

Rule	AWHP Comment	OFM Response
Overall concern	Proposed rules exceed OFM’s statutory authority. The focus of this concern is the ability to conduct a random audit on data suppliers to ensure compliance with the statute. AWHP requests that the rulemaking be withdrawn.	OFM does not agree with this legal assessment. OFM has authority to conduct this rulemaking and address the subject of these rules. OFM understands the concern about random audits of data suppliers and is removing it from proposed WAC 82-75-705.
82-75-700 (Purpose of audits.)	Does not believe the statute authorizes random audits of data suppliers or requesters.	OFM does not agree with this legal assessment. OFM understands the concern in regards to data suppliers. Therefore, OFM is removing random audit of data suppliers from WAC 82-75-705. However, given the sensitive nature of the data that may be provided to requesters and OFM’s oversight responsibilities, it is not only authorized but imperative that OFM provide for the ability to conduct random audits to ensure that the requester is properly using and protecting our citizen’s data. To wait until a complaint is filed would be irresponsible for an oversight agency.
82-75-705 (When an audit may be commenced.)	Remove the ability to conduct random audits on data suppliers. If removal is not an option, limit random audits in both the time period for the audit and the breadth of the audit.	OFM agrees that at this time, random audits of data suppliers is not needed to ensure compliance with the statute and rules, nor to protect WA-APCD data. Random audits of data suppliers are removed from the rule. Random audits of data requesters are limited to once every three years and the audit can look back no further than three years
82-75-710 (Audit process.)	1. AWHP requests additional specificity in a number of areas regarding the audit process, including how the auditor will be selected, qualifications, and defining audit scope and audit certification letter.	1. OFM agrees that the areas of concern should be set forth to provide clarity. However, OFM does not agree that these items should be in rule. It would be appropriate to include these items in the Audit Guide, which will allow stakeholder input into developing these items, and memorializing the requirements in a document. In addition, many of these items will be included in the procurement documents or contract with the auditor.

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82-75-710 (Audit process.)	<p>2. AWHP has concerns about the time limits in the rule for preparing for and responding to audits.</p> <p>3. The rule should include requirements for maintaining the audit working papers.</p> <p>4. The rule should include a process to dispute audit findings.</p>	<p>2. At this time, the time limits are not going to be changed. However, OFM is open to reviewing the time periods after there is experience with the rule.</p> <p>3. Working papers will be covered in the Audit guide and the contract with the auditor.</p> <p>4. The rule allows the audited party to provide a response to the audit findings, both preliminary and final report. Added language to clarify that any response from the audited party will be included in the final report.</p>
82-75-715 (Audit guide.)	<p>The rule does not provide a fair process for the development of the audit guide, including stakeholder input and direct input to OFM. Comments should go directly to OFM, not the lead organization. Audit standards should be in rule rather than the guide.</p>	<p>The audit guide is being developed with input from the lead organization, data vendor and stakeholders. Removed the lead organization as the intermediary, so that comments go directly to OFM, which is the entity responsible for the development and implementation of the audit guide. Added the topics and standards that are required to be in the audit guide, to cover many of the areas of concerns expressed as missing from WAC 82-75-710. Added language to make clear that OFM will develop a stakeholder process for developing the guide, and adding a final review by the Data Policy Committee, which review includes the guide and all comments submitted by stakeholders, as an added check in the process.</p>
82-75-720 (Audit findings of a violation.)	<p>1. Remove provision of assessing cost to an audited party if a violation is found.</p> <p>2. Believes the rules provide an incentive for the auditor to find a violation.</p>	<p>1. The rule does not allow unilateral imposition of costs on an audited party. This would be an additional penalty that could only be imposed after notice and an opportunity to be heard. Added language to the rule to clarify the process for assessing cost.</p> <p>2. There is no incentive for an auditor to find a violation. The cost of the audit will be specifically set forth in contract</p>

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