. The laboratory must demonstrate that its managerial, supervisory, and technical personnel have adequate training and experience to allow satisfactory completion of analytical procedures and compilation of reliable, accurate data. Minimum personnel requirements are set forth in chapter 16-309 WAC.

(b) Facilities. The laboratory must demonstrate that it allows for the efficient generation of reliable, accurate data in a safe environment.

(c) Safety. The laboratory must demonstrate that it has met the minimum safety requirements as stipulated in chapter 16-309 WAC. If the department determines the laboratory has a significant safety deficiency, the department may refer the deficiencies to appropriate state or federal agencies.

#### NEW SECTION

**WAC 16-310-130 Audit access.** (1) For the purpose of conducting audits, the department may, during regular business hours, enter business premises in which analytical data relevant to accreditation under the provisions of this chapter are generated or stored.

(2) A laboratory's refusal to permit the department entry for such audit or inspection purposes may result in denial or revocation of accreditation by the department.

#### NEW SECTION

**WAC 16-310-140 Evaluation and issuance of accreditation.** (1) After the department's determination that an applicant laboratory has met the requirements in chapter 16-309 WAC and this chapter, the department will grant approval of the application and provide the applicant laboratory with proof of accreditation and a scope of accreditation listing the accredited parameters.

(2) If the department grants an interim or provisional accreditation, the department will provide the laboratory a report specifying deficiencies and/or missing information necessary to upgrade all parameters to accreditation status.

(3) If the department denies the application for accreditation in whole, it will provide written notification to the applicant laboratory specifying:

(a) Areas of deficiency in meeting the requirements in chapter 16-309 WAC or this chapter; and

(b) Any missing information the department needs to complete the review of the laboratory's application.

(4) The laboratory shall have 30 calendar days from the receipt of the notification to provide the requested information to the department or provide documentation to the department that describes how the specified deficiencies have or will be corrected. Initial accreditation will not be issued until deficiencies have been corrected.

(a) Based on its review of documentation provided by the applicant laboratory, the department will issue a written decision that states whether the laboratory's application is granted or denied.

(b) If the requested information is not provided within the required time frame, the department will deny the application and the applicant must submit a new application to the department if they seek to obtain accreditation.

NEW SECTION

**WAC 16-310-150 Interim accreditation.** (1) The department may grant interim accreditation if the laboratory is unable to complete an audit for accreditation for a specific parameter, but all other requirements of accreditation have been satisfied.

(2) The department may also require the laboratory to submit analytical data packages as evidence of analytical capability to grant interim accreditation.

NEW SECTION

**WAC 16-310-160 Provisional accreditation.** (1) The department may approve an existing laboratory with prior accreditation for provisional accreditation when the department determines that the laboratory can consistently produce valid analytical data but has deficiencies requiring corrective action.

(a) When the laboratory has corrected such deficiencies, it must provide documented evidence of correction to the department or request a follow-up audit, as appropriate.

(b) If the department determines the deficiencies have been corrected, it may approve full accreditation as in WAC 16-310-140.

(2) The department may extend a provisional accreditation in 30-day intervals for up to one year.

NEW SECTION

**WAC 16-310-170 Denying accreditation.** (1) The department may deny accreditation for reasons including, but not limited to, the following laboratory actions:

(a) Failure to comply with standards of this chapter;  
(b) Misrepresenting itself to the department;  
(c) Failure to disclose pertinent information in the application;  
(d) Falsifying reports of analysis including proficiency testing results;

(e) Engaging in unethical or fraudulent practices concerning generation of analytical data;

(f) Refusing to permit entry for department audits as required by WAC 16-310-130;

(g) Failure to pay applicable fees; or

(h) Is determined by the department or the board to be criminally negligent or not in compliance with chapter 69.50 RCW.

(2) The department may deny a laboratory accreditation for a specific parameter for unacceptable proficiency testing results.

(3) Laboratories denied accreditation may appeal under the provisions of WAC 16-310-210.

(4) The department will notify the board of any laboratories that are denied accreditation.

NEW SECTION

**WAC 16-310-180 Revoking or suspending accreditation.** The department may suspend or revoke laboratory accreditation.

(1) The department may revoke or suspend the entire accreditation and scope of accreditation or one or more individual parameters.

(a) Suspension of accreditation by the department is for a specified period during which the affected laboratory must correct deficiencies that led to the suspension.

(b) If the department determines deficiencies are not corrected, they may revoke the laboratory's accreditation.

(2) The department may suspend or revoke accreditation for reasons including, but not limited to, the following laboratory actions:

(a) Failure to comply with standards in chapter 16-309 WAC and this chapter;

(b) Violating a state rule relative to the analytical procedures for which it is accredited;

(c) Misrepresenting itself to the department;

(d) Falsifying reports of analysis including PT results;

(e) Engaging in unethical or deceitful practices concerning generation of analytical data;

(f) Is deficient in its ability to provide accurate and defensible analytical data;

(g) Refusing to permit entry for department audits as required by WAC 16-310-130;

(h) Failing to pay applicable fees; or

(i) Reporting two consecutive unacceptable PT sample results for the same analyte.

(3) A laboratory may appeal the suspension or revocation of its accreditation under the provisions of WAC 16-310-210.

NEW SECTION

**WAC 16-310-190 Withdrawal of accreditation.** (1) The laboratory may withdraw from the accreditation program by sending a letter to the department signed by the laboratory director containing the last date they will perform testing under this program.

(2) The laboratory will remain responsible for any storage of data acquired during regulated testing for five years from the date the testing was performed.

(3) The laboratory must properly dispose of any cannabis or cannabis product remaining in the laboratory.

(4) The department may verify compliance with these rules even after withdrawal, suspension, or revocation of accreditation.



NEW SECTION

**WAC 16-310-200 Fee structure.** (1) The laboratory must pay a nonrefundable initial or transfer application fee in the amount of \$3,200 to the department before the application will be reviewed and an audit will be conducted.

(2) Audit fees must be paid at least 30 days prior to the initial accreditation audit or any continued accreditation audits.

(a) A fee of \$7,200 must be paid for on-site audits.

(b) A fee of \$2,100 must be paid for off-site surveillance audits.

(3) (a) If a laboratory requests to revise their scope of accreditation to add or reinstate a parameter, or parameters, outside of their initial application or renewal process, the laboratory must include a processing fee of \$1,000 with the request.

(b) Multiple parameters may be included in one revision request.

(4) If a laboratory withdraws from the accreditation process after the audit has been completed, the department may retain any fees collected prior to the withdrawal request.

(5) Processing and application fees are nonrefundable.

NEW SECTION

**WAC 16-310-210 Appeals.** A laboratory's scientific director may appeal final accreditation actions within 25 days of notification of final action in accordance with chapters 34.05 RCW and 16-08 WAC.