

Chapter 480-92 WAC
LOW-LEVEL RADIOACTIVE WASTE

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WAC

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WAC 480-92-011 Application of this chapter. The rules in this chapter apply to any low-level radioactive waste site operating company, as defined in RCW 81.04.010, operating within the state of Washington, that is not exempt from commission regulation under RCW 81.108.100 and 81.108.110.

[Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-011, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-011, filed 1/10/92, effective 2/10/92.]

WAC 480-92-016 Exemptions from rules in chapter 480-92 WAC. The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-92-016, filed 2/28/05, effective 3/31/05. Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-016, filed 2/5/99, effective 3/8/99.]

WAC 480-92-021 Definitions. The definitions contained in chapter 81.108 RCW and RCW 81.04.010 are incorporated by reference in this section. To the extent that any of the definitions in this chapter differ from statutory definitions, the statutory definitions shall control.

"Affiliated interest" means a person or corporation as defined in RCW 81.16.010.

"Commission" means the Washington utilities and transportation commission.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

"Effective rate" means the highest permissible rate, for the disposal of low-level radioactive waste, calculated as the lowest con-

tract rate plus an administrative fee, if applicable, determined pursuant to RCW 81.108.040.

"Extraordinary volume" means volumes of low-level radioactive waste delivered to a site caused by nonrecurring events, outside normal operations of a generator, that are in excess of twenty thousand cubic feet or twenty percent of the preceding year's total volume at such site, whichever is less.

"Extraordinary volume adjustment" means a mechanism that allocates the potential rate reduction benefits of an extraordinary volume among all generators and the generator responsible for such extraordinary volume as described in RCW 81.108.070.

"Generator" means a person, partnership, association, corporation, or any other entity that, as a part of its activities, produces low-level radioactive waste.

"Inflation adjustment" means a mechanism that adjusts the maximum disposal rate by a percentage equal to the change in price levels in the preceding period, as measured by a common, verifiable price index as determined in RCW 81.108.040.

"Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations nor naturally occurring or accelerator produced radioactive material.

"Maximum disposal rate" the maximum disposal is the rate a site operator may charge generators as provided in RCW 81.108.050.

"Site" means a location, structure, or property used or to be used for the storage, treatment, or disposal of low-level radioactive waste for compensation within the state of Washington.

"Site operator" means a low-level radioactive waste site operating company, which includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing a low-level radioactive waste disposal site or sites located within the state of Washington.

"Subsidiary" means any company in which the low-level waste company owns directly or indirectly five percent or more of the voting securities, unless the low-level waste company demonstrates it does not have control.

"Volume adjustment" means a mechanism that adjusts the maximum disposal rate in response to material changes in volumes of waste deposited at the site during the preceding period so as to provide a level of total revenues sufficient to recover the costs to operate and maintain the site.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-92-021, filed 2/28/05, effective 3/31/05. Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-021, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-021, filed 1/10/92, effective 2/10/92.]

WAC 480-92-031 Customer records. A site operator must maintain, at a minimum, the following records, by generator, at the disposal site for at least three years:

- Customer name and address;
- Type of service provided;
- Current rates;
- Billed amount;
- Amount collected; and
- Balance due.

[Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-031, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-031, filed 1/10/92, effective 2/10/92.]

WAC 480-92-041 Uniform system of accounts. Pursuant to RCW 81.108.030(4) commission staff may require a site operator to use a uniform system of accounts to ensure that the commission can effectively audit the company's operations.

[Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-041, filed 2/5/99, effective 3/8/99.]

WAC 480-92-050 Reporting requirements—Annual report. An annual report is an end-of-the-year summary of financial and operational activity that each site operator is required to file with the commission.

(1) Each year the commission provides an annual report form and instructions to each site operator at its address of record. Failure to receive the form does not relieve a company of its obligation to complete and file its annual report. A site operator that does not receive an annual report form must contact the commission to request a copy of the form.

(2) A site operator must file a complete, accurate annual report showing all requested information by May 1 of the succeeding year. Information provided on the annual report must agree with source documents maintained at site operator offices.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-92-050, filed 2/28/05, effective 3/31/05. Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-050, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-050, filed 1/10/92, effective 2/10/92.]

WAC 480-92-055 Reporting requirements—Special reports. (1) **Affiliated interests—Contracts or arrangements.** Prior to the effective date of any contract or arrangement described in RCW 81.16.020, each site operator must file a verified copy or a verified summary, if unwritten, of contracts or arrangements, except transactions provided at

tariff rates, with any affiliated interest. Prior to the effective date of any modification or amendment, the site operator must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the site operator must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the site operator has failed to prove that it is reasonable and consistent with the public interest.

(2) **Transferring cash or assuming obligations.**

(a) At least five business days, as defined in WAC 480-07-120 (Office hours), before a site operator, whose corporate credit/issuer rating is not in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investors Service, Inc., or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a)(i) or (ii) of this subsection.

(i) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(ii) When the threshold in (a)(i) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(b) The reporting requirements in subsection (1) of this section do not include payments for:

(i) Federal and state taxes;

(ii) Goods, services, or commodities;

(iii) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court;

(iv) Dividends to the extent the level of such dividends over a twelve-month period does not exceed the larger of:

(A) Net income during such period; or

(B) The average level of dividends over the preceding three years; or

(v) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the site operator and its subsidiary or affiliate.

(3) **Affiliated interest and subsidiary transactions report.**

(a) By June 1 of each year, each site operator must file a report summarizing all transactions, except transactions provided at tariff rates, that occurred between the site operator and its affiliated interests, and the site operator and its subsidiaries, during the period January 1 through December 31 of the preceding year. The information required in this subsection must be for total company and for total state of Washington. The report must include a corporate organization chart of the company and its affiliated interests and subsidiaries.

(b) When total transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting

period, the site operator must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the site operator must provide:

- (i) A balance sheet and income statement for such affiliated interest;
- (ii) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;
- (iii) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;
- (iv) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;
- (v) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;
- (vi) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and
- (vii) A list of all common officers and directors between the low-level waste company and each such affiliated interest or subsidiary, along with their titles in each organization.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-06-051 (Docket No. A-021178 and TO-030288, General Order No. R-518), § 480-92-055, filed 2/28/05, effective 3/31/05.]

WAC 480-92-060 Minimum filing requirements. (1) When a site operator files for a general rate increase, it must follow the minimum filing requirements set forth in WAC 480-07-520.

(2) A site operator filing a request with the commission for a general rate increase must concurrently notify all generators who have disposed of low-level radioactive waste in the three years prior to the request for the proposed rate increases or service changes. The notice must include at minimum; a clear, brief explanation the generators can easily understand of the proposed rates, conditions and changes; the requested effective date; the commission's address, with a statement that generators may obtain more detailed information by writing to the commission; and a phone number for generators to call a company representative if they have questions.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-92-060, filed 11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-060, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-060, filed 1/10/92, effective 2/10/92.]

WAC 480-92-070 Annual rate adjustment. (1) A site operator may file each year for rate adjustments, as set forth in RCW 81.108.050(3), to become effective January 1 of the following year. Rate adjustments will be effective thirty days after filing with the

commission, unless suspended. Upon proper request the commission may allow filings to become effective in less than thirty days.

(2) A site operator may also file for rate adjustments at any time for reasons set forth in RCW 81.108.050(4).

[Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-070, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-070, filed 1/10/92, effective 2/10/92.]

WAC 480-92-080 Contracts. (1) Contract rates - Generally. A site operator may contract with any person to provide a disposal rate lower than the current tariff rate. Once the commission approves a contract, the site operator may not collect a disposal fee greater than the lowest contract rate plus an administrative fee.

(2) Contract requirements. A contract between a site operator and a generator must be limited to a definite time period.

A contract between a site operator and a generator must contain a provision that the contract is entered into subject to the power and authority of the commission to set just, fair, reasonable and sufficient rates for the disposal of low-level radioactive waste. The contract must provide for recovery of all costs associated with providing the service.

(3) Approval by the commission.

(a) The commission may approve the terms and conditions of a contract, and the rate or rates to be applied during the time period, if it finds the rates to be fair, just, reasonable and sufficient. The commission may not include revenues and expenses generated and incurred under contract for subsequent ratemaking purposes.

(b) Each contract must be filed with the commission at least thirty days before the proposed effective date of the contract. Contracts will become effective on the thirty-first day after filing with the commission unless:

(i) The site operator request, and the commission allows, for the contract to become effective in less than thirty days;

(ii) The commission rejects the contract; or

(iii) The commission suspends the contract and sets the matter for hearing.

(4) Information to support approval of a contract. A site operator must submit the following information with each contract filed for commission approval:

(a) A statement explaining the use of a contract rather than a filed tariff for the specific service involved;

(b) All documents and calculations showing how the site operator derived the proposed rate;

(c) All documents showing that the contract does not discriminate, or result in discrimination, among customers receiving like and contemporaneous service under substantially similar circumstances; and

(d) Any other information requested by the commission.

[Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-080, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-080, filed 1/10/92, effective 2/10/92.]

WAC 480-92-090 Site operator responsibility for complaints and disputes. (1) If a site operator receives complaints or disputes regarding its operations, it must:

- (a) Acknowledge the complaint;
- (b) Investigate promptly;
- (c) Report the results of the investigation to the complainant;
- (d) Take corrective action, if warranted, as soon as appropriate under the circumstances;
- (e) Tell the complainant the decision may be appealed to a higher level representative of the company, if any;
- (f) Tell the complainant, if still dissatisfied after speaking with the higher level representative, of the commission's availability to review the complaint; and
- (g) Provide the complainant with the commission's address and toll-free telephone number.

(2) Complainants may file with the commission:

- (a) An informal complaint against a site operator as set forth in WAC 480-07-910; and/or
- (b) A formal complaint against a site operator as set forth in RCW 81.108.080 and chapter 480-07 WAC.

(3) When commission staff refers an informal complaint to a site operator, the operator must:

- (a) Investigate and respond to commission staff within two working days. Commission staff may grant an extension of time for responding to the complaint, if requested, and warranted; and
- (b) Report regularly to commission staff about progress toward the solution and the final result.

(4) A site operator must keep a record of all complaints concerning service or rates for at least one year and, on request, make them readily available for commission review. The record must contain:

- (a) The complainant's name and address;
- (b) The date and nature of the complaint;
- (c) The action taken; and
- (d) The final result.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-92-090, filed 11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-090, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-090, filed 1/10/92, effective 2/10/92.]

WAC 480-92-100 Tariffs. (1) A site operator must file with the commission a tariff showing all rates for the disposal of low-level radioactive waste. The site operator must post the tariff at their office at the disposal site.

(2) The tariff must include the following:

- (a) A title page with the company name, date of issue, effective date, and name and title of the officer.
- (b) Pages containing all rates and the rules for assessing rates.
- (c) A page listing the abbreviations and symbols used in the tariff, and an explanation of each abbreviation and symbol.

[Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-100, filed 2/5/99, effective 3/8/99. Stat-

utory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-100, filed 1/10/92, effective 2/10/92.]

WAC 480-92-110 Penalty assessments. Pursuant to RCW 81.108.030 (4)(d) and chapter 81.04 RCW, the commission may assess penalties of up to one thousand dollars for each violation per occurrence if a site operator violates any provisions of Title 81 RCW, commission rule, or decision.

[Statutory Authority: RCW 80.01.040. WSR 99-05-016 (Order R-458, Docket No. UR-980080), § 480-92-110, filed 2/5/99, effective 3/8/99. Statutory Authority: RCW 80.01.040 and 1991 c 272. WSR 92-03-050 (Order R-366, Docket No. T-910676), § 480-92-110, filed 1/10/92, effective 2/10/92.]