

**WSR 22-18-015**  
**EXPEDITED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed August 26, 2022, 10:40 a.m.]

Title of Rule and Other Identifying Information: WAC 181-82-110 School district response and support for nonmatched endorsements to course assignment of teachers.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To make minor edits in the current WAC to clarify the scope of transitional certificates as eligible for out-of-endorsement assignments.

Reasons Supporting Proposal: Clarify the assignment policy related to the transitional certificate and reduce confusion in the field.

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

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: [No information supplied by agency,] governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jisu Ryu, 600 Washington Street S.E., Olympia, WA 98504, 360-867-8510; Enforcement: Erica Hernandez-Scott, 600 Washington Street S.E., Olympia, WA 98504, 360-890-2443.

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

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

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

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jisu Ryu, Professional Educator Standards Board, 600 Washington Street S.E., Olympia, WA 98504, phone 360-867-8424, email rulespesb@k12.wa.us, AND RECEIVED BY November 7, 2022.

August 9, 2022  
Jisu Ryu  
Rules Coordinator

**OTS-4023.1**

AMENDATORY SECTION (Amending WSR 21-22-104, filed 11/2/21, effective 12/3/21)

**WAC 181-82-110 School district response and support for non-matched endorsements to course assignment of teachers.** (1) Individuals with initial, residency, endorsed continuing, professional, transitional, or emergency teacher certificates who are employed with a school district may be assigned to classes other than in their areas of endorsement. If teachers are so assigned, the following shall apply:

(a) A designated representative of the district and any teacher so assigned shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned.

(2) Special education preendorsement waiver:

(a) A teacher who has completed (~~two hundred forty~~) 240 continuing education credit hours under WAC 181-85-030 of course work applicable to a special education, early childhood special education, teacher of the visually impaired, deaf education, or deaf education with ASL proficiency endorsement shall be eligible for a preendorsement waiver from the special education office under chapter 392-172A WAC. Individuals with a preendorsement waiver are considered to have met the requirements for "substantial professional training" for the appropriate endorsement under WAC 392-172A-02090.

(b) All remaining requirements for the special education, early childhood special education, teacher of the visually impaired, deaf education, or deaf education with ASL proficiency endorsement shall be completed within five years.

(3) Teachers are not subject to nonrenewal or probation based on evaluation of their teaching effectiveness in the out-of-endorsement assignments under this section.

[Statutory Authority: Chapter 28A.410 RCW. WSR 21-22-104, § 181-82-110, filed 11/2/21, effective 12/3/21; WSR 21-08-024, § 181-82-110, filed 3/29/21, effective 4/29/21; WSR 20-16-144, § 181-82-110, filed 8/4/20, effective 9/4/20. Statutory Authority: RCW 28A.410.210. WSR 14-20-051, § 181-82-110, filed 9/25/14, effective 10/26/14; WSR 14-11-106, § 181-82-110, filed 5/21/14, effective 6/21/14; WSR 12-16-107, § 181-82-110, filed 8/1/12, effective 9/1/12; WSR 08-12-056, § 181-82-110, filed 6/2/08, effective 7/3/08; WSR 06-14-010, § 181-82-110, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-82-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 03-04-023, § 180-82-110, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.150.220(4), 28A.305.130(1), 28A.410.018. WSR 00-18-063, § 180-82-110, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-04-008, § 180-82-110, filed 1/21/99, effective 2/21/99.]

## WSR 22-18-023

## EXPEDITED RULES

## BOARD OF TAX APPEALS

[Filed August 29, 2022, 10:49 a.m.]

Title of Rule and Other Identifying Information: WAC 456-10-550  
Failure to attend and hearings on the record.

Purpose of the Proposal and Its Anticipated Effects, Including  
Any Changes in Existing Rules: None.

Reasons Supporting Proposal: Subsection (2) of the rule lists WAC  
458-10-410 as the board's section regarding service; however, the cor-  
rect citation is WAC 456-10-410.

Statutory Authority for Adoption: None.

Statute Being Implemented: RCW 82.03.170.

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

Name of Proponent: Washington state board of tax appeals, govern-  
mental.

Name of Agency Personnel Responsible for Drafting: Andrea Vingo,  
1110 Capitol Way South, Suite 300, Olympia, WA 98504-0915,  
360-753-5446; Implementation and Enforcement: Board of tax appeals,  
same as above.

Agency Comments or Recommendations, if any, as to Statutory Lan-  
guage, Implementation, Enforcement, and Fiscal Matters: Same as above.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-  
Making Process is Appropriate: To correct a typographical error only.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROC-  
ESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEAR-  
INGS, 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 EX-  
PRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Keri Lamb,  
Clerk, Washington State Board of Tax Appeals, P.O. Box 40915, phone  
360-753-5446, email [www.bta.wa.gov](mailto:www.bta.wa.gov), AND RECEIVED BY November 8, 2022.

August 29, 2022  
Andrea Vingo  
Review Officer

**OTS-4070.1**

AMENDATORY SECTION (Amending WSR 22-13-111, filed 6/15/22, effective  
7/16/22)

**WAC 456-10-550 Failure to attend and hearings on the record.**

(1) When a party has failed to attend a hearing after receiving timely  
notice, the board will consider a motion for default or dismissal  
brought by any party to the proceedings, or on its own motion. An or-

der for default or dismissal will include the reason for the order and will be served upon all parties.

(2) Within 14 calendar days of service of the order, the party against whom the order was entered may submit a written objection requesting that the order be vacated. The objection must state the specific reasons why the order should be vacated, together with proof of service pursuant to WAC ((~~458-10-410~~) 456-10-410). The board may set aside a dismissal, default, or final order for good cause.

(3) If the parties agree in writing and the presiding officer approves, an appeal may be submitted to the board on the record and the attendance of one or more parties at the hearing will not be required.

[Statutory Authority: RCW 82.03.170. WSR 22-13-111, § 456-10-550, filed 6/15/22, effective 7/16/22; WSR 05-13-141, § 456-10-550, filed 6/21/05, effective 8/1/05; WSR 89-10-057 (Order 89-03), § 456-10-550, filed 5/2/89.]

## WSR 22-18-024

## EXPEDITED RULES

## BOARD OF TAX APPEALS

[Filed August 29, 2022, 10:49 a.m.]

Title of Rule and Other Identifying Information: WAC 456-09-745  
Failure to attend and hearings on the record.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: None.

Reasons Supporting Proposal: The rule indicates that "within 10 calendar days of service ... the party may submit a written objection ...". The board rules were recently amended, the entire chapter, and the intention is to make this rule consistent with the equivalent rule in chapter 456-10 WAC, which is 14 days.

Statutory Authority for Adoption: None.

Statute Being Implemented: RCW 82.03.170.

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

Name of Proponent: Washington state board of tax appeals, governmental.

Name of Agency Personnel Responsible for Drafting: Andrea Vingo, 1110 Capitol Way South, Suite 300, Olympia, WA 98504-0915, 360-753-5446; Implementation and Enforcement: Board of tax appeals, same as above.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Same as above.

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

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

Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: To make rule consistent with formal rules in chapter 456-10 WAC.

## 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 Keri Lamb, Clerk, Washington State Board of Tax Appeals, P.O. Box 40915, phone 360-753-5446, email [www.bta.wa.gov](mailto:www.bta.wa.gov), AND RECEIVED BY November 8, 2022.

August 29, 2022  
Andrea Vingo  
Review Officer

OTS-4069.1

AMENDATORY SECTION (Amending WSR 22-05-051, filed 2/9/22, effective 3/12/22)

**WAC 456-09-745 Failure to attend and hearing on the record. (1)**

When a party has failed to attend a hearing after receiving timely notice, the board will consider a motion for default or dismissal brought by any party to the proceedings or on its own motion. An order for default or dismissal will include the reason for the order and will be served upon all parties.

Within (~~10~~) 14 calendar days of service of the default order or dismissal, the party against whom the order was entered may submit a written objection requesting that the order be vacated. The objection must state the specific reasons why the order should be vacated together with proof of service pursuant to WAC 456-09-345. The board may set aside a dismissal or default for good cause.

(2) If the parties agree in writing and the presiding officer approves, the board may hold an appeal on the record and the attendance of one or more parties will not be required.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-745, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-745, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-745, filed 5/2/89.]

**WSR 22-18-054**  
**EXPEDITED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed August 31, 2022, 7:34 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-233 WAC, Worker protection standards. The department is proposing to amend chapter 16-233 WAC, Worker protection standards, to have consistent language and requirements with chapter 296-307 WAC, the department of labor and industries (L&I) worker protection standards (WPS).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to have consistent language between both L&I and the department of agriculture (department) in regard to WPS. This requirement for consistency is indicated in RCW 17.21.440 and 49.17.280, and in WAC 16-233-001. A memorandum of understanding on WPS between the department of health, L&I, and the department requires the two latter agencies to "incorporate identical WPS wording into their respective rule language." This proposal makes the language and requirements in chapter 16-233 WAC consistent with the recently adopted language and requirements in chapter 296-307 WAC.

Reasons Supporting Proposal: Inconsistent rules between two agencies can cause problems for the regulated community to the point that compliance with one agency means noncompliance with another. RCW 17.21.440 (2) (b) requires the department to adopt rules for safety and health standards that are at-least-as-effective-as the federal standard and that the standards adopted by the department shall be in coordination with L&I. Revising chapter 16-233 WAC is necessary to remain uniform with L&I whose rules were adopted on August 23, 2022.

Statutory Authority for Adoption: RCW 15.58.040, 17.21.030, 17.21.440.

Statute Being Implemented: Chapters 15.58 and 17.21 RCW.

Rule is necessary because of federal law, 40 C.F.R. Part 170.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Scott Nielsen, 1111 Washington Street S.E., Olympia, WA, 509-990-6518.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Adopting the standards specified in chapter 296-307 WAC meets the criteria for expedited adoption under RCW 34.05.353 (1) (b) by adopting the rules of another state agency.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEAR-

INGS, 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, Agency Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, email wsdarulecomments@agr.wa.gov, AND RECEIVED BY November 7, 2022.

August 31, 2022  
R. Schoen-Nessa  
Assistant Director

OTS-4008.1

**Chapter 16-233 WAC  
WORKER PROTECTION STANDARD ((S))**

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

**WAC 16-233-001 Federal worker protection standard((s))—Washington state department of labor and industries.** This chapter contains the federal Environmental Protection Agency (EPA) worker protection standard((s)) as listed in 40 C.F.R., Part 170. Revisions to the federal language have been incorporated into this chapter in order to be consistent with other requirements of Washington state law. These rules are adopted in conjunction with rules adopted by the Washington state department of labor and industries in chapter 296-307 WAC, Part I.

[Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-001, filed 12/13/17, effective 1/13/18. Statutory Authority: Chapters 15.58 and 17.21 RCW. WSR 09-15-139, § 16-233-001, filed 7/21/09, effective 8/21/09; WSR 96-21-008 (Order 6002), § 16-233-001, filed 10/3/96, effective 11/3/96.]

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

**WAC 16-233-021 Agricultural employer duties—40 C.F.R., § 170.309.** Agricultural employers must:

- (1) Ensure that any pesticide is used in a manner consistent with the pesticide product labeling, including the requirements of this chapter, when applied on the agricultural establishment.
- (2) Ensure that each worker and handler subject to this chapter receives the protections required by this chapter.



(3) Ensure that any handler and any early entry worker is at least ~~((eighteen))~~ 18 years old.

(4) Provide to each person, including labor contractors, who supervises any workers or handlers, information and directions sufficient to ensure that each worker and handler receives the protections required by this chapter. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this chapter.

(5) Require each person, including labor contractors, who supervises any workers or handlers, to provide sufficient information and directions to each worker and handler to ensure that they can comply with the provisions of this chapter.

(6) Provide emergency assistance in accordance with this subsection. If there is reason to believe that a worker or handler has experienced a potential pesticide exposure during his or her employment on the agricultural establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within ~~((seventy-two))~~ 72 hours after his or her employment on the agricultural establishment, and needs emergency medical treatment, the agricultural employer must do all of the following promptly after learning of the possible poisoning or injury:

(a) Make available to that person prompt transportation from the agricultural establishment, including any worker housing area on the establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

(b) Provide all of the following information to the treating medical personnel, and upon request to the worker or handler:

(i) Copies of the applicable SDS and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.

(ii) The circumstances of application or use of the pesticide on the agricultural establishment.

(iii) The circumstances that could have resulted in exposure to the pesticide.

(iv) Antidote, first aid and other medical information from the product labeling.

(7) Ensure that workers or other persons employed or supervised by the agricultural establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under WAC 16-233-201. Before allowing any person not directly employed or supervised by the agricultural establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the agricultural employer shall assure that pesticide residues have been removed from the equipment if feasible and must provide all of the following information to such person:

(a) Pesticide application equipment may be contaminated with pesticides.

(b) The potentially harmful effects of exposure to pesticides.

(c) Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues.

(d) Personal hygiene practices and decontamination procedures for preventing pesticide exposures and removing pesticide residues.

(8) Display, maintain, and provide access to pesticide safety information and pesticide application and hazard information in accordance with WAC 16-233-026 if workers or handlers are on the establishment and within the last ~~((thirty))~~ 30 days a pesticide product has

been used or a restricted-entry interval for such pesticide has been in effect on the establishment.

(9) Ensure that before a handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

(10) Ensure that before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or replaced.

(11) The agricultural employer must notify a commercial pesticide handler employer (CPHER) of specific locations and descriptions of those treated areas and any restrictions on entering the treated areas with restricted-entry intervals (REIs) in effect whenever:

(a) A handler employed by a CIPHER will be on the agricultural establishment; and

(b) The CIPHER handler may be in or may walk within 1/4 mile of any pesticide treated area with restricted-entry interval (REI) in effect.

(12) Ensure that workers do not enter any area on the agricultural establishment where a pesticide has been applied until the applicable pesticide application and hazard information for each pesticide product applied to that area is displayed in accordance with WAC 16-233-026(2), and until after the restricted-entry interval has expired and all treated area warning signs have been removed or covered, except for entry permitted by WAC 16-233-306.

(13) Provide any records or other information required by this section for inspection and copying upon request by an employee of EPA, or any duly authorized representative of the Washington state department of agriculture or department of labor and industries.

(14) Pesticide safety, application, and hazard information must remain legible at all times when the information is required to be displayed. This information must be in accordance with WAC 16-233-026.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 20-21-029, § 16-233-021, filed 10/12/20, effective 11/12/20. Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-021, filed 12/13/17, effective 1/13/18.]

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

**WAC 16-233-031 Commercial pesticide handler employer duties—40 C.F.R., § 170.313.** Commercial pesticide handler employers must:

(1) Ensure that any pesticide is used in a manner consistent with the pesticide product labeling, including the requirements of this chapter, when applied on an agricultural establishment by a handler employed by the commercial pesticide handling establishment.

(2) Ensure each handler employed by the commercial pesticide handling establishment and subject to this chapter receives the protections required by this chapter.

(3) Ensure that any handler employed by the commercial pesticide handling establishment is at least (~~eighteen~~) 18 years old.

(4) Provide to each person, including labor contractors, who supervises any handlers employed by the commercial pesticide handling

establishment, information and directions sufficient to ensure that each handler receives the protections required by this chapter. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this chapter.

(5) Require each person, including labor contractors, who supervises any handlers employed by the commercial pesticide handling establishment, to provide sufficient information and directions to each handler to ensure that the handler can comply with the provisions of this chapter.

(6) Ensure that before any handler employed by the commercial pesticide handling establishment uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

(7) Ensure that, before each day of use, equipment used by their employees for mixing, loading, transferring, or applying pesticides is inspected for leaks, obstructions, and worn or damaged parts, and any damaged equipment is repaired or is replaced.

(8) Ensure that whenever a handler who is employed by a commercial pesticide handling establishment will be on an agricultural establishment, the handler is provided information about, or is aware of, the specific location and description of any treated areas where a restricted-entry interval is in effect, and the restrictions on entering those areas.

(9) Provide the agricultural employer all of the following information before the application of any pesticide on an agricultural establishment:

(a) Specific location(s) and description of the area(s) to be treated.

(b) The date(s) and start and estimated end times of application.

(c) Product name, EPA registration number, and active ingredient(s).

(d) The labeling-specified restricted-entry interval applicable for the application.

(e) Whether posting, oral notification or both are required under WAC 16-233-121.

(f) Any restrictions or use directions on the pesticide product labeling that must be followed for protection of workers, handlers, or other persons during or after application.

(10) If there are any changes to the information provided in subsection (9)(a), (d), (e), and (f) of this section or if the start time for the application will be earlier than originally forecasted or scheduled, ensure that the agricultural employer is provided updated information prior to the application. If there are any changes to any other information provided pursuant to subsection (9) of this section, the commercial pesticide handler employer must provide updated information to the agricultural employer within two hours after completing the application. Changes to the estimated application end time of less than one hour need not be reported to the agricultural employer.

(11) Provide emergency assistance in accordance with this subsection. If there is reason to believe that a handler employed by the commercial pesticide handling establishment has experienced a potential pesticide exposure during his or her employment by the commercial pesticide handling establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within (~~seven-~~~~ty-two~~) 72 hours after his or her employment by the commercial pesticide handling establishment, and needs emergency medical treatment,

the commercial pesticide handler employer must do all of the following promptly after learning of the possible poisoning or injury:

(a) Make available to that person prompt transportation from the commercial pesticide handling establishment, or any agricultural establishment on which that handler may be working on behalf of the commercial pesticide handling establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

(b) Provide all of the following information to the treating medical personnel:

(i) Copies of the applicable safety data sheet(s) (SDS) and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.

(ii) The circumstances of application or use of the pesticide.

(iii) The circumstances that could have resulted in exposure to the pesticide.

(iv) Antidote, first aid and other medical information from the product labeling.

(12) Ensure that persons directly employed by the commercial pesticide handling establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under WAC 16-233-201. Before allowing any person not directly employed by the commercial pesticide handling establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the commercial pesticide handler employer shall assure that pesticide residues have been removed from the equipment if feasible and must provide all of the following information to such persons:

(a) Notice that the pesticide application equipment may be contaminated with pesticides.

(b) The potentially harmful effects of exposure to pesticides.

(c) Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues.

(d) Personal hygiene practices and decontamination procedures for preventing pesticide exposures and removing pesticide residues.

(13) Provide any records or other information required by this chapter for inspection and copying upon request by an employee of EPA or any duly authorized representative of the Washington state department of agriculture or the department of labor and industries.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 20-21-029, § 16-233-031, filed 10/12/20, effective 11/12/20. Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-031, filed 12/13/17, effective 1/13/18.]

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

**WAC 16-233-101 Training requirements for workers—40 C.F.R., § 170.401.** (1) *General requirement.* Before any worker performs any task in a treated area on an agricultural establishment where within the last (~~thirty~~) 30 days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect, the agricultural employer must ensure that each worker has been trained in

accordance with this section within the last (~~twelve~~) 12 months, except as provided in subsection (2) of this section.

(2) *Exceptions.* The following workers need not be trained under this section:

(a) A worker who is currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(b) A worker who has satisfied the handler training requirements in WAC 16-233-201.

(c) A worker who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230: Provided, That a requirement for such certification or licensing is pesticide safety training that includes all the topics in WAC 16-233-201 (3)(b) or (c) as applicable depending on the date of training.

(3) *Training programs.*

(a) Pesticide safety training must be presented to workers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the workers can understand, such as through a translator. The training must be conducted by a person who meets the worker trainer requirements of (d) of this subsection, and who must be present during the entire training program and must respond to workers' questions.

(b) The training must include, at a minimum, all of the following topics:

(i) Where and in what form pesticides may be encountered during work activities.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes through which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures, including emergency eye flushing techniques.

(viii) Hazards from chemigation and drift.

(ix) Hazards from pesticide residues on clothing.

(x) Warnings about taking pesticides or pesticide containers home.

(xi) Requirements of this section designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.

(c) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within (~~one hundred eighty-one~~) 181 days after a notice of availability of such training materials appears in the FEDERAL REGISTER, training programs required under this section must include, at a minimum, all of the topics listed in (c)(i) through (xxiii) of this subsection instead of the topics listed in (b)(i) through (xi) of this subsection.

(i) The responsibility of agricultural employers to provide workers and handlers with information and protections designed to reduce

work-related pesticide exposures and illnesses. This includes ensuring workers and handlers have been trained on pesticide safety, providing pesticide safety and application and hazard information, decontamination supplies and emergency medical assistance, and notifying workers of restrictions during applications and on entering pesticide treated areas. A worker or handler may designate in writing a representative to request access to pesticide application and hazard information.

(ii) How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.

(iii) How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones.

(iv) Where and in what forms pesticides may be encountered during work activities, and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application and chemigation equipment, or used personal protective equipment, and that pesticides may drift through the air from nearby applications or be in irrigation water.

(v) Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization.

(vi) Routes through which pesticides can enter the body.

(vii) Signs and symptoms of common types of pesticide poisoning.

(viii) Emergency first aid for pesticide injuries or poisonings.

(ix) Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

(x) How and when to obtain emergency medical care.

(xi) When working in pesticide treated areas, wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.

(xii) Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.

(xiii) Potential hazards from pesticide residues on clothing.

(xiv) Wash work clothes before wearing them again and wash them separately from other clothes.

(xv) Do not take pesticides or pesticide containers used at work to your home.

(xvi) SDSs provide hazard, emergency medical treatment and other information about the pesticides used on the establishment they may come in contact with. The responsibility of agricultural employers to do all of the following:

(A) Display SDSs for all pesticides used on the establishment.

(B) Provide workers and handlers information about the location of the SDSs on the establishment.

(C) Provide workers and handlers unimpeded access to safety data sheets during normal work hours.

(xvii) This section prohibits agricultural employers from allowing or directing any worker to mix, load or apply pesticides or assist

in the application of pesticides unless the worker has been trained as a handler.

(xviii) The responsibility of agricultural employers to provide specific information to workers before directing them to perform early-entry activities. Workers must be ~~((eighteen))~~ 18 years old to perform early-entry activities.

(xix) Potential hazards to children and pregnant women from pesticide exposure.

(xx) Keep children and nonworking family members away from pesticide treated areas.

(xxi) After working in pesticide treated areas, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.

(xxii) How to report suspected pesticide use violations to the Washington state department of agriculture.

(xxiii) This section prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for complying with or attempting to comply with the requirements of this chapter, or because the worker or handler provided, caused to be provided or is about to provide information to the employer, the EPA or its agents, or any duly authorized representative of the Washington state department of agriculture regarding conduct that the employee reasonably believes violates this chapter, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this chapter.

(d) The person who conducts the training must meet one of the following criteria:

(i) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(ii) Have completed ~~((a))~~ an EPA-approved pesticide safety train-the-trainer program ~~((approved by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW))~~ for trainers of workers; or

(iii) Be currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(4) *Recordkeeping.*

(a) For each worker required to be trained under subsection (1) of this section, the agricultural employer must maintain on the agricultural establishment, for two years from the date of the training, a record documenting each worker's training including all of the following:

(i) The trained worker's printed name and signature.

(ii) The date of the training.

(iii) Information identifying which EPA-approved training materials were used.

(iv) The trainer's name and documentation showing that the trainer met the requirements of subsection (3)(d) of this section at the time of training.

(v) The agricultural employer's name.

(b) An agricultural employer who provides, directly or indirectly, training required under subsection (1) of this section must provide to the worker upon request a copy of the record of the training that contains the information required under (a) of this subsection.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 20-21-029, § 16-233-101, filed 10/12/20, effective 11/12/20. Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-101, filed 12/13/17, effective 1/13/18.]

AMENDATORY SECTION (Amending WSR 18-01-054, filed 12/13/17, effective 1/13/18)

**WAC 16-233-201 Training requirements for handlers—40 C.F.R., § 170.501.** (1) *General requirement.* Before any handler performs any handler activity involving a pesticide product, the handler employer must ensure that the handler has been trained in accordance with this section within the last (~~twelve~~) 12 months, except as provided in subsection (2) of this section.

(2) *Exceptions.* The following handlers need not be trained under this section:

(a) A handler who is currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(b) A handler who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230, provided that a requirement for such certification or licensing is pesticide safety training that includes all the topics set out in subsection (3)(b) or (c) of this section as applicable depending on the date of training.

(3) *Training programs.*

(a) Pesticide safety training must be presented to handlers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the handlers can understand, such as through a translator. The training must be conducted by a person who meets the handler trainer requirements of (d) of this subsection, and who must be present during the entire training program and must respond to handlers' questions.

(b) The pesticide safety training materials must include, at a minimum, all of the following topics:

(i) Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes by which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures.

(viii) Need for and appropriate use of personal protective equipment.

(ix) Prevention, recognition, and first-aid treatment of heat-related illness.



(x) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill clean-up.

(xi) Environmental concerns such as drift, runoff, and wildlife hazards.

(xii) Warnings about taking pesticides or pesticide containers home.

(xiii) Requirements of this section that must be followed by handler employers for the protection of handlers and other persons, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.

(c) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within (~~one hundred eighty~~) 180 days after a notice of availability of such training materials appears in the FEDERAL REGISTER, training programs required under this section must include, at a minimum, all of the topics listed in (c)(i) through (xiv) of this subsection instead of the points listed in (b)(i) through (xiii) of this subsection.

(i) All the topics required in WAC 16-233-101 (3)(c).

(ii) Information on proper application and use of pesticides.

(iii) Handlers must follow the portions of the labeling applicable to the safe use of the pesticide.

(iv) Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide.

(v) Need for and appropriate use and removal of all personal protective equipment.

(vi) How to recognize, prevent, and provide first-aid treatment for heat-related illness.

(vii) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.

(viii) Environmental concerns, such as drift, runoff, and wildlife hazards.

(ix) Handlers must not apply pesticides in a manner that results in contact with workers or other persons.

(x) The responsibility of handler employers to provide handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes providing, cleaning, maintaining, storing, and ensuring proper use of all required personal protective equipment; providing decontamination supplies; and providing specific information about pesticide use and labeling information.

(xi) Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone.

(xii) Handlers must be at least (~~eighteen~~) 18 years old.

(xiii) The responsibility of handler employers to ensure handlers have received respirator fit-testing, training and medical evaluation if they are required to wear a respirator by the product labeling.

(xiv) The responsibility of agricultural employers to post treated areas as required by this chapter.

(d) The person who conducts the training must have one of the following qualifications:

(i) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture under chapter 15.58 or 17.21 RCW; or

(ii) Have completed ((a)) an EPA-approved pesticide safety train-the-trainer program ((approved by a state, federal, or tribal agency having jurisdiction.)) for trainers of handlers; or

(iii) Be currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(4) *Recordkeeping.*

(a) Handler employers must maintain records of training for handlers employed by their establishment for two years after the date of the training. The records must be maintained on the establishment and must include all of the following information:

(i) The trained handler's printed name and signature.

(ii) The date of the training.

(iii) Information identifying which EPA-approved training materials were used.

(iv) The trainer's name and documentation showing that the trainer met the requirements of subsection (3)(d) of this section at the time of training.

(v) The handler employer's name.

(b) The handler employer must, upon request by a handler trained on the establishment, provide to the handler a copy of the record of the training that contains the information required under (a) of this subsection.

[Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-201, filed 12/13/17, effective 1/13/18.]

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

**WAC 16-233-216 Personal protective equipment—40 C.F.R., §**

**170.507.** (1) *Handler responsibilities.* Any person who performs handler activities involving a pesticide product must use the clothing and personal protective equipment specified on the pesticide product labeling for use of the product, except as provided in WAC 16-233-316.

(2) *Employer responsibilities for providing personal protective equipment.* The handler employer must provide to the handler the personal protective equipment required by the pesticide product labeling in accordance with this section. The handler employer must ensure that the personal protective equipment fits, is clean and in proper operating condition. When two or more pesticides are applied to the treated area at the same time, the employer must ensure employees, workers, and handlers wear the applicable PPE that would protect against all of the pesticides as a mixture and combined product. For the purposes of this section, long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, and socks are not considered personal protective equipment, although such work clothing must be worn if required by the pesticide product labeling.

(a) If the pesticide product labeling requires that "chemical-resistant" personal protective equipment be worn, it must be made of material that allows no measurable movement of the pesticide being used through the material during use.

(b) If the pesticide product labeling requires that "waterproof" personal protective equipment be worn, it must be made of material

that allows no measurable movement of water or aqueous solutions through the material during use.

(c) If the pesticide product labeling requires that a "chemical-resistant suit" be worn, it must be a loose-fitting, one- or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(d) If the pesticide product labeling requires that "coveralls" be worn, they must be loose-fitting, one- or two-piece garments that cover, at a minimum, the entire body except head, hands, and feet.

(e) Gloves must be the type specified on the pesticide product labeling.

(i) Gloves made of leather, cotton, or other absorbent materials may not be worn while performing handler activities unless gloves made of these materials are listed as acceptable for such use on the pesticide product labeling.

(ii) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with nonseparable absorbent lining materials are prohibited.

(iii) If used, separable glove liners must be discarded immediately after a total of no more than (~~ten~~) 10 hours of use or within (~~twenty-four~~) 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners must not be reused. Contaminated liners must be disposed of in accordance with any federal, state, or local regulations.

**Table 3**  
**Chemical Resistance Category Selection Chart for Gloves**

(For use when selecting glove types to be listed in the PPE section on pesticide label. Only select glove(s) that indicate a high level of chemical resistance.)

**Note:** This table below provides examples of categories of chemical resistant materials that can be used to protect against different kinds of pesticides.

<b>Solvent Category (see Table 4)</b>	<b>Barrier Laminate</b>	<b>Butyl Rubber ≥ 14 mils</b>	<b>Nitrile Rubber ≥ 14 mils</b>	<b>Neoprene Rubber ≥ 14 mils</b>	<b>Natural Rubber* ≥ 14 mils</b>	<b>Polyethylene</b>	<b>Polyvinyl Chloride (PVC) ≥ 14 mils</b>	<b>Viton ≥ 14 mils</b>
<b>A</b> (dry and water-based formulations)	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>
<b>B</b>	<u>high</u>	<u>high</u>	<u>slight</u>	<u>slight</u>	<u>none</u>	<u>slight</u>	<u>slight</u>	<u>slight</u>
<b>C</b>	<u>high</u>	<u>high</u>	<u>high</u>	<u>high</u>	<u>moderate</u>	<u>moderate</u>	<u>high</u>	<u>high</u>
<b>D</b>	<u>high</u>	<u>high</u>	<u>moderate</u>	<u>moderate</u>	<u>none</u>	<u>none</u>	<u>none</u>	<u>slight</u>
<b>E</b>	<u>high</u>	<u>slight</u>	<u>high</u>	<u>high</u>	<u>slight</u>	<u>none</u>	<u>moderate</u>	<u>high</u>
<b>F</b>	<u>high</u>	<u>high</u>	<u>high</u>	<u>moderate</u>	<u>slight</u>	<u>none</u>	<u>slight</u>	<u>high</u>
<b>G</b>	<u>high</u>	<u>slight</u>	<u>slight</u>	<u>slight</u>	<u>none</u>	<u>none</u>	<u>none</u>	<u>high</u>
<b>H</b>	<u>high</u>	<u>slight</u>	<u>slight</u>	<u>slight</u>	<u>none</u>	<u>none</u>	<u>none</u>	<u>high</u>

\* Includes natural rubber blends and laminates.

**HIGH:** Highly chemical-resistant. Clean or replace PPE at end of each day's work period. Rinse off pesticides at rest breaks.

**MODERATE:** Moderately chemical-resistant. Clean or replace within an hour or two of contact.

**SLIGHT:** Slightly chemical-resistant. Clean or replace within 10 minutes of contact.

**NONE:** No chemical-resistance.

**Table 4**  
**Solvent List (PRN 93-7, Supplement 2)**

<u>Solvent (chemical name or Trade name)</u>	<u>Chemical Resistance Category</u>	<u>Solvent (chemical name or Trade name)</u>	<u>Chemical Resistance Category</u>
<u>Acetone</u>	<u>B</u>	<u>Isopar L</u>	<u>E</u>
<u>Amyl Acetate</u>	<u>D</u>	<u>Isopar M</u>	<u>E</u>
<u>Aromatic 100</u>	<u>F or G</u>	<u>Isopar V</u>	<u>E</u>
<u>Aromatic 150</u>	<u>F or G</u>	<u>Isophorone</u>	<u>B</u>
<u>Aromatic 200</u>	<u>F or G</u>	<u>Isopropanol</u>	<u>C</u>
<u>Aromatic Petroleum</u>	<u>F or G</u>	<u>Kerosene</u>	<u>E</u>
<u>Butoxypolypropylene glycol</u>	<u>C</u>	<u>Methanol</u>	<u>C</u>
<u>Butyl acetate</u>	<u>D</u>	<u>Methyl amyl ketone</u>	<u>B</u>
<u>Cyclohexanone</u>	<u>B</u>	<u>Methyl Carbitol</u>	<u>C</u>
<u>Diacetone alcohol</u>	<u>C</u>	<u>Methyl isobutyl ketone</u>	<u>B</u>
<u>Diethanolamine</u>	<u>C</u>	<u>Mineral oil</u>	<u>E</u>
<u>Diesel fuel</u>	<u>E</u>	<u>Mineral spirits</u>	<u>E</u>
<u>Dipropylene glycol monoethylether</u>	<u>C</u>	<u>Naphtha</u>	<u>E</u>
<u>Ethanol</u>	<u>C</u>	<u>N-methyl pyrrolidone</u>	<u>B</u>
<u>Ethylene glycol</u>	<u>C</u>	<u>Penreco 2251 oil</u>	<u>E</u>
<u>Exxon 589</u>	<u>E</u>	<u>Petroleum Distillate (aliphatic)</u>	<u>E</u>
<u>Heavy Aromatic Naphtha</u>	<u>F or G</u>	<u>Petroleum oil</u>	<u>E</u>
<u>Hexylene glycol</u>	<u>C</u>	<u>Propylene glycol</u>	<u>C</u>
<u>Isopar B</u>	<u>E</u>	<u>T 500-100</u>	<u>F or G</u>
<u>Isopar C</u>	<u>E</u>	<u>Tetrahydro-furfuryl alcohol</u>	<u>C</u>
<u>Isopar E</u>	<u>E</u>	<u>1,1,1-Trichloroethane</u>	<u>H</u>
<u>Isopar G</u>	<u>E</u>	<u>Water</u>	<u>A</u>
<u>Isopar H</u>	<u>E</u>	<u>Xylene</u>	<u>F or G</u>
<u>Isopar K</u>	<u>E</u>	<u>Xylene range solvents</u>	<u>F or G</u>

(f) If the pesticide product labeling requires that "chemical-resistant footwear" be worn, one of the following types of footwear must be worn:

- (i) Chemical-resistant shoes.
- (ii) Chemical-resistant boots.
- (iii) Chemical-resistant shoe coverings worn over shoes or boots.

(g) If the pesticide product labeling requires that "protective eyewear" be worn, one of the following types of eyewear must be worn:

- (i) Goggles.
- (ii) Face shield.
- (iii) Safety glasses with front, brow, and temple protection.

(iv) Full-face respirator.

(h) If the pesticide product labeling requires that a "chemical-resistant apron" be worn, a chemical-resistant apron that covers the front of the body from mid-chest to the knees must be worn.

(i) If the pesticide product labeling requires that "chemical-resistant headgear" be worn, it must be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(j) The respirator specified by the pesticide product labeling must be used. If the label does not specify the type of respirator to be used, it shall meet the requirements of chapter 296-307 WAC, Part Y-5. Whenever a respirator is required by the pesticide product labeling, the handler employer must ensure that the requirements of (j)(i) through (iii) of this subsection are met before the handler performs any handler activity where the respirator is required to be worn. The respiratory protection requirements of chapter 296-307 WAC, Part Y-5, shall apply. The handler employer must maintain for two years, on the establishment, records documenting the completion of the requirements of (j)(i) through (iii) of this subsection.

(i) The handler employer shall assure that the respirator fits correctly by using the procedures consistent with chapter 296-307 WAC, Part Y-5.

(ii) Handler employers must provide handlers with training in the use of the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of chapter 296-307 WAC, Part Y-5 Respirators.

(iii) Handler employers must provide handlers with a medical evaluation by a physician or other licensed health care professional that conforms to the provisions of WAC 296-307-604 to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

(3) *Use of personal protective equipment.*

(a) The handler employer must ensure that personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.

(b) The handler employer must ensure that, before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(4) *Cleaning and maintenance.*

(a) The handler employer must ensure that all personal protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it must be washed thoroughly in detergent and hot water.

(b) If any personal protective equipment cannot or will not be cleaned properly, the handler employer must ensure the contaminated personal protective equipment is made unusable as apparel or is made unavailable for further use by employees or third parties. The contaminated personal protective equipment must be disposed of in accordance with any applicable laws or regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that has the signal word "DANGER" or "WARNING" on the label must not be reused and must be disposed of as specified in this subsection. Handler employers must ensure that any person who handles contaminated personal protective equipment described in this subsection wears the gloves specified on the pesticide product labeling for mixing and loading the product(s) comprising the contaminant(s) on the

equipment. If two or more pesticides are included in the contaminants, the gloves worn must meet the requirements for mixing and loading all of the pesticide products.

(c) The handler employer must ensure that contaminated personal protective equipment is kept separate from noncontaminated personal protective equipment, other clothing or laundry and washed separately from any other clothing or laundry.

(d) The handler employer must ensure that all washed personal protective equipment is dried thoroughly before being stored or reused.

(e) The handler employer must ensure that all clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(f) The handler employer must ensure that when (~~filtering face-piece~~) respirators with particulate filtering elements are used, (~~they~~) particulate filtering elements are replaced (~~when~~) as soon as any one of the following conditions is met:

(i) When breathing resistance becomes excessive.

(ii) When the filter element has physical damage or tears.

(iii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iv) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(g) The handler employer must ensure that when gas- or vapor-removing respirators are used, the gas- or vapor-removing canisters or cartridges are replaced before further respirator use when one of the following conditions is met:

(i) At the first indication of odor, taste, or irritation.

(ii) When the maximum use time is reached as determined by a change schedule conforming to the provisions of chapter 296-307 WAC, Part Y-5 Respirators.

(iii) When breathing resistance becomes excessive.

(iv) When required according to manufacturer's recommendations or pesticide product labeling instructions, whichever is more frequent.

(v) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(h) The handler employer must inform any person who cleans or launders personal protective equipment of all the following:

(i) That such equipment may be contaminated with pesticides and there are potentially harmful effects from exposure to pesticides.

(ii) The correct way(s) to clean personal protective equipment and how to protect themselves when handling such equipment.

(iii) Proper decontamination procedures that should be followed after handling contaminated personal protective equipment.

(i) The handler employer must ensure that handlers have a place(s) away from pesticide storage and pesticide use areas where they may do all of the following:

(i) Store personal clothing not worn during handling activities.

(ii) Put on personal protective equipment at the start of any exposure period.

(iii) Remove personal protective equipment at the end of any exposure period.

(j) The handler employer must not allow or direct any handler to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.

(5) *Heat-related illness.* Where a pesticide's labeling requires the use of personal protective equipment for a handler activity, the

handler employer must ensure that no handler is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each handler is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 20-21-029, § 16-233-216, filed 10/12/20, effective 11/12/20. Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-216, filed 12/13/17, effective 1/13/18.]

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

**WAC 16-233-221 Decontamination and eye flushing supplies for handlers—40 C.F.R., § 170.509.** (1) *Requirement.* The handler employer must provide decontamination and eye flushing supplies in accordance with this section for any handler that is performing any handler activity or removing personal protective equipment at the place for changing required in WAC 16-233-216 (4) (i).

(2) *General conditions.* The decontamination supplies required in subsection (1) of this section must include: At the site where handlers remove personal protective equipment, soap, single-use towels, and a sufficient amount of water so that handlers may wash thoroughly. At least (~~ten~~) 10 gallons of water for one employee and (~~twenty~~) 20 gallons of water for two or more employees shall be provided at mixing and loading sites that do not have running water. The decontamination and eye flushing supplies required in subsection (1) of this section must meet all of the following requirements:

(a) *Water.* At all times when this section requires handler employers to make water available to handlers for routine washing, emergency decontamination or eye flushing, the handler employer must ensure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination or eye flushing supplies, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

(b) *Soap and single-use towels.* The handler employer must provide soap and single-use towels for drying in quantities sufficient to meet the handlers' needs. Hand sanitizing gels and liquids or wet towelettes do not meet the requirement for soap. Wet towelettes do not meet the requirement for single-use towels.

(c) *Clean change of clothing.* The handler employer must provide one clean change of clothing, such as coveralls, for use in an emergency.

(3) *Location.* The decontamination supplies must be located together outside any treated area or area subject to a restricted-entry interval, and must be reasonably accessible to each handler during the handler activity. The decontamination supplies must not be more than 1/4 mile from the handler, except that where the handler activity is more than 1/4 mile from the nearest place of vehicular access or more

than 1/4 mile from any nontreated area, the decontamination supplies may be at the nearest place of vehicular access outside any treated area or area subject to a restricted-entry interval.

(a) *Mixing sites.* Decontamination supplies must be provided at any mixing site.

(b) *Exception for pilots.* Decontamination supplies for a pilot who is applying pesticides aerially must be in the aircraft or at the aircraft loading site.

(c) *Exception for treated areas.* The decontamination supplies must be outside any treated area or area subject to a restricted-entry interval, unless the soap, single-use towels, water and clean change of clothing are protected from pesticide contamination in closed containers.

(4) *Emergency ((eye-flushing)) eye flushing.*

(a) Whenever a handler is mixing or loading a pesticide product whose labeling requires protective eyewear for handlers, or is mixing or loading any pesticide using a closed system operating under pressure, the handler employer must provide at each mixing/loading station and handler decontamination sites, immediately available to the handler, at least one plumbed or portable eye wash system that is capable of delivering gently running water at a rate of at least 0.4 gallons (1.5 liters) per minute for at least ((fifteen)) 15 minutes, at least six gallons of water. A plumbed or portable system meeting the above requirements shall be provided at all permanent mixing and loading sites.

(b) Whenever a handler is applying a pesticide product whose labeling requires protective eyewear for handlers, the handler employer must provide at least one pint of water per handler in portable containers that are immediately available to each handler.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 20-21-029, § 16-233-221, filed 10/12/20, effective 11/12/20. Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-221, filed 12/13/17, effective 1/13/18.]

AMENDATORY SECTION (Amending WSR 20-21-029, filed 10/12/20, effective 11/12/20)

**WAC 16-233-311 Agricultural employer responsibilities to protect workers entering treated areas during a restricted-entry interval—40 C.F.R., § 170.605.** If an agricultural employer directs a worker to perform activities in a treated area where a restricted-entry interval is in effect, all of the following requirements must be met:

(1) The agricultural employer must ensure that the worker is at least ((eighteen)) 18 years old.

(2) Prior to early entry, the agricultural employer must provide to each early-entry worker the information described in (a) through (h) of this subsection. The information must be provided orally in a manner that the worker can understand.

(a) Location of early-entry area where work activities are to be performed.

(b) Pesticide(s) applied.

(c) Dates and times that the restricted-entry interval begins and ends.



(d) Which exception in WAC 16-233-306 is the basis for the early entry, and a description of tasks that may be performed under the exception.

(e) Whether contact with treated surfaces is permitted under the exception.

(f) Amount of time the worker is allowed to remain in the treated area.

(g) Personal protective equipment required by the pesticide product labeling for early entry.

(h) Location of the pesticide safety information required in WAC 16-233-026(1) and the location of the decontamination supplies required in subsection (8) of this section.

(3) Prior to early entry, the agricultural employer must ensure that each worker either has read the applicable pesticide product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements and statements related to human hazards or precautions, first aid, and user safety.

(4) The agricultural employer must ensure that each worker who enters a treated area during a restricted-entry interval is provided the personal protective equipment specified in the pesticide product labeling for early entry. The agricultural employer must ensure that the worker uses the personal protective equipment as intended according to manufacturer's instructions and follows any other applicable requirements on the pesticide product labeling. Personal protective equipment must conform to the standards in WAC 16-233-216 (2) (a) through (i).

(5) The agricultural employer must maintain the personal protective equipment in accordance with WAC 16-233-216 (3) and (4).

(6) The agricultural employer must ensure that no worker is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each worker is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

(7) (a) The agricultural employer must instruct each worker on the proper use and removal of the personal protective equipment, and as appropriate, on its cleaning, maintenance and disposal. The agricultural employer must not allow or direct any worker to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.

(b) Each worker is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

(8) During any early-entry activity, the agricultural employer must provide decontamination supplies in accordance with WAC 16-233-221, except the decontamination supplies must be outside any area being treated with pesticides or subject to a restricted-entry interval, unless the decontamination supplies would otherwise not be reasonably accessible to workers performing early-entry tasks.

(9) If the pesticide product labeling of the product applied requires protective eyewear, the agricultural employer must provide at least one pint of water per worker in portable containers for (~~eye-flushing~~) eye flushing that is immediately available to each worker who is performing early-entry activities.

(10) At the end of any early-entry activities the agricultural employer must provide, at the site where the workers remove personal protective equipment, soap, single-use towels and an adequate amount of water so that the workers may wash thoroughly. At least (~~ten~~) 10 gallons of water for one employee and (~~twenty~~) 20 gallons of water

for two or more employees shall be provided at early entry sites that do not have running water.

[Statutory Authority: RCW 15.58.040 and 17.21.030. WSR 20-21-029, § 16-233-311, filed 10/12/20, effective 11/12/20. Statutory Authority: RCW 15.58.040, 17.21.030 and chapter 34.05 RCW. WSR 18-01-054, § 16-233-311, filed 12/13/17, effective 1/13/18.]

## WSR 22-18-067

## EXPEDITED RULES

## DEPARTMENT OF REVENUE

[Filed September 1, 2022, 1:36 p.m.]

Title of Rule and Other Identifying Information: WAC 458-20-22802  
Electronic filing and payment.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 458-20-22802 to align the language in subsection (2)(a) of the rule regarding when the department of revenue may waive the electronic filing and payment requirements with the statutory language in RCW 82.32.080 (2)(b) and (3)(b). The rule is also being amended to update the name of the department's electronic filing and payment system.

Reasons Supporting Proposal: Amending this rule to reflect statutory requirements will provide greater clarity to taxpayers on the circumstances under which they may have their electronic filing and payment requirements waived by the department.

Statutory Authority for Adoption: RCW 82.32.085.

Statute Being Implemented: RCW 82.32.080.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Heidi Geathers, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1615.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is applicable to this rule update because the department is amending the language to reflect statutory requirements.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leslie Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, AND RECEIVED BY November 8, 2022.

September 1, 2022  
Atif Aziz  
Rules Coordinator

OTS-4072.1

AMENDATORY SECTION (Amending WSR 16-06-040, filed 2/24/16, effective 3/26/16)

**WAC 458-20-22802 Electronic filing and payment.** (1) **Introduction.** The department of revenue (~~department~~) makes electronic filing (~~((also known as e-file))~~) My DOR and electronic payment available to taxpayers. The law requires (~~(certain)~~) all taxpayers to file and pay excise taxes electronically unless a specific waiver applies. RCW 82.32.080.

(a) Taxpayers (~~(who are)~~) required to electronically file and pay their excise taxes must register to use (~~(e-file)~~) My DOR. If they choose to pay using certain electronic payment methods, they must also (~~(furnish)~~) provide the department with the necessary banking information. (~~(Taxpayers who are not specifically required to file or pay taxes electronically are encouraged to voluntarily take advantage of e-file and pay electronically.)~~)

(b) Electronic filing and electronic payment are available for taxes reported on the combined excise tax return, which includes those taxes administered by the department under chapter 82.32 RCW. For purposes of the taxes under chapter 82.32 RCW, unless the context clearly requires otherwise, the term "tax" is defined under RCW 82.32.020. Electronic filing and electronic payment are not (~~(available)~~) required for city and town taxes on financial institutions (chapter 82.14A RCW), cigarette tax (chapter 82.24 RCW), leasehold excise tax (chapter 82.29A RCW), and forest tax (chapter 84.33 RCW). Taxpayers not required to file or pay taxes electronically are encouraged to voluntarily use My DOR to file and pay electronically.

(2) **Electronic filing and electronic payment.** (~~(E-file)~~) My DOR is an internet-based application (~~(that provides)~~) providing a secure and encrypted method for taxpayers to file and pay Washington state's (~~(business-related)~~) excise taxes.

(a) All taxpayers are required to (~~(use e-file)~~) electronically file using My DOR and pay electronically unless the department waives the requirement for good cause (~~(, or the taxpayer has an assigned reporting frequency that is less than quarterly)~~).

(b) If good cause exists, the department may waive the (~~(e-file and/or)~~) electronic filing and payment requirements for any taxpayer. Waiver for "good cause" is generally temporary. Reasons for good cause include, but are not limited to the following:

- (i) The taxpayer does not have the necessary equipment or software;
- (ii) The equipment or software necessary is not functioning properly;
- (iii) The taxpayer does not have access to the internet using the (~~(taxpayers own)~~) taxpayer's equipment;
- (iv) The taxpayer does not have a bank account or credit card;
- (v) The taxpayer's bank is unable to send or receive electronic funds transfer transactions; or
- (vi) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from complying.

(3) **Electronic payments.** (~~(There are)~~) Taxpayers required to use My DOR to submit their tax return must also pay the associated taxes electronically. The department accepts two electronic payment methods: Electronic funds transfer (EFT) and credit card, as described in (a)

~~and (b) of this subsection. ((Those taxpayers who are required to use e-file to submit their tax return must also pay the associated taxes electronically. For a) Taxpayers ((who is)) required to pay electronically ((, ~~electronic funds transfer (EFT) must be used,~~)) must use EFT or credit card unless the department authorizes some other type of electronic payment for ((that particular)) a specific taxpayer.~~

(a) **Payment by electronic funds transfer (EFT).** EFT is a method of transferring funds from a taxpayer's bank account into the department's bank account.

(i) **Definitions.** For ((the)) purposes of this rule, the following terms ((will)) apply:

(A) "Electronic funds transfer" or "EFT" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. Electronic funds transfer includes payments made by electronic check (e-check).

(B) "ACH" or "automated clearing house" means a central distribution and settlement system for the electronic clearing of debits and credits between financial institutions.

(C) "EFT debit" means the electronic transfer of funds, cleared through the ACH system ((that is)), generated by the taxpayer instructing the department's bank to charge the taxpayer's account and deposit the funds to the department's account. E-check is a singular payment transaction ((that functions)) functioning in the same manner as an EFT debit transaction.

(D) "EFT credit" means the electronic transfer of funds, cleared through the ACH system ((that is)), generated by the taxpayer instructing the taxpayer's bank to charge the taxpayer's account and deposit the funds to the department's account.

(E) "Department's bank" means the bank with which the department of revenue has a contract to assist in the receipt of taxes and includes any agents of the bank.

(F) "Collectible funds" means funds that have completed the electronic funds transfer process and are available for immediate use by the state.

(G) "ACH CCD+addenda" and "ACH CCD+record" mean the information in a required ACH format ((that needs to be)) transmitted to properly identify the payment.

(ii) **EFT methods.** Taxpayers paying by EFT must use the EFT debit, EFT credit, or e-check methods. In an emergency, the taxpayer should contact the department for alternative methods of payment.

(iii) **Form and content of EFT.** The form and content of EFT will be as follows:

(A) If ((the)) a taxpayer ((wishes to use)) uses EFT debit, ((the taxpayer)) they must furnish the department with the information needed to complete the transaction by registering for electronic funds transfer on the department's website.

(B) If ((the)) a taxpayer ((wishes to use)) uses EFT credit, ((the taxpayer is)) they are responsible for ensuring ((that its)) their bank has the information necessary ((in order)) to complete the payment. The payment must be submitted using the ACH CCD+addenda format. The EFT credit payment method requires the taxpayer to complete an EFT authorization form.

(C) If the taxpayer wishes to use e-check, they must enter their bank account and routing number for each payment transaction. The e-check transaction authorizes the department to withdraw the payment amount from the taxpayer's bank account.

(iv) **Due date of EFT payment.** The EFT payment is due on or before the next banking day following the tax return due date.

(A) An EFT payment made using the EFT debit or e-check method is timely if the payment is initiated on or before 11:59 p.m. Pacific Time on the tax return due date, and the effective date for that payment is on or before the next banking day following the tax return due date.

(B) An EFT payment made using the EFT credit method is timely when the state receives collectible U.S. funds on or before 5:00 p.m., Pacific Time, on the EFT payment due date.

(C) The ACH system, either EFT debit or EFT credit, requires ~~((that))~~ the necessary information be in the originating bank's possession on the banking day preceding the date for completion of the transaction. Each bank generally has its own transaction deadlines ~~((and)),~~ but it is the responsibility of the taxpayer to ensure timely payment.

(D) The tax return due date is the next business day after the statutory due date if the statutory due date falls on a Saturday, Sunday, or legal holiday. Legal holidays are determined under state of Washington law and banking holidays are those recognized by the Federal Reserve System.

Example. The tax return due date is Friday, December 25th, a legal and banking holiday ~~((, which, for the example, falls on a Friday))~~. The next business day is Monday, December 28th, and this is the ~~((new))~~ holiday-adjusted tax return due date. This means EFT debit and e-check users must initiate their debit payment by 11:59 p.m., Pacific Time, on December 28th, with a payment effective date of Tuesday, December 29th, ~~((in order))~~ for the payment to be considered timely. EFT credit users must contact their bank to ensure funds are deposited in the department's bank no later than 5:00 p.m., Pacific Time, on Tuesday, December 29th, ~~((in order))~~ for the payment to be considered timely.

(b) **Payment by credit card.** Payment by credit card is available using American Express, Discover, Visa, or MasterCard. Taxpayers who wish to make their payment with one of these credit cards are directed to the website of a third-party, nonstate, vendor when they submit their electronic return. Taxpayers then provide their credit card number in the same manner as with any other credit card payment transaction. A credit card payment is considered timely if the payment is completed, including the time it takes to enter the required information on the credit card vendor's website, on or before 11:59 p.m., Pacific Time, on the tax return due date. Each credit card payment may be subject to a convenience fee charged by the third-party, nonstate, vendor.

(4) **Electronic refunds.** If ~~((the))~~ a taxpayer ~~((pays taxes on the combined excise tax return by EFT debit))~~ is due a refund, the taxpayer is entitled to a refund of those taxes by EFT. If the taxpayer wishes to have the refund made by EFT, the taxpayer must provide the department with the information necessary to make an appropriate EFT transaction or the refund will be issued as a paper check. No electronic adjustments or refunds are made directly to ~~((taxpayer))~~ a taxpayer's credit card ~~((accounts or on e-check transactions))~~. Overpay-

ments of tax will either be retained to be credited to future tax liabilities or, at the taxpayer's request, will be refunded.

(5) **Coordinating a paper return and an electronic payment.** ((When a)) To file a paper return, the taxpayer must qualify for a waiver from electronically filing. If approved, and the taxpayer ((voluntarily)) uses the EFT credit payment method but files a paper return, the department will match the payment with the return. A paper return will be considered timely filed only if it is received by the department on or before the tax return due date and the taxpayer has been waived from the electronic filing and payment requirements. The associated EFT credit payment must be received by the next banking day after the tax return due date. If both events occur, the return and payment are considered timely, and the late payment penalty does not apply. If the return is sent through the U.S. Postal Service, it will be considered received on the date shown by the post office cancellation mark stamped on the envelope. RCW 82.32.080. ((If both events occur, there is timely filing and payment and no penalties apply.))

(6) **Crediting and proof of payment.** The department will credit the taxpayer with the amount paid as of the date the payment is received by the department's bank. The proof of payment by the taxpayer will depend on the means of transmission.

(a) EFT debit and e-check transactions may be proved by use of the confirmation number received from the department that the transaction was initiated and bank statements or other evidence from the bank that the transaction was settled.

(b) An EFT credit transaction is initiated by the taxpayer through the taxpayer's bank. The taxpayer is responsible for completion of the transaction. The taxpayer generally will be given a verification number by the taxpayer's bank. This verification number with proof of the ACH CCD+record showing the department's bank and account number, plus confirmation ((that)) the transaction has been settled will constitute proof of payment.

(c) A taxpayer using any other electronic payment method is responsible for completion of the transaction. Proof of payment will include transaction initiation date and any other evidence from a financial institution or credit card company ((that)) showing the transaction was settled.

(7) **Correcting errors.** Errors in the electronic payment process may result in either an underpayment or an overpayment of the tax. In either case, the taxpayer needs to contact the department to arrange for appropriate action. Overpayments may be used as a credit, or the taxpayer may apply for a refund. The department will expedite a refund where it is caused by an error in transmission. Underpayments should be corrected by the taxpayer immediately to avoid any penalties.

(8) **Penalties.** There are no special provisions for penalties when payment is made by electronic means. WAC 458-20-228 discusses the various penalties that may apply and the limited circumstances under which they may be waived. To avoid the imposition of penalties, the taxpayer must provide correct bank account information to the department, and ensure their payment is timely.

(a) If the department finds ((that)) a taxpayer disregarded specific written instructions to file returns or remit payments electronically, as provided by RCW 82.32.080, the department will add a penalty of ((ten)) 10 percent to the amount of the tax that should have been reported and/or paid electronically or the additional tax found due if there is a deficiency because of failure to follow written instructions.

(b) A taxpayer will be considered to have willfully disregarded the requirement to file returns or remit payment electronically if the department:

(i) Has mailed or otherwise delivered the specific written instructions to the taxpayer on at least two occasions; and

(ii) Has provided the taxpayer at least ~~((forty-five))~~ 45 days after the second written notice to come into compliance with its electronic filing and/or payment obligations. ~~((WAC 458-20-228 discusses the various penalties that may apply and the limited circumstances under which they may be waived.))~~

(c) In an EFT debit and e-check transaction, the department's bank is the originating bank and is responsible for the accuracy of transmission. If the taxpayer has timely initiated the EFT debit or e-check transaction, provided accurate bank account information, received a confirmation number, and shows adequate funds were available in the account, no late payment penalties will apply with respect to those funds authorized.

(d) In an EFT credit transaction, the taxpayer's bank is the originating bank, and the taxpayer is primarily responsible for its accuracy. The taxpayer must have timely initiated the transaction, provided the correct information for the ACH CCD+record, and shown ~~((that))~~ there were sufficient funds in the account, ~~((in order))~~ to prove timely compliance. If the taxpayer can make this showing, then no late payment penalties will apply with respect to those funds authorized if the transaction is not completed.

(e) When a payment is made using an approved credit card, the credit card company acts as the taxpayer's agent and the taxpayer is primarily responsible for the accuracy of this transaction. If the taxpayer can prove the payment was initiated and submitted timely, no late payment penalties will apply to those funds authorized.

[Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 16-06-040, § 458-20-22802, filed 2/24/16, effective 3/26/16. Statutory Authority: RCW 82.32.300, 82.01.060(2), 82.32.080, and 82.32.085. WSR 13-22-047, § 458-20-22802, filed 11/1/13, effective 12/2/13. Statutory Authority: RCW 82.32.085, 82.32.300, and 82.01.060(2). WSR 06-23-066, § 458-20-22802, filed 11/9/06, effective 12/10/06. Statutory Authority: RCW 82.32.300 and 82.32.085. WSR 01-07-017, § 458-20-22802, filed 3/13/01, effective 4/13/01. Statutory Authority: RCW 82.32.300. WSR 91-24-070, § 458-20-22802, filed 12/2/91, effective 1/2/92; WSR 90-19-052, § 458-20-22802, filed 9/14/90, effective 10/15/90.]



## WSR 22-18-086

## EXPEDITED RULES

## DEPARTMENT OF HEALTH

[Filed September 6, 2022, 10:32 a.m.]

Title of Rule and Other Identifying Information: Chapter 246-71 WAC, Medical marijuana authorization database; and chapter 246-72 WAC, Medical marijuana consultant certificate. The department of health (department) is proposing replacing the term "marijuana" with "cannabis" in response to passage of 2SHB 1210 (chapter 16, Laws of 2022). The department is also proposing other clarifying changes, including changing terms such as "gender," citations, and spellings throughout both chapters.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 2SHB 1210 changed the term "marijuana" to "cannabis" in state law. This proposed rule change will update chapters 246-71 and 246-72 WAC to reflect the term "cannabis." The department is proposing this rule change as a part of bill implementation.

The department is proposing other updates are [and] general corrections for accuracy and readability. Additional technical changes not referenced in the bill include removing gender pronouns as well as the requirement to identify gender in the medical marijuana authorization database.

The proposed changes will not affect the intent or meaning of the rule.

Reasons Supporting Proposal: 2SHB 1210 made technical changes to replace the term "marijuana" with "cannabis" throughout RCW. The legislature finds that the use of the term "marijuana" in the United States has discriminatory origins and should be replaced with the more scientifically accurate term "cannabis."

Reasons for removing gender pronouns as well as no longer requiring gender be identified in rule is to ensure the rule language reflects the current state of the authorization database. In addition, left unchanged, requiring gender to be identified is not mandated by statute and would not be something that would result in a violation of law or rule.

This act is technical in nature and no substantive legal changes are intended or implied.

Statutory Authority for Adoption: RCW 69.51A.290 and 69.51A.230.

Statute Being Implemented: RCW 69.51A.290, 69.51A.230; and 2SHB 1210 (chapter 16, Laws of 2022).

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Shannon Angell, 101 Israel Road S.E., Tumwater, WA 98501, 360-236-2820.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The department is proposing this rule change as a part of bill implementation. Other proposed changes are clarifying. Changes will not affect the intent or meaning of the rule.

## 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 Shannon Angell, Department of Health, P.O. Box 47850, Olympia, WA 98504, phone 360-236-2820, fax 360-236-2901, email <https://fortress.wa.gov/doh/policyreview>, AND RECEIVED BY November 7, 2022.

September 6, 2022  
 Kristin Peterson, JD  
 Deputy Secretary  
 Policy and Planning  
 for Umair A. Shah, MD, MPH  
 Secretary

OTS-3901.1

**Chapter 246-71 WAC**  
**MEDICAL ((MARIJUANA)) CANNABIS AUTHORIZATION DATABASE**

AMENDATORY SECTION (Amending WSR 19-22-047, filed 11/1/19, effective 11/1/19)

**WAC 246-71-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper approved by the Washington pharmacy quality assurance commission.

(2) "Compassionate care renewal" means a renewal of an authorization by a health care practitioner through the use of telemedicine if the health care practitioner determines that requiring the qualifying patient to attend an in-person physical examination would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition. A compassionate care renewal of a qualifying patient's registration and recognition card also allows the qualifying patient's designated provider to renew the qualifying patient's registration in the database and recognition card without the qualifying patient being physically present at a retailer and without a new photograph being taken.

(3) "Consultant" means a person who holds a valid medical ((~~marijuana~~)) cannabis consultant certificate issued by the secretary under chapter 246-72 WAC and who is employed by a retail outlet with a medical ((~~marijuana~~)) cannabis endorsement.

(4) "Credential for access" or "credentials" means information, electronic device, or certificate provided by the department or the

department's designee to a data requestor to electronically access the database. The authentication may include, but is not limited to, a user name, password, or an identification electronic device or certificate.

(5) "Database" means the medical ((~~marijuana~~)) cannabis authorization database established under RCW 69.51A.230.

(6) "Department" means the Washington state department of health.

(7) "Designated provider" has the same meaning as RCW 69.51A.010(4).

(8) "Dispenser" means a person authorized to dispense controlled substances other than ((~~marijuana~~)) cannabis under chapter 69.50 RCW.

(9) "Health care practitioner" or "authorizing health care practitioner," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physician's assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(10) "Official" means an official of a local, state, tribal, or federal law enforcement or prosecutorial agency.

(11) "Prescriber" means a person authorized to prescribe or dispense controlled substances other than ((~~marijuana~~)) cannabis under chapter 69.50 RCW.

(12) "Qualifying patient" or "patient" has the same meaning as RCW 69.51A.010(19).

(13) "Recognition card" means a card issued to qualifying patients and designated providers by a ((~~marijuana~~)) cannabis retailer with a medical ((~~marijuana~~)) cannabis endorsement that has entered them into the medical ((~~marijuana~~)) cannabis authorization database.

(14) "Retail outlet with a medical ((~~marijuana~~)) cannabis endorsement" or "endorsed outlet" means a location licensed by the WSLCB under RCW 69.50.325 for the retail sale of usable ((~~marijuana and marijuana-infused~~)) cannabis and cannabis-infused products to the public, and under RCW 69.50.375 to qualifying patients and designated providers for medical use.

(15) "Telemedicine" has the same meaning as the definition of that term adopted by the authorizing health care practitioner's disciplining authority, whether defined in rule or policy.

(16) "Valid photographic identification" means:

(a) A driver's license or instruction permit issued by any state of the United States or province of Canada. If the patient's driver's license has expired, the patient must also show a valid temporary driver's license with the expired card.

(b) A state identification card issued by any state of the United States or province of Canada.

(c) An official passport issued by any nation.

(d) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(e) A merchant marine identification card issued by the United States Coast Guard.

(f) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses.

A recognition card, whether current or expired, does not qualify as valid photographic identification.

(17) "Vendor" means the third-party administrator with whom the department has contracted to operate the database.

(18) "~~(WSCLB-[WSLCB])~~ WSLCB" means the Washington state liquor and cannabis board.

[Statutory Authority: 2019 c 203 and RCW 43.70.040. WSR 19-22-047, § 246-71-010, filed 11/1/19, effective 11/1/19. Statutory Authority: RCW 69.51A.230. WSR 16-11-086, § 246-71-010, filed 5/17/16, effective 6/17/16.]

AMENDATORY SECTION (Amending WSR 19-22-047, filed 11/1/19, effective 11/1/19)

**WAC 246-71-020 Adding qualifying patients and designated providers to the database.** A qualifying patient or designated provider may take their authorization to an endorsed outlet to be entered into the database.

(1) Only a consultant employed by an endorsed outlet is allowed to enter a qualifying patient's or designated provider's information into the database.

(2) Consultants must register with the department to receive credentials to access the database. The process for registration will be established by the department.

(3) The department shall verify the consultant's identity and certificate status before providing credentials to access the database.

(4) The consultant shall access the database using the credentials issued by the department or the department's designee. If the credentials are lost or missing, or the security of the credentials is compromised, the consultant shall notify the department by telephone and in writing within one business day.

(5) The consultant shall ensure that the authorization form provided is valid, complete, unaltered, and meets all requirements specified in RCW 69.51A.030 and complies with the instructions on the form. "Street address" on the authorization form means the physical address for the person's residence where plants may be grown under RCW 69.51A.210. If any requirement is not met, or the form is altered or incomplete, the person cannot be entered into the database.

(6) The consultant shall verify the identity of every patient age (~~(eighteen)~~) 18 and older and every designated provider by inspecting the patient's or designated provider's valid photographic identification. Except for patients under the age of (~~(eighteen)~~) 18, or qualifying patients renewing under a compassionate care renewal as authorized in RCW 69.51A.030, a person cannot be entered into the database without valid photographic identification.

(7) In the event of an inexact match of names on the identification and the authorization, the consultant shall ensure that the patient or designated provider named on the authorization form is the same person presenting the authorization for entry into the database.

(8) The consultant shall check the database to ensure that a designated provider is not currently associated with a different patient in the database before associating the designated provider with a new patient in the database. If a designated provider is still associated

with a different patient, the consultant cannot enter the designated provider into the database as associated with the new patient.

(9) The consultant shall enter the following information into the database for each patient and designated provider (unless specified below):

(a) The type of valid photographic identification verified and the unique number from the identification;

(b) Full legal name, as it appears on the valid photographic identification, including first name, middle initial, last name, and generational suffixes, if any;

(c) Date of birth;

(d) Actual physical address if different from the address on the identification;

(e) ~~((Gender;~~

~~(f))~~ Name of the authorizing health care practitioner;

~~((g))~~ (f) Authorizing health care practitioner's full license number;

~~((h))~~ (g) Business address of the authorizing health care practitioner;

~~((i))~~ (h) Telephone number of the authorizing health care practitioner, as listed on the authorization form;

~~((j))~~ (i) The patient's qualifying condition(s);

~~((k))~~ (j) For the designated provider only, the patient the designated provider is authorized to assist;

~~((l))~~ (k) The date the authorization was issued;

~~((m))~~ (l) The date the authorization expires; and

~~((n))~~ (m) The number of plants the patient is allowed to grow. If the authorizing health care practitioner does not indicate a specific number, the presumptive number is six plants. The health care practitioner cannot authorize more than ~~((fifteen))~~ 15 plants. An authorization for more than ~~((fifteen))~~ 15 plants is invalid.

(10) All requests for, uses of, and disclosures of information from the database by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

[Statutory Authority: 2019 c 203 and RCW 43.70.040. WSR 19-22-047, § 246-71-020, filed 11/1/19, effective 11/1/19. Statutory Authority: RCW 69.51A.230. WSR 18-07-030, § 246-71-020, filed 3/12/18, effective 4/12/18; WSR 16-11-086, § 246-71-020, filed 5/17/16, effective 6/17/16.]

AMENDATORY SECTION (Amending WSR 19-22-047, filed 11/1/19, effective 11/1/19)

**WAC 246-71-030 Renewing qualifying patients and designated providers in the database.** (1) Recognition cards expire on the expiration date indicated on the patient's or designated provider's authorization. To be valid, an authorization must expire no later than:

(a) Twelve months after the date it was issued for patients age ~~((eighteen))~~ 18 and over;

(b) Twelve months after the date it was issued for designated providers; or

(c) Six months after the date it was issued for patients under the age of ~~((eighteen))~~ 18.

(2) To renew a recognition card a patient or designated provider must receive a new authorization following reexamination of the patient by a health care practitioner in-person or as authorized for compassionate care renewals as provided in RCW 69.51A.030. The qualifying patient or designated provider may take their new authorization to an endorsed outlet to be entered into the database.

(3) A qualifying patient's designated provider may renew the patient's registration and recognition card in the medical (~~marjuana~~) cannabis authorization database without the physical presence of the qualifying patient at the retailer if the authorization from the health care practitioner indicates that the qualifying patient qualifies for a compassionate care renewal as provided in RCW 69.51A.030. A qualifying patient receiving renewals under compassionate care renewal provisions is exempt from the requirement for a new photograph for the renewal.

(4) The procedures in WAC 246-71-020 must be used to enter the patient's or designated provider's new authorization into the database.

(5) The consultant shall ensure that the information required by WAC 246-71-020(9) is updated and accurate at the time of renewal.

[Statutory Authority: 2019 c 203 and RCW 43.70.040. WSR 19-22-047, § 246-71-030, filed 11/1/19, effective 11/1/19. Statutory Authority: RCW 69.51A.230. WSR 16-11-086, § 246-71-030, filed 5/17/16, effective 6/17/16.]

AMENDATORY SECTION (Amending WSR 19-22-047, filed 11/1/19, effective 11/1/19)

**WAC 246-71-040 Requirements for recognition cards.** (1) An endorsed outlet must have the following equipment readily available and maintained in good working order:

(a) A computer with internet access and capability of running a supported version of a common web browser;

(b) A digital camera with at least 10 megapixel resolution;

(c) A standard color printer able to print at least 300 dots per inch;

(d) A laminator; and

(e) A solid white, off-white, or light blue backdrop that is free of patterns, objects or textures, to use as the background for each picture.

(2) When issuing a recognition card to a qualifying patient or designated provider, an endorsed outlet must comply with the following requirements:

(a) Only a consultant employed by the endorsed outlet is allowed to print and create a card;

(b) The consultant shall take a picture of the face of the patient or designated provider at the same time they are entered into the database following the process specified by the department. Compassionate care renewals will use the qualifying patient's existing photograph and information retained securely in the database to generate a new recognition card for the patient. The endorsed outlet shall not otherwise retain or use the photograph or patient information for any purpose other than:

- (i) Entering a qualifying patient or designated provider into the database;
- (ii) Issuing a replacement card under WAC 246-71-120; or
- (iii) Issuing a compassionate care renewal.
- (c) The consultant shall create, print the card in full color, permanently laminate the card using a heat process, and issue it to the patient or designated provider following the process specified by the department; and
- (d) The consultant shall return the authorization to the patient or designated provider. The endorsed outlet shall not retain a copy of the authorization.
- (3) The database vendor shall ensure recognition cards contain the following:
  - (a) A randomly generated and unique identification number;
  - (b) The name of the patient or designated provider;
  - (c) For designated providers, the unique identification number of the patient they are assisting;
  - (d) A photograph of the patient or designated provider;
  - (e) The amounts of (~~marijuana~~) cannabis concentrates, usable (~~marijuana, or marijuana-infused~~) cannabis, or cannabis-infused products the patient or designated provider is authorized to purchase or obtain at an endorsed outlet;
  - (f) The number of plants the patient or designated provider is authorized to grow;
  - (g) The effective date and expiration date of the card;
  - (h) The name of the health care professional who issued the authorization; and
  - (i) Additional security features required by the department to ensure the validity of the card.

[Statutory Authority: 2019 c 203 and RCW 43.70.040. WSR 19-22-047, § 246-71-040, filed 11/1/19, effective 11/1/19. Statutory Authority: RCW 69.51A.230. WSR 18-07-030, § 246-71-040, filed 3/12/18, effective 4/12/18; WSR 16-11-086, § 246-71-040, filed 5/17/16, effective 6/17/16.]

AMENDATORY SECTION (Amending WSR 16-11-086, filed 5/17/16, effective 6/17/16)

**WAC 246-71-050 Database access by (~~marijuana~~) cannabis retailers with medical endorsements.** Employees of an endorsed outlet may access the database to confirm the validity of a recognition card presented by a patient or designated provider.

(1) An employee of an endorsed outlet must register with the department to receive credentials for access. The registration process shall be established by the department.

(2) The department shall verify the employee's identity and employment status before providing credentials to access the database.

(3) The employee shall access the database using the credentials issued by the department or the department's designee. If the credentials issued are lost or missing, or the security of the credentials is compromised, the employee shall notify the department by telephone and in writing within one business day.

(4) An endorsed outlet owner or manager shall inform the department and the database vendor in writing immediately upon the termination of employment of an employee with access.

(5) All requests for, uses of, and disclosures of information from the database by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

[Statutory Authority: RCW 69.51A.230. WSR 16-11-086, § 246-71-050, filed 5/17/16, effective 6/17/16.]

AMENDATORY SECTION (Amending WSR 16-11-086, filed 5/17/16, effective 6/17/16)

**WAC 246-71-080 Database access by local, state, tribal, and federal law enforcement and prosecutorial officials.** Officials who are engaged in a bona fide specific investigation of suspected (~~marijuana-related~~) cannabis-related activity that may be illegal under Washington state law may access the database to confirm the validity of the recognition card of a patient or designated provider.

(1) Officials who want access to the database shall register with the department in order to receive credentials for access. The registration process shall be established by the department.

(2) The department or the department's designee shall verify the official's identity and position before providing credentials to access the database.

(3) Officials shall access the database using the credentials issued by the department or the department's designee. If the credentials issued are lost or missing, or the security of the credentials is compromised, the official shall notify the department or its designee by telephone and in writing within one business day.

(4) Officials with an active database account must inform the department and the database vendor in writing immediately when they no longer hold a position as a law enforcement or prosecutorial official.

(5) All requests for, uses of, and disclosures of information from the database by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

[Statutory Authority: RCW 69.51A.230. WSR 16-11-086, § 246-71-080, filed 5/17/16, effective 6/17/16.]

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

**WAC 246-71-130 Removal of a qualifying patient or designated provider from the database.** (1) The vendor must automatically deactivate patient and designated provider records in the database upon expiration of a recognition card.

(2) Patients and designated providers may request to be deactivated in the database before the expiration of their recognition card using the process established by the department.

(3) The authorizing health care practitioner may request deactivation of a patient or designated provider from the database if the patient no longer qualifies for the medical use of (~~marijuana~~) can-



nabis. This request must be made using the process established by the department.

[Statutory Authority: RCW 69.51A.230. WSR 18-07-030, § 246-71-130, filed 3/12/18, effective 4/12/18; WSR 16-11-086, § 246-71-130, filed 5/17/16, effective 6/17/16.]

OTS-3902.1

**Chapter 246-72 WAC**  
**MEDICAL ((MARIJUANA)) CANNABIS CONSULTANT CERTIFICATE**

AMENDATORY SECTION (Amending WSR 22-11-015, filed 5/9/22, effective 6/9/22)

**WAC 246-72-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Approved training program" means a school, college, or program approved by the secretary that meets the requirements of this chapter.
- (2) "Certificate holder" means a person holding a valid medical ((marijuana)) cannabis consultant certificate issued by the secretary under chapter 69.51A RCW and this chapter.
- (3) "Customer" means any patron of a retail outlet licensed under RCW 69.50.354 and holding a medical endorsement under RCW 69.50.375.
- (4) "Department" means the Washington state department of health.
- (5) "Designated provider" means the same as defined in RCW 69.51A.010.
- (6) "((Marijuana)) Cannabis product" means ((marijuana, marijuana)) cannabis, cannabis concentrates, usable ((marijuana)) cannabis, and ((marijuana-infused)) cannabis-infused products as defined in RCW 69.50.101.
- (7) "Qualifying patient" or "patient" means the same as defined in RCW 69.51A.010.
- (8) "Secretary" means the secretary of the department of health or the secretary's designee.

[Statutory Authority: RCW 69.51A.290. WSR 22-11-015, § 246-72-010, filed 5/9/22, effective 6/9/22; WSR 16-07-086, § 246-72-010, filed 3/17/16, effective 3/18/16.]

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

**WAC 246-72-020 Certificate requirements.** An applicant for a medical ((marijuana)) cannabis consultant certificate must submit to the department:

- (1) A completed initial application on forms provided by the department;
- (2) Fees required under WAC ((246-72-110)) 246-72-990;
- (3) Certificate of successful completion from an approved training program;
- (4) Proof of being age ((~~twenty-one~~) 21) or older. Acceptable forms of proof are a copy of the applicant's valid driver's license or other government-issued identification card, United States passport, or certified birth certificate;
- (5) Proof of current CPR certification from a course requiring completion of both a written and skills demonstration test; and
- (6) Any other documentation required by the secretary.

[Statutory Authority: RCW 69.51A.230. WSR 18-07-030, § 246-72-020, filed 3/12/18, effective 4/12/18. Statutory Authority: RCW 69.51A.290. WSR 16-07-086, § 246-72-020, filed 3/17/16, effective 3/18/16.]

AMENDATORY SECTION (Amending WSR 22-11-015, filed 5/9/22, effective 6/9/22)

**WAC 246-72-030 Practice parameters.** (1) A certificate holder may only provide services when acting in the capacity of an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.354 and holding a medical endorsement under RCW 69.50.375.

(2) A certificate holder may:

(a) Perform regular job duties and business functions including, but not limited to, assisting a customer with the selection of ((~~marijuana~~) cannabis) product and other items sold at the retail outlet;

(b) Assist a qualifying patient or designated provider with the following:

(i) Selection of ((~~marijuana~~) cannabis) products and other items sold at the retail outlet that may benefit the qualifying patient's terminal or debilitating medical condition;

(ii) Understanding the risks and benefits of ((~~marijuana~~) cannabis) products and other items sold at the retail outlet;

(iii) Understanding the risks and benefits of methods of administration of ((~~marijuana~~) cannabis) products sold at the retail outlet. Whenever practicable, a certificate holder shall encourage methods of administration other than smoking;

(iv) Advice about the safe handling and storage of ((~~marijuana~~) cannabis) products, including strategies to reduce access by minors;

(v) Instruction and demonstration about proper use and application of ((~~marijuana~~) cannabis) products; and

(vi) Processing the medical ((~~marijuana~~) cannabis) authorization form for the purpose of adding the qualifying patient or designated provider to the database according to WAC 246-71-020.

(3) When discussing a ((~~marijuana~~) cannabis) product with a qualifying patient or their designated provider, a certificate holder shall refer to the product using the cannabinoid profile labeling required by the Washington state liquor and cannabis board in addition to the represented strain name.

(4) A certificate holder shall not:

(a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condi-

tion, physical or mental, real or imaginary, by use of ((marijuana)) cannabis products or any other means or instrumentality;

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of ((marijuana)) cannabis products;

(c) Solicit or accept any form of remuneration directly or indirectly, overtly or covertly, in cash or any other form in return for recommending a certain product, producer, processor, clinic, or health care practitioner;

(d) Provide medical ((marijuana)) cannabis consultant services at any location other than at retail outlets licensed under RCW 69.50.354 and holding a medical endorsement under RCW 69.50.375 for which the certificate holder serves as an owner, employee, or volunteer;

(e) Create their own recognition card pursuant to chapter 246-71 WAC;

(f) Provide free samples of a ((marijuana)) cannabis product to a customer except pursuant to RCW 69.50.375;

(g) Open or allow a customer, including qualifying patients and designated providers to open a ((marijuana)) cannabis product on the premises; or

(h) Consume or allow a customer, including qualifying patients and designated providers, to consume any ((marijuana)) cannabis product on the premises.

[Statutory Authority: RCW 69.51A.290. WSR 22-11-015, § 246-72-030, filed 5/9/22, effective 6/9/22. Statutory Authority: RCW 69.51A.230. WSR 18-07-030, § 246-72-030, filed 3/12/18, effective 4/12/18. Statutory Authority: RCW 69.51A.290. WSR 16-07-086, § 246-72-030, filed 3/17/16, effective 3/18/16.]

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

**WAC 246-72-040 Display of certificate.** (1) A certificate holder shall display ((his or her)) their certificate in ((his or her)) their principal place of business in a place and manner visible to customers.

(2) A certificate holder who owns, is employed by, or volunteers at more than one business location shall display a duplicate certificate or an unaltered photocopy of ((his or her)) their certificate in each business location in a place and manner visible to customers.

[Statutory Authority: RCW 69.51A.230. WSR 18-07-030, § 246-72-040, filed 3/12/18, effective 4/12/18. Statutory Authority: RCW 69.51A.290. WSR 16-07-086, § 246-72-040, filed 3/17/16, effective 3/18/16.]

AMENDATORY SECTION (Amending WSR 22-11-015, filed 5/9/22, effective 6/9/22)

**WAC 246-72-100 Continuing education.** (1) A certificate holder must complete a minimum of 10 hours of continuing education each year in order to renew the certificate.

(2) Two of the 10 hours must be successful completion of a two-hour continuing education course offered by the department.

(3) Eight of the 10 continuing education hours may be earned through seminars, lectures, workshops, and professional conferences. Continuing education credits may be earned through in-person, distance learning, or self-study.

(a) Distance learning includes correspondence courses, webinars, audio/video broadcasting, audio/video teleconferencing e-learning, or webcasts.

(b) Self-study includes the use of multimedia devices or the study of books, research materials, ((~~marijuana~~)) cannabis industry tours or other publications. To receive credit for self-study, the credential holder shall draft and provide a one page, single spaced, 12-point font synopsis of what was learned. The time spent writing the synopsis is not reportable. Two hours of credit is allowed per report, and no more than one report may be submitted per reporting period.

(4) (a) Acceptable continuing education topics for the hours required in subsection (3) of this section include:

(i) Washington state laws and rules relating to ((~~marijuana~~)) cannabis;

(ii) Scientific research, studies, or similar information about ((~~marijuana~~)) cannabis;

(iii) Addiction and substance abuse;

(iv) Patient communication skills;

(v) Professional ethics and values;

(vi) Pesticides and chemicals in the context of ((~~marijuana~~)) cannabis agriculture; or

(vii) Qualifying medical conditions.

(b) Continuing education topics may not include:

(i) Business and management courses;

(ii) Health care training unrelated to ((~~marijuana~~)) cannabis; or

(iii) Any topic unrelated to the practice parameters of a medical ((~~marijuana~~)) cannabis consultant.

(5) Continuing education hours may not be carried over from one reporting period to another.

(6) A certificate holder shall provide acceptable documentation of completion of continuing education hours upon request of the secretary or an audit. Acceptable forms of documentation include:

(a) Transcripts;

(b) Certificate of completion;

(c) If applicable for self-study, a type-written essay in accordance with subsection (3)(b) of this section; or

(d) Other formal documentation, which include the following:

(i) Participant's name;

(ii) Course title;

(iii) Course content;

(iv) Date(s) of course;

(v) Course provider's or instructor's name(s); and

(vi) Signature of the program sponsor or course instructor. Distance learning courses and self-study activities outlined in subsection (3)(b) of this section are exempt from the signature requirement.

(7) A certificate holder shall verify compliance by submitting a signed declaration of compliance.

(8) At the secretary's discretion, up to 25 percent of certificate holders may be randomly audited for continuing education compliance after a credential is renewed. If identified for an audit, it is the certificate holder's responsibility to submit documentation of

completed continuing education activities at the time of the audit. Failure to comply with the audit documentation request or failure to supply acceptable documentation within 60 days may result in licensing action, up to and including suspension or revocation of the certificate.

(9) A certificate holder must maintain records of continuing education completion for at least four years.

[Statutory Authority: RCW 69.51A.290. WSR 22-11-015, § 246-72-100, filed 5/9/22, effective 6/9/22; WSR 16-07-086, § 246-72-100, filed 3/17/16, effective 3/18/16.]

AMENDATORY SECTION (Amending WSR 22-11-015, filed 5/9/22, effective 6/9/22)

**WAC 246-72-110 Training program requirements.** (1) A training program must include:

(a) A minimum of 20 total instruction hours in the following subjects:

(i) A minimum of five hours of instruction on Washington state laws and rules relating to (~~marijuana~~) cannabis to include, but not be limited to, the following topics:

(A) Qualifying patient and designated provider cannabis home grow laws;

(B) Patient and designated provider (~~marijuana~~) cannabis purchase and possession limits;

(C) (~~Marijuana~~) Cannabis product compliance, quality assurance testing, and labeling requirements for recreational and compliant (~~marijuana~~) cannabis products, including pesticide labeling as defined under chapter 246-70 WAC;

(D) Pesticide use on cannabis products; and

(E) The medical (~~marijuana~~) cannabis authorization process;

(ii) A minimum of two hours on qualifying conditions and the common symptoms of each;

(iii) A minimum of two hours on the short- and long-term positive and negative effects of cannabinoids;

(iv) A minimum of five hours on products that may benefit qualifying patients based on the patient's condition, any potential contraindications and the risks and benefits of various routes of administration;

(v) A minimum of two hours on safe handling of (~~marijuana~~) cannabis products, including strategies to reduce access by minors;

(vi) A minimum of two hours on ethics and patient privacy and rights; and

(vii) A minimum of two hours on the risks and warning signs of overuse, abuse and addiction.

(b) An examination comprised of at least five questions for each hour of instruction must be given for each subject. The applicant must pass the examination for each subject with a minimum score of 70 percent. Questions must be randomly selected from a sufficient supply of questions to ensure the validity of the examination. The secretary reserves the right to approve or deny individual questions and answers.

(2) Training may be provided in-person or electronically. If the training is provided electronically, students must have real-time ac-

cess to the instructor during at least half of the instruction hours for each subject.

(3) Instructors must have demonstrated knowledge and experience related to ((marijuana)) cannabis and to the subject matter, and hold:

(a) An active license to practice as a health care professional as defined in RCW 69.51A.010(5). A licensee whose credential is placed under a disciplinary order must request review and secretary approval to begin or continue as an instructor for the approved training program;

(b) An active license to practice law in the state of Washington;

(c) A bachelor's degree or higher from an accredited college or university in:

(i) Agriculture, botany, or horticulture;

(ii) Nursing, provided the instructor also holds an active license to practice as a registered nurse under chapter 18.79 RCW; or

(iii) Any other discipline, provided the intended instructor also submits a curriculum vitae with a written statement which demonstrates at least seven years of experience in the regulated cannabis industry.

(4) An owner, agent, principal, or instructor of a training program shall not have a direct or indirect financial interest in a ((marijuana)) cannabis business licensed by the Washington state liquor and cannabis board under chapter 69.50 RCW.

[Statutory Authority: RCW 69.51A.290. WSR 22-11-015, § 246-72-110, filed 5/9/22, effective 6/9/22. Statutory Authority: RCW 69.51A.230. WSR 18-07-030, § 246-72-110, filed 3/12/18, effective 4/12/18. Statutory Authority: RCW 69.51A.290. WSR 16-07-086, § 246-72-110, filed 3/17/16, effective 3/18/16.]