WSR 05-19-028
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed September 12, 2005, 3:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-118.

Title of Rule and Other Identifying Information: WAC 458-20-261 Commute trip reduction incentives.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on October 26, 2005, at 1:30 p.m.

Date of Intended Adoption: November 2, 2005.

Submit Written Comments to: Allan C. Lau, P.O. Box 47453, Olympia, WA 98504-7453, e-mail AllanL@dor.wa.gov, fax (360) 586-5543, by October 26, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule explains the various commute trip reduction incentives that are available. First, RCW 82.04.355 and 82.16.047 provide exemptions from business and occupation (B&O) tax and public utility tax on amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs. RCW 82.08.0287 and 82.12.0282 provide sales and use tax exemptions for sales or use of passenger motor vehicles as ride-sharing vehicles. Finally, chapter 82.70 RCW provides commute trip reduction incentives in the form of B&O tax or public utility tax credit in connection with ride sharing, public transportation, car sharing, and nonmotorized commuting.

The department is considering a revision to this rule to incorporate provisions of chapter 364, Laws of 2003 and chapter 297, Laws of 2005. These provisions provide B&O tax or public utility tax credit for ride sharing, using public transportation, car sharing, and nonmotorized commuting.

Reasons Supporting Proposal: To update the rule to reflect legislative changes and to clarify the application of taxes.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.04.355, 82.16.047, 82.08.0287, 82.12.0282, and chapter 82.70 RCW.

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: Allan C. Lau, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6134; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose any new performance requirement or administrative burden on any small business not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

September 8, 2005
Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-11-097, filed 5/17/00, effective 6/17/00)

WAC 458-20-261 ((~~Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting.~~)) Commute trip reduction incentives. (1) **Introduction.** ((~~This section explains the various tax credits and exemptions which apply in connection with ride sharing, public transportation, and nonmotorized commuting.~~

~~(2) Definitions. For purposes of this section, the following definitions apply, unless otherwise required by the context.~~

~~(a) "Ride sharing" and "commuter ride sharing" mean a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (i) not fewer than five persons including the drivers, or (ii) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment. The transportation must be between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution. The terms include ride sharing on Washington state ferries.~~

~~(b) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs.~~

~~(c) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.~~

~~(d) "Public transportation" means the transportation of passengers by means other than chartered or sightseeing bus, together with necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. It includes passenger services of the Washington state ferries.~~

~~(e) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor. It does not include teleworking.~~

~~(3) Business and occupation tax and public utility tax exemptions. Amounts received from providing commuter~~

ride sharing and ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.

(4) Retail sales tax exemption. RCW 82.08.0287 provides a retail sales tax exemption for sales of passenger motor vehicles as ride-sharing vehicles.

(a) Sales tax does not apply to sales of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from sales tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(5) Use tax exemption. RCW 82.12.0282 provides a use tax exemption for the use of passenger motor vehicles as ride-sharing vehicles.

(a) Use tax does not apply to the use of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from use tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(6) Business and occupation tax and public utility tax credit. The credit program described in this subsection expires December 31, 2000. Employers in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. Property managers who manage worksites in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of persons employed at those worksites for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. RCW 82.04.4453 and 82.16.048. Property managers became eligible for these credits on July 25, 1999. Chapter 402, Laws of 1999.

(a) In general, the amount of the credit for employers is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. For property managers, the amount of the credit, in most cases, is equal to the amount paid to or on behalf of each person employed at the worksite, but may not exceed sixty dollars per employee per year. However, for ride sharing in vehicles carrying two persons, the credit for both employers and property managers is equal to the amount paid to or on behalf of each employee multiplied by thirty percent, but may not exceed sixty dollars per employee per year. The credit is based upon amounts paid to or on behalf of individual employees, and may not be based upon an average of amounts paid to or on behalf of employees for qualifying purposes.

(b) The credit may not exceed the amount of business and occupation tax or public utility tax that would otherwise be due for the same calendar year after all other credits are applied.

(c) A person may not receive credit for amounts paid to or on behalf of the same employee under both the business and occupation tax and the public utility tax.

(d) A person may not take a credit for amounts claimed for credit by other persons.

(e) The total credit received by a person against both the business and occupation tax and the public utility tax may not exceed one hundred thousand dollars for a calendar year.

(f) The total credit granted to all persons under both the business and occupation tax and the public utility tax may not exceed two million two hundred fifty thousand dollars for a calendar year. The total credit granted may be limited to less than two million two hundred fifty thousand dollars for any particular calendar year, depending on the availability of funding.

(g) No credit or portion of a credit denied because of exceeding the limitations in (e) or (f) of this subsection may be used against tax liability for other calendar years.

(7) Credit procedures. This subsection explains the procedures used in the credit program described in subsection (6) of this rule.

(a) Persons apply for the credit by completing a ride share credit reporting schedule and filing it with the combined excise tax return covering the period for which the

~~credit is claimed. The ride share credit reporting schedule is available upon request from the department of revenue.~~

~~(b) Persons may not apply for the credit more frequently than once per quarter nor less frequently then once per year against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to or on behalf of employees.~~

~~(c) Credit must be claimed by the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.~~

~~(i) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.~~

~~(ii) If the department of revenue has granted an extension of the due date for the last tax return for the calendar year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.~~

~~(d) The department of revenue tabulates the amount of credit taken by all persons on a quarterly basis. If the annual allowable amount of credit is exceeded in a given quarter, no further credit will be allowed in succeeding quarters in the same calendar year. For the quarter in which the maximum is exceeded, the department of revenue calculates the amount of credit available at the beginning of the quarter and determines the proportional share of that amount for every person who has claimed a credit in the quarter. These persons are billed for the difference between the amount of credit they claimed and the prorated amount of credit for which they are eligible.~~

~~(8) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.~~

~~(a) An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. This is the total expenditure during a calendar year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, and using nonmotorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.~~

~~(b) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.~~

~~(c) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.~~

~~(d) An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.~~)) This rule explains the various commute trip reduction incentives that are available. First, RCW 82.04.355 and 82.16.047 provide exemptions from business and occupation (B&O) tax and public utility tax on amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs. RCW 82.08.0287 and 82.12.0282 provide sales and use tax exemptions for sales or use of passenger motor vehicles as ride-sharing vehicles. Finally, chapter 82.70 RCW provides commute trip reduction incentives in the form of B&O tax or public utility tax credit, effective July 1, 2003, in connection with ride sharing, public transportation, car sharing, and nonmotorized commuting.

(2) **B&O tax and public utility tax exemptions on providing commuter ride sharing or ride sharing for persons with special transportation needs.** Amounts received in the course of commuter ride sharing or ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.

(a) **What is "commuter ride sharing"?** "Commuter ride sharing" means a car pool or van pool arrangement, whereby one or more fixed groups:

(i) Not exceeding fifteen persons each, including the drivers; and

(ii) Either:

(A) Not fewer than five persons, including the drivers; or

(B) Not fewer than four persons, including the drivers, where at least two of those persons are confined to wheelchairs when riding;

Are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. Each group must be in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institutions.

(b) **What is "ride sharing for persons with special transportation needs"?** "Ride sharing for persons with special transportation needs" means an arrangement, whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, in a passenger

motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs.

(i) **What is a "private, nonprofit transportation provider"?** A "private, nonprofit transportation provider" is any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs.

(ii) **What is "persons with special transportation needs"?** "Persons with special transportation needs" are those persons, including their personal attendants, who because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase appropriate transportation.

(3) **Retail sales tax and use tax exemptions on sales or use of passenger motor vehicles as ride-sharing vehicles.** RCW 82.08.0287 and 82.12.0282 provide retail sales tax and use tax exemptions for sales and use of passenger motor vehicles as ride-sharing vehicles.

(a) **What are the requirements?** The requirements are that the passenger motor vehicles must be used:

(i) For commuter ride sharing or ride sharing for persons with special transportation needs; and

(ii) As ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase (retail sales tax exemption) and the date of first use (use tax exemption). If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must pay the retail sales tax or use tax.

(b) **Additional requirements in certain cases.** Vehicles with five or six passengers, including the driver, used for commuter ride sharing must be operated within a county, or a city or town within that county, which has a commute trip reduction plan under chapter 70.94 RCW in order to be exempt from retail sales tax or use tax. In addition, for the exemptions to apply, at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

Individual-employee owned and operated motor vehicles require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commute ride-sharing arrangement conforms to a car pool/van pool element contained within their commute trip reduction program.

(4) **B&O tax or public utility tax credit for ride sharing, public transportation, car sharing, or nonmotorized commuting.** Effective July 1, 2003, RCW 82.70.020 provides a credit against B&O tax or public utility tax liability for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(a) **Who is eligible for this credit?**

(i) Employers in Washington are eligible for this credit, for amounts paid to or on behalf of their own or other employees, as financial incentives to such employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(ii) Property managers who manage worksites in Washington are eligible for this credit, for amounts paid to or on behalf of persons employed at those worksites, as financial incentives to such persons for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting.

(b) **What is "ride sharing"?** "Ride sharing" means a car pool or van pool arrangement, whereby a group of at least two but not exceeding fifteen persons, including the driver, is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. The driver must also be on the way to or from his or her place of employment or educational or other institution. "Ride sharing" includes ride sharing on Washington state ferries.

(c) **What is "public transportation"?** "Public transportation" means the transportation of packages, passengers, and their incidental baggage, by means other than by charter bus or sight-seeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. "Public transportation" includes passenger services of the Washington state ferries.

(d) **What is "car sharing"?** "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(e) **What is "nonmotorized commuting"?** "Nonmotorized commuting" means commuting to and from the workplace by an employee, by walking or running or by riding a bicycle or other device not powered by a motor. "Nonmotorized commuting" does not include teleworking, which is a program where work functions normally performed at a traditional workplace are instead performed by an employee at his or her home, at least one day a week for the purpose of reducing the number of trips to the employee's workplace.

(f) **What is the credit amount?** The amount of the credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year.

(g) **What is a "fiscal year"?** A "fiscal year" begins at July 1st of one year and ends on June 30th of the following year.

(h) **When will the credit expire?** The credit program is scheduled to expire July 1, 2013.

(i) **What are the limitations of the credit?**

(i) **For periods after June 30, 2005:**

(A) The credit may not exceed the amount of B&O tax or public utility tax that would otherwise be due for the same fiscal year.

(B) A person may not receive credit for amounts paid to or on behalf of the same employee under both B&O tax and public utility tax.

(C) A person may not take a credit for amounts claimed for credit by other persons.

(D) Total credit received by a person against both B&O tax and public utility tax may not exceed two hundred thousand dollars for a fiscal year. This limitation does not apply to credits deferred from prior fiscal years as described in (i)(i)(G) and (H) of this subsection.

(E) Total credit granted to all persons under both B&O tax and public utility tax may not exceed two million seven hundred fifty thousand dollars for a fiscal year, including any credits carried forward from prior fiscal years as described in (i)(i)(G) of this subsection.

(F) No credit or portion of a credit denied, because of exceeding the limitations in (i)(i)(D) or (E) of this subsection, may be used against tax liability for other fiscal years, subject to (i)(i)(G) and (H) of this subsection.

(G) A person, with B&O tax and public utility tax liability equal to or in excess of the credit for a fiscal year, may use all or part of the credit deferred prior to July 1, 2005, for a period of not more than three fiscal years after the fiscal year in which the credit accrued. No credit deferred under this (i)(i)(G) may be used after June 30, 2008. The person must submit an application, as provided in (j)(i)(A) of this subsection, in the fiscal year tax credit will be applied, and the credit must be approved by the department before use. This application is subject to eligibility under (i)(i)(E) of this subsection for the fiscal year tax credit will be applied. If a deferred credit is subject to proportional reduction under (j)(i)(D) of this subsection, the amount of deferred credit reduced may be carried forward as long as the period of deferral does not exceed three years after the year the credit was earned.

(H) For deferred credit approved by the department after June 30, 2005, the approved credit may be carried forward to subsequent years until used. The limitation described in (i)(i)(E) of this subsection does not apply to such deferred credit approved after June 30, 2005.

(I) No person is eligible for the tax credit, including the deferred tax credit authorized under (i)(i)(G) and (H) of this subsection, after June 30, 2013.

(J) No person is eligible for tax credit if the additional revenues for the multimodal transportation account created under RCW 46.68.035(1), 82.08.020(3), 82.12.045(7), 46.16.233(2), and 46.16.690 (created by the Engrossed Substitute House Bill No. 2231, chapter 361, Laws of 2003) are terminated.

(ii) **For periods prior to July 1, 2005:**

(A) The credit may not exceed the amount of B&O tax or public utility tax that would otherwise be due for the same fiscal year.

(B) A person may not receive credit for amounts paid to or on behalf of the same employee under both B&O tax and public utility tax.

(C) A person may not take a credit for amounts claimed for credit by other persons.

(D) Total credit received by a person against both B&O tax and public utility tax may not exceed two hundred thousand dollars for a fiscal year. This limitation does not apply to credits deferred from prior fiscal years as described in (i)(ii)(G) of this subsection.

(E) Total credit granted to all persons under both B&O tax and public utility tax may not exceed two million two hundred fifty thousand dollars for a fiscal year, including any credits carried forward from prior fiscal years as described in (i)(ii)(G) of this subsection.

(F) No credit or portion of a credit denied, because of exceeding the limitations in (i)(ii)(D) or (E) of this subsection, may be used against tax liability for other fiscal years, subject to (i)(ii)(G) of this subsection.

(G) A person, with B&O tax and public utility tax liability equal to or in excess of the credit for a fiscal year, may defer all or part of the credit for a period of not more than three fiscal years after the fiscal year in which the credit accrued. Such person deferring tax credit must submit an application in the fiscal year tax credit will be applied. This application is subject to eligibility under (i)(ii)(E) of this subsection for the fiscal year tax credit will be applied.

(H) No person is eligible for the tax credit, including the deferred tax credit authorized under (i)(ii)(G) of this subsection, after June 30, 2013.

(I) No person is eligible for tax credit if the additional revenues for the multimodal transportation account created under RCW 46.68.035(1), 82.08.020(3), 82.12.045(7), 46.16.233(2), and 46.16.690 (created by the Engrossed Substitute House Bill No. 2231, chapter 361, Laws of 2003) are terminated.

(j) **What are the credit procedures?**

(i) **For periods after June 30, 2005:**

(A) Persons applying for the credit must complete an application. The application must be received by the department between January 1 and January 31, following the calendar year in which the applicants made incentive payments. The application must be made to the department in a form and manner prescribed by the department.

(B) An application due by January 31, 2006, must not include incentive payments made from January 1, 2005, to June 30, 2005.

(C) The department must rule on an application within sixty days of the January 31 deadline. In addition, the department must disapprove an application not received by the January 31 deadline. Once the application is approved and tax credit is granted, the department is not allowed to increase the credit.

(D) If the total amount of credit applied for by all applicants in a fiscal year exceeds the limitation as provided in (i)(i)(E) of this subsection, the amount of credit allowed for all applicants is proportionally reduced so as not to exceed the limit. The amount reduced may not be carried forward and claimed in subsequent fiscal years, except as provided in (i)(i)(G) of this subsection.

(ii) **For periods prior to July 1, 2005:**

(A) Persons apply for the credit, by completing a commute trip reduction reporting schedule and filing it with the excise tax return covering the period for which the credit is

claimed. The commute trip reduction reporting schedule is available upon request from the department of revenue.

(B) Credit must be claimed by the due date of the last tax return for the fiscal year in which the payment to or on behalf of employees was made.

(I) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the fiscal year in which the payment to or on behalf of employees was made.

(II) If the department of revenue has granted an extension of the due date for the last tax return for the fiscal year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.

(C) Once the statewide limitation of two million two hundred fifty thousand dollars is reached in a fiscal year, no further credit will be available for that fiscal year. Credit is permitted by the department of revenue on a first-come-first-serve basis. Credit claimed after the statewide limitation is reached may be deferred to the next three fiscal years before the credit expires.

(k) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. These are the total expenditures during a fiscal year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, using car sharing, and using nonmotorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(ii) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(iii) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty-dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.

(iv) An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.

WSR 05-19-051
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed September 15, 2005, 11:21 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 246-292-160 Water works operator certification fees.

Hearing Location(s): Department of Health, Point Plaza East, Conference Room, 310 Israel Road S.E., Tumwater, WA 98501, on October 25, 2005, at 1:00 p.m.

Date of Intended Adoption: November 22, 2005.

Submit Written Comments to: Theresa Phillips, P.O. Box 47822, Olympia, WA 98504-7822, e-mail http://www3.doh.wa.gov/policyreview/, fax (360) 236-2253, by October 25, 2005.

Assistance for Persons with Disabilities: Contact Theresa Phillips by October 18, 2005, TTY (800) 833-6388 or (360) 236-3147.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule revises the fee schedule to increase fees for water works operator certification fees. During the 2005 legislative session, the legislature authorized the department to increase fees beyond the fiscal growth factor in ESSB 6090 (chapter 518, Laws of 2005). The fee increases for operators range from $11 to $19 for application fees, an increase of $9 for reapplication and renewal fees, and a $8 increase for late fees. The fee increases for water systems vary from an increase of $29 for water systems with up to 600 services to an increase of $180 for water systems with more than 20,000 services.

Reasons Supporting Proposal: Fee adjustments are necessary to guarantee sufficient revenue to fulfill the department's public health protection obligations, and to meet the requirements of RCW 70.119.160 and 43.20.250, with fees that fully cover program costs. This fee increase will allow the department to maintain its current level of program activities and services.

Statutory Authority for Adoption: RCW 70.119.160.

Statute Being Implemented: RCW 43.70.250.

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: Theresa Phillips, Tumwater, (360) 236-3147; Implementation and Enforcement: Richard Sarver, Tumwater, (360) 236-3093.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative stan-

dards are exempt from the requirements of the Regulatory Fairness Act.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(vi) rules that set or adjust fees pursuant to legislative standards are exempt from the cost benefit analysis.

September 14, 2005
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 04-12-123, filed 6/2/04, effective 7/3/04)

WAC 246-292-160 Water works certification fees. (1) Operator fees:

(a) Applicable fees are listed in Table 2 of this section;

Table 2
WATER WORKS OPERATOR FEES

OPERATOR CLASSIFICATION	APPLICATION FEE	REAPPLICATION FEE	ANNUAL RENEWAL FEE	LATE FEE
WTPO	$((~~68.00~~)) 87.00	$((~~33.00~~)) 42.00	$((~~33.00*~~)) 42.00*	$((~~27.00**~~)) 35.00**
WDM	$((~~68.00~~)) 87.00	$((~~33.00~~)) 42.00	$((~~33.00*~~)) 42.00*	$((~~27.00**~~)) 35.00**
WDS	$((~~68.00~~)) 87.00	$((~~33.00~~)) 42.00	$((~~33.00*~~)) 42.00*	$((~~27.00**~~)) 35.00**
CCS	$((~~40.00~~)) 51.00	$((~~33.00~~)) 42.00	$((~~33.00*~~)) 42.00*	$((~~27.00**~~)) 35.00**
BAT	$((~~40.00~~)) 51.00	$((~~33.00~~)) 42.00	$((~~33.00~~)) 42.00*	$((~~27.00~~)) 35.00
BTO	$((~~40.00~~)) 51.00	$((~~33.00~~)) 42.00	$((~~33.00~~)) 42.00*	$((~~27.00~~)) 35.00

* The annual renewal fee for a WTPO,WDM,WDS and CCS certification is ((~~thirty-three~~)) thirty-five dollars regardless of the number of classifications held.

** The annual late fee for a WTPO, WDM, WDS, and CCS certification is ((~~twenty-seven~~)) thirty-five dollars regardless of the number of classifications held.

(b) The department will assess a late fee ((~~shall be assessed~~)) to operators ((~~failing~~)) who fail to submit the required fee within the time period specified on the renewal form; and

(c) The fee for application for reciprocity is one hundred ((~~thirty-eight~~)) seventy-seven dollars per classification.

(2) Group A system fees:

(a) Applicable fees are listed as indicated in Table 3 of this section.

Table 3
ANNUAL SYSTEM CERTIFICATION FEES

SYSTEM SIZE* (Number of Equivalent Services)	SYSTEM FEE
Less than 601 Services	$((~~103.00~~)) 132.00
601 through 6,000 Services	$((~~313.00~~)) 403.00
6,001 through 20,000 Services	$((~~417.00~~)) 536.00
More than 20,000 Services	$((~~629.00~~)) 809.00

* Systems designated by the department as approved satellite management agencies (SMAs) shall pay a fee based on total services in all systems owned by the SMA.

(b) A Group A system must pay the fee((~~s shall be paid~~)) in Table 3 in conjunction with the system's annual operating permit fee required in chapter 246-294 WAC.

(c) The department will assess a late fee ((~~shall be assessed~~)) against any system ((~~for failing~~)) that fails to submit ((~~the applicable~~)) its fees to the department within the designated time period. The late fee ((~~shall be~~)) is based on the water system's classification and ((~~shall be an additional~~)) is equal to ten percent of the ((~~applicable~~)) system fee in Table 3 or ((~~twenty-seven~~)) thirty-five dollars, whichever is greater.

(d) The system fee for issuance of a temporary certification shall be ((~~sixty-eight~~)) eighty-seven dollars for each temporary position.

(3) Fees are nonrefundable and transfers of fees are not allowable.

(4) ((~~Payment of~~)) Fees required under this chapter ((~~shall be in the form of a~~)) must be paid by check or money order made payable to the department of health and ((~~shall be~~)) mailed to the department ((~~of Health,~~)) at P.O. Box 1099, Olympia, Washington 98507-1099.

WSR 05-19-052
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed September 15, 2005, 11:22 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Licensing fees for WAC 246-337-990 Residential treatment facilities.

These sections establish licensure fees for residential treatment facilities. The fees paid by these facilities support the licensure, survey and complaint investigation activities within the department.

RCW 43.70.250 authorizes the department to charge fees sufficient to cover the full cost of programs operations.

Hearing Location(s): Point Plaza East, 310 Israel Road S.E., Room 152, Tumwater, WA 98501, on October 25, 2005, at 9:30 a.m.

Date of Intended Adoption: November 7, 2005.

Submit Written Comments to: Alisa Harris, P.O. Box 47852, Olympia, WA 98504-7852, web site www3.doh.wa.gov/policyreview, fax (360) 236-2901, by October 24, 2005.

Assistance for Persons with Disabilities: Contact Alisa Harris by October 21, 2005, TTY (800) 833-6388 or (360) 236-2907.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to the current rules increase fees for residential treatment facilities by 2.82% which is allowable with the current fiscal growth factor.

This proposal also allows for an initial applicant to request, prior to licensure, options for withdrawal of an application and refund. Currently, the department has no refund policy for applications that are withdrawn prior to licensure.

The purpose of the fee increase is to support the licensure, survey and complaint investigations of the residential treatment facility program within the facilities and services licensing division. The fee increase will allow this program to continue their current level of public health activities during fiscal year 2006.

Reasons Supporting Proposal: The department is requesting fee increases by percentages allowable with the fiscal growth factor (consistent with I-601). The fee increases are necessary for the department to fulfill its public health obligation in these programs.

Statutory Authority for Adoption: RCW 43.70.250, chapter 71.12 RCW.

Statute Being Implemented: RCW 43.70.250.

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: Gary Bennett, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2900.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 19.85.025(3) and does not require a small business economic impact statement (SBEIS). The requirements for an SBEIS do not apply to rules described under RCW 34.05.310 (4)(f), rules that adopt fees or rates pursuant to legislative standards. However, the department prepared fee analyses which provide documentation of the need for the fee increases. To obtain a copy of a fee analysis, contact Alisa Harris, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-2907, fax (360) 236-2901, e-mail alisa.harris@doh.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. The department did not complete a cost-benefit analysis. This rule proposal is exempt from this requirement under RCW 34.05.328 (5)(b)(iv) and (vi), rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules that set or adjust fees or rates pursuant to legislative standards.

September 14, 2005
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 05-15-157, filed 7/20/05, effective 8/20/05)

WAC 246-337-990 Licensing fees. A licensee must submit the following fees to the department:

FEE TYPE	AMOUNT
Administrative processing/ initial application fee	$150.00
License bed fee (per bed)	$((~~136.10~~)) 139.90
Annual renewal fee (per bed)	$((~~136.10~~)) 139.90
Late fee (per bed)	$25.00 (up to $500.00)
Follow-up compliance survey fee or a complete on-site survey fee resulting from a substantiated complaint	$1000.00

((~~If a written request is submitted for withdrawal after the department has begun the licensure review process, but before licensure, the department may refund any portion of the fees not consumed by departmental action taken prior to the request for withdrawal.~~)) (1) The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received an application but has not conducted an on-site survey or provided technical assistance. The department shall refund two-thirds of the fees paid, less a fifty dollar processing fee;

(b) The department has received an application and has conducted an on-site survey or provided technical assistance. The department shall refund one-third of the fees paid, less a fifty dollar processing fee.

(2) The department will not refund fees paid by the applicant if:

(a) The department has conducted more than one on-site visit for any purpose;

(b) One year has elapsed since the department received an initial licensure application, and the department has not issued a license because the applicant failed to complete requirements for licensure; or

(c) The amount to be refunded as calculated by subsection (1)(a) or (b) of this section is ten dollars or less.

WSR 05-19-053
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed September 15, 2005, 11:23 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Medical use of radioactive material, chapter 246-240 WAC (sec-

tions are being added, amended and repealed). Sections of other chapters in the radiation protection regulations are being changed to bring them into conformity with the United States Nuclear Regulatory Commission (USNRC) rules for medical use of radioactive material. In addition to those sections in chapter 246-240 WAC, the following sections of existing regulations are amended or repealed: Amending WAC 246-220-010, 246-221-001, 246-221-060, 246-221-130, 246-232-001, 246-232-014, 246-235-020, 246-235-080, 246-235-090, 246-235-100, 246-235-102, and 246-235-110; and repealing WAC 246-235-120 Schedule A, 246-239-001, 246-239-010, 246-239-020, 246-239-022, 246-239-025, 246-239-030, 246-239-035, 246-239-040, 246-239-050, 246-239-055, 246-239-060, 246-239-070, 246-239-080, 246-239-090, and 246-239-100.

Hearing Location(s): Washington State Department of Health, Radioactive Materials Section, Town Center 2, 111 Israel Road S.E., Tumwater, WA 98501, on October 28, 2005, at 11:00 a.m.

Date of Intended Adoption: October 31, 2005.

Submit Written Comments to: Arden C. Scroggs, P.O. Box 47827, Olympia, WA 98504-7827, (360) 236-3221, e-mail http://www3.doh.wa.gov/policyreview/, fax (360) 236-2255, by October 28, 2005.

Assistance for Persons with Disabilities: Contact Arden Scroggs by October 20, 2005, TTY (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule updates the regulations for medical use of radioactive material. These changes are required for compatibility with the USNRC and RCW 70.98.050. The anticipated effect of these changes is to bring Washington's radiation regulations into conformity with national standards and, establish a risk-based set of regulations that are protective of public health and safety and also allow physicians "who use radioactive material for either diagnostic or therapeutic use" an appropriate latitude of use consistent with sound medical practice.

Reasons Supporting Proposal: Uniformity of regulations are intended to promote ease of use, and thus greater conformity, with regulations governing licensees who use radioactive material for medical purposes.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Rule is necessary because of federal law, 67 F.R. 20250, 10 C.F.R. 35, 70 F.R. 16336.

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting: C. DeMaris, 111 Israel Road S.E., Tumwater, [(360) 236-3223] (3223); Implementation and Enforcement: Arden C. Scroggs, 111 Israel Road S.E., Tumwater, [(360) 236-3221] (3221).

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change is exempt from the small business [economic] impact statement requirement under RCW 19.85.025(3) because it adopts federal regulations without material change. This rule also has a "regulatory flexibility certification" prepared by USNRC stating that the "rule will not have a significant economic impact upon a substantial number of small entities."

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iii) and (1)-(4), do not apply to this rule adoption because this rule adopts federal regulations without material change and clarifies the language of a rule or otherwise makes housekeeping changes. This rule is for conformance with the USNRC regulations and is mandatory under our agreement state status with the federal government.

September 14, 2005
M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 04-23-093, filed 11/17/04, effective 12/18/04)

WAC 246-220-010 Definitions. As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain part will be found in that part.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator produced material" means any material made radioactive by exposing it in a particle accelerator.

(3) "Act" means Nuclear energy and radiation, chapter 70.98 RCW.

(4) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

(5) "Adult" means an individual eighteen or more years of age.

(6) "Agreement state" means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under section 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(7) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of particulates, dusts, fumes, mists, vapors, or gases.

(8) "Airborne radioactivity area" means a room, enclosure, or operating area in which airborne radioactive material exists in concentrations (a) in excess of the derived air concentration (DAC) specified in WAC 246-221-290, Appendix A, or (b) to ((~~such a~~)) the degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or twelve DAC-hours.

(9) "Air purifying respirator" means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

(10) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(11) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed

effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in WAC 246-221-290.

(12) "Assigned protection factor" (APF) means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

(13) "Atmosphere-supplying respirator" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

(14) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the department.

(15) "Becquerel" (Bq) means the SI unit of activity. One becquerel is equal to 1 disintegration or transformation per second (s^{-1}).

(16) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these regulations, "radiobioassay" is an equivalent term.

(17) "Byproduct material" means: (a) Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition.

(18) "Calendar quarter" means ((~~not less than~~)) at least twelve ((~~consecutive weeks nor~~)) but no more than fourteen consecutive weeks. The first calendar quarter of each year ((~~shall~~)) begins in January and subsequent calendar quarters shall be ((~~so~~)) arranged ((~~such~~)) so that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. ((~~No~~)) A licensee or registrant ((~~shall~~)) may not change the method of determining calendar quarters for purposes of these regulations ((~~except at the beginning of a calendar year~~)).

(19) "Calibration" means the determination of (a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or (b) the strength of a source of radiation relative to a standard.

(20) "CFR" means Code of Federal Regulations.

(21) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: For Class D, Days, of less than ten days, for Class W, Weeks, from ten to one hundred days, and for Class Y, Years, of greater than one hundred days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms. For "class of waste" see WAC 246-249-040.

(22) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(23) "Committed dose equivalent" ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the fifty-year period following the intake.

(24) "Committed effective dose equivalent" ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = ((\sum)) \underline{\&S_{gr.}}\ w_T H_{T,50}$).

(25) "Constraint" or dose constraint means a value above which specified licensee actions are required.

(26) "Controlled area." See "Restricted area."

(27) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} transformations per second (tps).

(28) "Declared pregnant woman" means a woman who has voluntarily informed the licensee or registrant, in writing, of her pregnancy, and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(29) "Deep dose equivalent" (H_d), which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

(30) "Demand respirator" means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

(31) "Department" means the Washington state department of health, ((~~division~~)) office of radiation protection, which has been designated as the state radiation control agency under chapter 70.98 RCW.

(32) "Depleted uranium" means the source material uranium in which the isotope Uranium-235 is less than 0.711 percent by weight of the total uranium present. Depleted uranium does not include special nuclear material.

(33) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of two thousand hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for two thousand hours in a year. DAC values are given in WAC 246-221-290.

(34) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive mate-

rial in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take two thousand DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(35) "Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

(36) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these ((~~regulations~~)) rules, "radiation dose" is an equivalent term.

(37) "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that from the time of intake the period of exposure to retained material will not exceed fifty years.

(38) "Dose equivalent" (H_T) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

(39) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these regulations. For purposes of these regulations, "limits" is an equivalent term.

(40) "Dosimetry processor" means a person that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(41) "dpm" means disintegrations per minute. See also "curie."

(42) "Effective dose equivalent" (H_E) means the sum of the products of the dose equivalent to each organ or tissue (H_T) and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated ($H_E = ((\sum)) \underline{\&\sum_{gr}}; w_T H_T$).

(43) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(44) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, without respect to their intended use.

(45) "Exposure" means (a) being exposed to ionizing radiation or to radioactive material, or (b) the quotient of ΔQ by Δm where "ΔQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "Δm" are completely stopped in air. The special unit of exposure is the roentgen (R) and the SI equivalent is the coulomb per kilogram. One roentgen is equal to 2.58×10^{-4} coulomb per kilogram of air.

(46) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(47) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(48) "Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

(49) "Filtering facepiece" (dust mask) means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

(50) "Fit factor" means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

(51) "Fit test" means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

(52) "Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(53) "Generally applicable environmental radiation standards" means standards issued by the United States Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(54) "Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule/kilogram (100 rad).

(55) "Healing arts" means the disciplines of medicine, dentistry, osteopathy, chiropractic, podiatry, and veterinary medicine.

(56) "Helmet" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

(57) "High radiation area" means any area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from any source of radiation or 30 centimeters from any surface that the radiation penetrates. For purposes of these regulations, rooms or areas in which diagnostic X-ray systems are used for healing arts purposes are not considered high radiation areas.

(58) "Hood" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

(59) "Human use" means the intentional internal or external administration of radiation or radioactive material to human beings.

(60) "Immediate" or "immediately" means as soon as possible but no later than four hours after the initiating condition.

(61) "IND" means investigatory new drug for which an exemption has been claimed under the United States Food, Drug and Cosmetic Act (Title 21 CFR).

(62) "Individual" means any human being.

(63) "Individual monitoring" means the assessment of:

(a) Dose equivalent (i) by the use of individual monitoring devices or (ii) by the use of survey data; or

(b) Committed effective dose equivalent (i) by bioassay or (ii) by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

(64) "Individual monitoring devices" (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent ((~~such~~)) e.g., as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(65) "Inspection" means an official examination or observation by the department including but not limited to, tests, surveys, and monitoring to determine compliance with rules, ((~~regulations,~~)) orders, requirements and conditions of the department.

(66) "Interlock" means a device arranged or connected ((~~such~~)) so that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(67) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(68) "Irretrievable source" means any sealed source containing licensed material which is pulled off or not connected to the wireline downhole and for which all reasonable effort at recovery, as determined by the department, has been expended.

(69) "Lens dose equivalent" (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeters (300 mg/cm^2).

(70) "License" means a license issued by the department ((~~in accordance with the regulations adopted by the department~~)).

(71) "Licensed material" means radioactive material received, possessed, used, transferred, or disposed under a general or specific license issued by the department.

(72) "Licensee" means any person who is licensed by the department ((~~in accordance with~~)) under these ((~~regulations~~)) rules and the act.

(73) "Licensing state" means any state with regulations equivalent to the suggested state regulations for control of radiation relating to, and an effective program for, the regulatory control of NARM and which has been granted final designation by the Conference of Radiation Control Program Directors, Inc.

(74) "Loose-fitting facepiece" means a respiratory inlet covering that is designed to form a partial seal with the face.

(75) "Lost or missing licensed material" means licensed material whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(76) "Member of the public" means an individual except when the individual is receiving an occupational dose.

(77) "Minor" means an individual less than eighteen years of age.

(78) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these regulations, radiation monitoring and radiation protection monitoring are equivalent terms.

(79) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include by-product, source, or special nuclear material. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), NARM refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(80) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(81) "NDA" means a new drug application which has been submitted to the United States Food and Drug Administration.

(82) "Negative pressure respirator" (tight-fitting) means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

(83) "Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these ((~~regulations~~)) rules, a "deterministic effect" is an equivalent term.

(84) "Nuclear Regulatory Commission" (NRC) means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(85) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: From background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released ((~~pursuant to~~)) under chapter((~~s 246-239 and~~)) 246-240 WAC, from voluntary participation in medical research programs, or as a member of the public.

(86) "Ore refineries" means all processors of a radioactive material ore.

(87) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV.

(88) "Permittee" means a person who has applied for, and received, a valid site use permit for use of the low-level waste disposal facility at Hanford, Washington.

(89) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing, but shall not include federal government agencies.

(90) "Personal supervision" means supervision ((~~such that~~)) where the supervisor is physically present at the facility and in ((~~such~~)) sufficient proximity that contact can be maintained and immediate assistance given as required.

(91) "Personnel monitoring equipment." See individual monitoring devices.

(92) "Pharmacist" means an individual licensed by this state to compound and dispense drugs, and poisons.

(93) "Physician" means an individual licensed by this state to prescribe and dispense drugs in the practice of medicine.

(94) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(95) "Positive pressure respirator" means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

(96) "Powered air-purifying respirator" (PAPR) means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

(97) "Practitioner" means an individual licensed by the state in the practice of a healing art (i.e., physician, dentist, podiatrist, chiropractor, etc.).

(98) "Pressure demand respirator" means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

(99) "Public dose" means the dose received by a member of the public from exposure to sources of radiation under the licensee's or registrant's control or to radiation or radioactive material released by the licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released ((~~pursuant to~~)) under chapter((~~s 246-239 and~~)) 246-240 WAC, or from voluntary participation in medical research programs.

(100) "Qualified expert" means an individual who has demonstrated to the satisfaction of the department he/she has the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. The department reserves the right to recognize the qualifications of an individual in specific areas of radiation protection.

(101) "Qualitative fit test" (QLFT) means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

(102) "Quality factor" (Q) means the modifying factor, listed in Tables I and II, that is used to derive dose equivalent from absorbed dose.

TABLE I
QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to A Unit Dose Equivalent[a]
X, gamma, or beta radiation and high-speed electrons	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

[a] Absorbed dose in rad equal to 1 rem or the absorbed dose in gray equal to 1 Sv.

If it is more convenient to measure the neutron fluence rate rather than to determine the neutron dose equivalent rate in sievert per hour or rem per hour as required for Table I, then 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these regulations, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II
MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (MeV)	Quality Factor[a] (Q)	Fluence per Unit Dose Equivalent[b] (neutrons cm^{-2} rem^{-1})	Fluence per Unit Dose Equivalent[b] (neutrons cm^{-2} Sv^{-1})
(thermal) 2.5×10^{-8}	2	980×10^{6}	980×10^{8}
1×10^{-7}	2	980×10^{6}	980×10^{8}
1×10^{-6}	2	810×10^{6}	810×10^{8}
1×10^{-5}	2	810×10^{6}	810×10^{8}
1×10^{-4}	2	840×10^{6}	840×10^{8}
1×10^{-3}	2	980×10^{6}	980×10^{8}
1×10^{-2}	2.5	1010×10^{6}	1010×10^{8}
1×10^{-1}	7.5	170×10^{6}	170×10^{8}
5×10^{-1}	11	39×10^{6}	39×10^{8}
1	11	27×10^{6}	27×10^{8}
2.5	9	29×10^{6}	29×10^{8}
5	8	23×10^{6}	23×10^{8}
7	7	24×10^{6}	24×10^{8}
10	6.5	24×10^{6}	24×10^{8}
14	7.5	17×10^{6}	17×10^{8}
20	8	16×10^{6}	16×10^{8}
40	7	14×10^{6}	14×10^{8}
60	5.5	16×10^{6}	16×10^{8}
1×10^{2}	4	20×10^{6}	20×10^{8}
2×10^{2}	3.5	19×10^{6}	19×10^{8}
3×10^{2}	3.5	16×10^{6}	16×10^{8}
4×10^{2}	3.5	14×10^{6}	14×10^{8}

[a] Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-cm diameter cylinder tissue-equivalent phantom.

[b] Monoenergetic neutrons incident normally on a 30-cm diameter cylinder tissue-equivalent phantom.

(103) "Quantitative fit test" (QNFT) means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

(104) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately thirteen consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(105) "Rad" means the special unit of absorbed dose. One rad equals one-hundredth of a joule per kilogram of material; for example, if tissue is the material of interest, then 1 rad equals 100 ergs per gram of tissue. One rad is equal to an absorbed dose of 100 erg/gram or 0.01 joule/kilogram (0.01 gray).

(106) "Radiation" means alpha particles, beta particles, gamma rays, X rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these regulations, ionizing radiation is an equivalent term. Radiation, as used in these regulations, does not include magnetic fields or nonionizing radiation, ((~~such as~~)) like radiowaves or microwaves, visible, infrared, or ultraviolet light.

(107) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at thirty centimeters from the source of radiation or from any surface that the radiation penetrates.

(108) "Radiation machine" means any device capable of producing ionizing radiation except those devices with radioactive materials as the only source of radiation.

(109) "Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection regulations and has been assigned ((~~such~~)) that responsibility by the licensee or registrant.

(110) "Radiation source." See "Source of radiation."

(111) "Radioactive material" means any material (solid, liquid, or gas) which emits radiation spontaneously.

(112) "Radioactive waste" means any radioactive material which is no longer of use and intended for disposal or treatment for the purposes of disposal.

(113) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(114) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.

(115) "Registrable item" means any radiation machine except those exempted by RCW 70.98.180 or exempted by the department ((~~pursuant to~~)) under the authority of RCW 70.98.080.

(116) "Registrant" means any person who is registered by the department or is legally obligated to register with the department in accordance with these ((~~regulations~~)) rules and the act.

(117) "Registration" means registration with the department in accordance with the regulations adopted by the department.

(118) "Regulations of the United States Department of Transportation" means the regulations in 49 CFR Parts 170-189, 14 CFR Part 103, and 46 CFR Part 146.

(119) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(120) "Research and development" means: (a) Theoretical analysis, exploration, or experimentation; or (b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(121) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(122) "Restricted area" means any area to which access is limited by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to radiation and radioactive material. "Restricted area" ((~~shall~~)) does not include any areas used for residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

(123) "Roentgen" (R) means the special unit of exposure. One roentgen equals 2.58×10^{-4} coulombs/kilogram of air.

(124) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(125) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or the escape of the radioactive material.

(126) "Self-contained breathing apparatus" (SCBA) means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

(127) "Shallow dose equivalent" (H_s), which applies to the external exposure of the skin of the whole body or the skin of an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm^2).

(128) "SI" means an abbreviation of the International System of Units.

(129) "Sievert" means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

(130) "Site area emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(131) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(132) "Source container" means a device in which radioactive material is transported or stored.

(133) "Source material" means: (a) Uranium or thorium, or any combination thereof, in any physical or chemical form, or (b) ores which contain by weight one-twentieth of one percent (0.05 percent) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

(134) "Source material milling" means the extraction or concentration of uranium or thorium from any ore processing primarily for its source material content.

(135) "Source of radiation" means any radioactive material, or any device or equipment emitting or capable of producing ionizing radiation.

(136) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States Nuclear Regulatory Commission, ((~~pursuant to~~)) under the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched in any of the foregoing, but does not include source material.

(137) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding three hundred fifty grams of contained U-235; Uranium-233 in quantities not exceeding two hundred grams; Plutonium in quantities not exceeding two hundred grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of ((~~such~~)) the ratios for all of the kinds of special nuclear material in combination shall not exceed "1" (i.e., unity). For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} < 1$$

(138) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, probabilistic effect is an equivalent term.

(139) "Supplied-air respirator" (SAR) or "airline respirator" means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

(140) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, release, disposal, or presence of sources of radiation. When appropriate, ((~~such~~)) the evaluation includes, but is not limited to, tests, physical examinations, calculations and measurements of levels of radiation or concentration of radioactive material present.

(141) "Test" means (a) the process of verifying compliance with an applicable regulation, or (b) a method for determining the characteristics or condition of sources of radiation or components thereof.

(142) "These ((~~regulations~~)) rules" mean all parts of the rules for radiation protection of the state of Washington.

(143) "Tight-fitting facepiece" means a respiratory inlet covering that forms a complete seal with the face.

(144) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(145) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ or tissue receiving the highest dose.

(146) "United States Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the department exercises functions formerly vested in the United States Atomic Energy Commission, its chairman, members, officers and components and transferred to the United States Energy Research and Development Administration and to the administrator thereof ((~~pursuant to~~)) under sections 104 (b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814 effective January 19, 1975) and retransferred to the Secretary of Energy ((~~pursuant to~~)) under section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(147) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

(148) "Unrestricted area" (uncontrolled area) means any area which is not a restricted area. Areas where the external dose exceeds 2 mrem in any one hour or where the public dose, taking into account occupancy factors, will exceed 100 mrem total effective dose equivalent in any one year must be restricted.

(149) "User seal check" (fit check) means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

(150) "Very high radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a source of radiation or one meter from any surface that the radiation penetrates.

(151) "Waste handling licensees" mean persons licensed to receive and store radioactive wastes prior to disposal and/or persons licensed to dispose of radioactive waste.

(152) "Week" means seven consecutive days starting on Sunday.

(153) "Weighting factor" w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

ORGAN DOSE WEIGHTING FACTORS

Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30[a]
Whole Body	1.00[b]

[a] 0.30 results form 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

[b] For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(154) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(155) "Worker" means an individual engaged in activities under a license or registration issued by the department and controlled by a licensee or registrant but does not include the licensee or registrant. Where the licensee or registrant is an individual rather than one of the other legal entities defined under "person," the radiation exposure limits for the worker also apply to the individual who is the licensee or registrant. If students of age eighteen years or older are subjected routinely to work involving radiation, then the students are considered to be workers. Individuals of less than eighteen years of age shall meet the requirements of WAC 246-221-050.

(156) "Working level" (WL) means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy. The short-lived radon daughters are — for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

(157) "Working level month" (WLM) means an exposure to one working level for one hundred seventy hours — two thousand working hours per year divided by twelve months per year is approximately equal to one hundred seventy hours per month.

(158) "Year" means the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-221-001 Purpose and scope. (1) This chapter establishes standards for protection against radiation hazards. Except as otherwise specifically provided, this chapter applies to all licensees or registrants. The requirements of this chapter are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in this chapter.

(2) The limits in this chapter do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, to exposure from individuals administered radioactive material and released ((~~pursuant to~~)) under chapter((~~s 246-239 and~~)) 246-240 WAC, or to voluntary participation in medical research programs.

(3) Nothing in this chapter shall be interpreted as limiting actions that may be necessary to protect health and safety in an emergency.

(4) The definitions contained in WAC 246-220-010 also apply to this chapter. WAC 246-220-007, Statement of philosophy, is directly applicable to this chapter.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-221-060 Dose limits for individual members of the public. (1) Each licensee or registrant shall conduct operations so that:

(a) The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose contributions from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released ((~~pursuant to~~)) under chapter((~~s 246-239 and~~)) 246-240 WAC, from voluntary participation in medical research programs, and from the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with WAC 246-221-190; and

(b) The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released ((~~pursuant to~~)) under chapter((~~s 246-239 and~~)) 246-240 WAC, does not exceed 0.02 mSv (0.002 rem) in any one hour.

(2) If the licensee or registrant permits members of the public to have access to restricted areas, they shall be escorted and the limits for members of the public continue to apply to those individuals.

(3) Notwithstanding subsection (1) of this section, a licensee or registrant may continue to operate a facility constructed and put into operation prior to January 1, 1994, where the annual dose limit for an individual member of the

public is more than 1 mSv (0.1 rem) and less than 5 mSv (0.5 rem) total effective dose equivalent, ((~~provided~~)) if:

(a) The facility's approved operating conditions for each radiation source remain the same. Any increase in the following operating conditions shall require reevaluation by the department and/or modification of the facility shielding applicable to the source of radiation to meet the 1 mSv (0.1 rem) total effective dose equivalent limit for individual members of the public: size of the radiation source, workload, or occupancy factors associated with the source of radiation; and

(b) Any change in the permanent shielding of the facility due to remodeling, repair or replacement ((~~shall~~)) requires the facility to meet the 1 mSv (0.1 rem) total effective dose equivalent limit for individual members of the public for areas affected by that portion of the shielding.

(4) Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-221-130 Exceptions from posting and labeling requirements. (1) A room or area is not required to be posted with a caution sign because of the presence of a sealed source, provided the radiation level 30 centimeters from the surface of the source container or housing does not exceed 0.05 mSv (five millirem) per hour.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs because of the presence of patients containing radioactive material ((~~provided that~~)) if the patient could be released from licensee control ((~~pursuant to~~)) under chapter((~~s 246-239 and~~)) 246-240 WAC.

(3) Caution signs are not required to be posted in areas or rooms containing radioactive material for periods of less than eight hours ((~~provided that~~)) if:

(a) The material is constantly attended during ((~~such~~)) those periods by an individual who ((~~shall~~)) takes ((~~the~~)) precautions necessary to prevent the exposure of any individual to radiation or radioactive material in excess of the limits established in ((~~this part~~)) these rules; and

(b) ((~~Such~~)) The area or room is subject to the licensee's or registrant's control.

(4) A room or other area is not required to be posted with a caution sign because of the presence of radioactive material prepared for transport and packaged and labeled in accordance with regulations of the United States Department of Transportation.

(5) A room or area is not required to be posted with a caution sign because of the presence of a diagnostic X-ray system used solely for healing arts purposes.

(6) The interior of a teletherapy room is not required to be posted with caution signs provided ((~~such~~)) the posting is conspicuously placed at the entrance(s) to the rooms.

(7) A licensee is not required to label:

(a) Containers holding licensed material in quantities less than the quantities listed in WAC 246-221-300; or

(b) Containers holding licensed material in concentrations less than those specified in WAC 246-221-290, Table III; or

(c) Containers attended by an individual who takes the precautions necessary to prevent the exposure of any individual to radiation or radioactive material in excess of the limits established by this chapter; or

(d) Containers when they are in transport and packaged and labeled in accordance with the regulations of the United States Department of Transportation; or

(e) Containers such as those located in water-filled canals, storage vaults, or hot cells, that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, provided the contents are identified to these individuals by a readily available written record. The record shall be retained as long as the containers are in use for the purpose indicated on the record; or

(f) Installed manufacturing or process equipment, such as chemical process equipment, piping, and tanks.

(8) Each licensee, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, shall remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

AMENDATORY SECTION (Amending WSR 99-15-105, filed 7/21/99, effective 8/21/99)

WAC 246-232-001 Purpose and scope. (1) This chapter prescribes rules governing licensing of radioactive material. ((~~No~~)) A person ((~~shall~~)) may not receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license issued ((~~pursuant to~~)) under chapters 246-233 or 246-235 WAC or as otherwise provided in this chapter.

(2) In addition to the requirements of this chapter, ((~~or~~)) and chapters 246-233 or 246-235 WAC, all licensees ((~~are subject to the requirements of~~)) must comply with chapters 246-220, 246-221, 246-222, 246-231, 246-247, and 246-254 WAC. Licensees engaged in the practice of nuclear medicine are subject to ((~~the requirements of~~)) chapter ((~~246-239~~)) 246-240 WAC, licensees engaged in industrial radiographic operations are subject to ((~~the requirements of~~)) chapter 246-243 WAC, licensees using sealed sources in the healing arts are subject to ((~~the requirements of~~)) chapter 246-240 WAC, licensees using radioactive material in well logging and subsurface tracer studies are subject to ((~~the requirements of~~)) chapter 246-244 WAC, licensees engaged in land disposal of radioactive waste are subject to ((~~the requirements of~~)) chapter 246-250 WAC, and licensees owning or operating uranium or thorium mills and associated mill tailings are subject to ((~~the requirements of~~)) chapter 246-252 WAC.

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-014 Exemption of C-14 urea diagnostic capsules for human use. (1) Except as provided in subsections (2) and (3) of this section, a person is exempt from the requirements for a license set forth in chapters 246-233 and 246-235 WAC if the person receives, possesses, uses,

transfers, owns, or acquires capsules containing 37 kilobequerels (1 microcurie) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in vivo" diagnostic use for humans.

(2) A person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license under chapters 246-240 and 246-235 WAC ((~~246-235-080~~)).

(3) A person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution these capsules shall apply for and receive a specific license from the United States Nuclear Regulatory Commission under Section 32.21 of 10 C.F.R. Part 32.

(4) Nothing in this section relieves persons from complying with applicable United States Food and Drug Administration, other federal, and state requirements governing receipt, administration, and use of drugs.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-020 General requirements for the issuance of specific licenses. A license application will be approved if the department determines that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in ((~~such~~)) a manner ((~~as~~)) to minimize danger to public health and safety or property;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;

(3) The issuance of the license will not ((~~be inimical to~~)) harm the health and safety of the public; and

(4) The applicant satisfies any applicable special requirements in WAC 246-235-075 through 246-235-110, and chapters ((~~246-239~~)) 246-240 through 246-252 WAC.

(5) ((~~In the case of~~)) When an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, source material milling, or for the conduct of any other activity which the agency determines will significantly affect the quality of the environment, the ((~~department, before commencement of construction of the plant or facility in which the activity will be conducted, has concluded, after independently weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values~~)) applicant shall not begin construction until the department has weighed the environmental, economic, technical, and other benefits against the environmental costs and has concluded that the issuance of the license is appropriate. Commencement of construction prior to ((~~such conclusion~~)) approval by the department shall be grounds for denial of a license to receive and possess radioactive material in ((~~such~~)) the plant or facility. As used in this paragraph the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

AMENDATORY SECTION (Amending WSR 00-08-013, filed 3/24/00, effective 4/24/00)

WAC 246-235-080 Special requirements for ((~~issuance of specific licenses for medical use of radioactive material~~)) possession and use of medical calibration and reference sources. (((~~(1) Human use of radioactive material in institutions. In addition to the requirements set forth in WAC 246-235-020 a specific license for human use of radioactive material in institutions will be issued if:~~

~~(a) The applicant has appointed a radiation safety committee to coordinate the use of radioactive material throughout that institution and to maintain surveillance over the institution's radiation safety program. Membership of the committee should include a specialist (where applicable a physician) from each department where radioactive material is used, a representative of the institution's management, a representative of the nursing staff, and a person trained in radiation safety. The radiation safety committee shall meet at least quarterly. Minutes shall be taken and maintained for two years for inspection by the department;~~

~~(b) The applicant possesses adequate facilities for the clinical care of patients. The applicant is advised that construction of new radioisotope facilities and modification of existing facilities must also comply with the requirements of WAC 246-318-660 of the construction review section of the department;~~

~~(c) The physician(s) designated on the application as the individual user(s) has (or have) substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients; and~~

~~(d) If the application is for a license to use unspecified quantities or multiple types of radioactive material, the applicant's staff has substantial experience in the use of a variety of radioactive materials for a variety of human uses.~~

~~(2) Licensing of individual physicians for human use of radioactive material. In addition to the requirements set forth in WAC 246-235-020 a specific license for the human use of radioactive material will be issued to an individual physician if:~~

~~(a) The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable;~~

~~(b) The applicant has extensive experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients;~~

~~(c) The application is for use in the applicant's practice in an office outside a medical institution; and~~

~~(d) If the application is for use by an individual physician or group of physicians for a specific license to receive, possess or use radioactive material on the premises of a medical institution, the department will issue a specific license only if:~~

~~(i) The use of radioactive material is limited to the:~~

~~(A) Administration of radiopharmaceuticals for diagnostic or therapeutic purposes;~~

~~(B) Performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered;~~

~~(C) Performance of in vitro diagnostic studies; or~~

~~(D) Calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation and diagnostic instrumentation;~~

~~(ii) The physician brings the radioactive material with him or her and removes the radioactive material when he or she departs. (The institution cannot receive, possess or store radioactive material other than the amount of material remaining in the patient); and~~

~~(iii) The medical institution does not hold a radioactive material license issued pursuant to the provisions of subsection (1) of this section.~~

~~(3) Specific licenses for certain groups of medical uses of radioactive material.~~

~~(a) Subject to the provisions of (b), (c) and (d) of this subsection an application for a specific license pursuant to subsection (1), (2) or (4) of this section, or for any medical use or uses of radioactive material specified in one or more of Groups I to VI, inclusive, of WAC 246-235-120, Schedule A, will be approved for all of the uses within the group or groups which include the use or uses specified in the application if:~~

~~(i) The applicant satisfies the requirements of subsection (1), (2) or (4) of this section;~~

~~(ii) The applicant, or the physician designated in the application as the individual user, has adequate clinical experience in the types of uses included in the group or groups;~~

~~(iii) The applicant, or the physicians and all other personnel who will be involved in the preparation and use of the radioactive material, have adequate training and experience in the handling of radioactive material appropriate to their participation in the uses included in the group or groups;~~

~~(iv) The applicant's radiation detection and measuring instrumentation is adequate for conducting the procedures involved in the uses included in the group or groups, specifically:~~

~~(A) For Groups I through V, applicant must possess and use a calibrated and operable low-range survey instrument with a thin window (less than 7 mg/cm$_2$) capable of detecting radiation levels of 0.05 milliroentgen per hour up to at least 20 milliroentgens per hour;~~

~~(B) For Groups III, V, and VI, applicant must possess a calibrated and operable high-range survey instrument capable of detecting radiation levels up to at least one Roentgen per hour;~~

~~(v) The applicant's radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the uses included in the group or groups.~~

~~(b) Any licensee or registrant who is authorized to use radioactive material pursuant to one or more groups in (a) of this subsection and WAC 246-235-120, Schedule A, is subject to the following conditions:~~

~~(i) For Groups I, II, IV, and V, no licensee or registrant shall receive, possess or use radioactive material except as a radiopharmaceutical manufactured in the form to be administered to the patient, labeled, packaged and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-100, a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.72 of 10 CFR Part 32, or a specific license issued by an agreement state or a licensing state pursuant to equivalent regulations.~~

~~(ii) For Group III, no licensee or registrant shall receive, possess or use generators or reagent kits containing radioactive material unless manufactured, labeled, packaged and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-100, a specific license issued by the United States Nuclear Regulatory Commission under Section 32.73 of 10 CFR Part 32, or a specific license issued by an agreement state or a licensing state under equivalent regulations.~~

~~(iii) For Group VI, no licensee or registrant shall receive, possess or use radioactive material except as contained in a source or device that has been manufactured, labeled, packaged and distributed in accordance with a specific license issued by the department under WAC 246-235-102, a specific license issued by the United States Nuclear Regulatory Commission under Section 32.74 of 10 CFR Part 32, or a specific license issued to the manufacturer by an agreement state or a licensing state under equivalent regulations.~~

~~(iv) For Group III, any licensee or registrant who uses generators or reagent kits shall elute the generator or process radioactive material with the reagent kit in accordance with instructions approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and are furnished by the manufacturer on the label attached to or in the leaflet or brochure which accompanies the generator or reagent kit.~~

~~(c) Any licensee who is licensed under (a) of this subsection for one or more of the medical use groups in WAC 246-235-120, Schedule A, also is authorized, subject to the provisions of (c) and (d) of this subsection to receive, possess and use for calibration and reference standards:~~

~~(i) Any radioactive material authorized for use under Group I, Group II, or Group III of WAC 246-235-120, Schedule A, with a half-life not longer than one hundred days, in amounts not to exceed 15 millicuries total;~~

~~(ii) Any radioactive material authorized for use under Group I, Group II, or Group III of WAC 246-235-120, Schedule A, with half-life greater than one hundred days in amounts not to exceed 200 microcuries total;~~

~~(iii) Technetium-99m in amounts not to exceed 50 millicuries;~~

~~(iv) Any radioactive material excluding Radium-226, in amounts not to exceed fifteen millicuries per sealed source, contained in calibration or reference sources that have been manufactured, labeled, packaged, and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-102, a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.74 of 10 CFR Part 32, or a specific license issued to the manufacturer by an agreement state or a licensing state pursuant to equivalent regulations.~~

~~(d)~~)) (1) Leak tests.

((~~(i)~~)) (a) Any licensee or registrant who possesses sealed sources as calibration or reference sources ((~~under (c) of this subsection~~)) shall ((~~cause~~)) test for leakage each sealed

source containing radioactive material, other than Hydrogen-3, with a half-life greater than thirty days in any form other than gas ((~~to be tested for leakage~~)) and/or contamination at ((~~intervals not to exceed~~)) least every six months. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, the sealed sources shall not be used until tested. However, leak tests are not required when:

(((~~(A)~~))) The source contains 100 microcuries or less of beta and/or gamma emitting material or 10 microcuries or less of alpha emitting material((~~;~~

~~(B) The sealed source is stored and is not being used: Provided, a physical inventory of the source and wipe surveys of the storage area or storage container are conducted~~)) or the sealed source is stored and is not being used: Provided, a physical inventory of the source and wipe surveys of the storage area or storage container are conducted as required by these rules or license condition.

(((~~(ii)~~))) (b) The leak test shall be capable of detecting the presence of 0.005 microcurie (185 becquerels) of radioactive material on the test sample. The test sample shall be taken from the sealed source or from the surfaces of the device in which the sealed source is mounted or stored on which contamination might be expected to accumulate. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the department.

(((~~(iii)~~))) (c) If the leak test reveals the presence of 0.005 microcurie or more of removable contamination, the licensee or registrant shall immediately withdraw the sealed source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with chapters 246-235 and 246-221 WAC. The licensee must file a report ((~~shall be filed~~)) within five days of the test with the department describing the equipment involved, the test results, and the corrective action taken.

(((~~(c)~~))) (2) Any licensee or registrant who possesses and uses calibration and reference sources ((~~under (c)(iv) of this subsection~~)) shall:

(((~~(i)~~))) (a) Follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and maintain the instructions in a legible and conveniently available form; and

(((~~(ii)~~))) (b) Conduct a quarterly physical inventory to account for all sources received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include at a minimum the quantities and kinds of radioactive material, location of sources, name of person performing the inventory, and the date of the inventory.

(((~~(4) Human use of sealed sources. In addition to the requirements set forth in WAC 246-235-020, a specific license for human use of sealed sources will be issued only if the individual applicant or, if the application is made by an institution, the individual user:~~

~~(a) Has specialized training in the diagnostic or therapeutic use of the sealed source considered, or has experience equivalent to such training; and~~

~~(b) Is a physician.~~))

AMENDATORY SECTION (Amending WSR 00-08-013, filed 3/24/00, effective 4/24/00)

WAC 246-235-090 Special requirements for specific licenses of broad scope. This section prescribes requirements for the issuance of specific licenses of broad scope for radioactive material ("broad licenses") and certain regulations governing holders of ((~~such~~)) these licenses.*

*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity or other product containing source material or byproduct material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

(1) *The different types of broad licenses are ((~~set forth~~)) listed below*:

(a) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the multicurie range.

(b) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a Type B broad license, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column I. If two or more radionuclides are possessed ((~~thereunder~~)), the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column I, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(c) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a Type C broad license, if only one radionuclide is possessed ((~~thereunder~~)), is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column II. If two or more radionuclides are possessed ((~~thereunder~~)), the possession limit is determined for each as follows: For each radionuclide determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column II, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(2) *The department will approve an application for a Type A specific license of broad scope ((~~will be approved~~)) if*:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(c) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The establishment of a radiation safety committee composed of ((~~such persons as~~)) a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;

(ii) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(iii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety committee of safety evaluation of proposed uses prepared in accordance with item (2)(c)(iii)(B) of this section prior to use of the radioactive material.

(3) *The department will approve an application for a Type B specific license of broad scope ((~~will be approved~~)) if*:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020; and

(b) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(ii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared in accordance with item (3)(b)(ii)(B) of this section prior to use of the radioactive material.

(4) *The department will approve an application for a Type C specific license of broad scope ((~~will be approved~~)) if*:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of individuals, who have received:

(i) A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

(ii) At least forty hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and

(c) The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.

(5) *Specific licenses of broad scope are subject to the following conditions*:

(a) Unless specifically authorized by the department, persons licensed under this section shall not:

(i) Conduct tracer studies in the environment involving direct release of radioactive material;

(ii) Receive, acquire, own, possess, use or transfer devices containing 100,000 curies or more of radioactive material in sealed sources used for irradiation of materials;

(iii) Conduct activities for which a specific license issued by the department under chapter 246-240 WAC ((~~246-235-080 through~~)), WAC 246-235-086 or ((~~WAC~~)) 246-235-091 through 246-235-105 is required; or

(iv) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion or inhalation by, or application to, a human being.

(b) For each Type A specific license of broad scope ((~~issued under this part shall be subject to the condition that~~)) radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.

(c) For each Type B specific license of broad scope ((~~issued under this part shall be subject to the condition that~~)) radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.

(d) For each Type C specific license of broad scope ((~~issued under this part shall be subject to the condition that~~)) radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-100 Manufacture, preparation, or commercial transfer of radiopharmaceuticals for medical use. (1) An application for a specific license to manufacture and, prepare, or transfer for commercial distribution radiopharmaceuticals containing radioactive material for use by persons licensed ((~~pursuant to~~)) under chapter 246-240 WAC

((~~246-235-080 (1), (2), or (3)~~)) for medical use in humans will be approved if:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020 ((~~of this part~~));

(b) The applicant submits evidence that:

(i) The applicant is registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer; or

(ii) The applicant is licensed as a nuclear pharmacy by the state board of pharmacy;

(c) The applicant submits information on the radionuclide, chemical and physical form, maximum activity per vial, syringe, generator, or other container of the radiopharmaceutical, and shielding provided by the packaging of the radioactive material which is appropriate for safe handling and storage of radiopharmaceuticals by medical use licensees; and

(d) The applicant satisfies the labeling requirements specified by the state board of pharmacy in WAC 246-903-020. For a drug manufacturer, the labels required by this subsection are in addition to the labeling required by the Food and Drug Administration (FDA) and may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

(2) A nuclear pharmacy licensee:

(a) May prepare radiopharmaceuticals for medical use provided the radiopharmaceutical is prepared by or under the supervision of an authorized nuclear pharmacist.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if this individual meets the state board of pharmacy requirements in WAC 246-903-030, Nuclear pharmacists.

(c) Shall provide to the department a copy of each individual's letter of notification from the state board of pharmacy recognizing the individual as a nuclear pharmacist, ((~~no later than~~)) within thirty days ((~~after~~)) of the date the licensee allows the individual to work as an authorized nuclear pharmacist ((~~pursuant to~~)) under (b) of this subsection.

(3) A manufacturer or nuclear pharmacy licensee shall possess and use instrumentation to measure the radioactivity of radiopharmaceuticals. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radiopharmaceuticals, prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this section relieves the licensee from complying with applicable FDA, other Federal, and state requirements governing radiopharmaceuticals.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-102 Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed ((~~pursuant to~~)) under chapter 246-240 WAC ((~~246-235-080(3)~~)) for use as a calibration or reference source ((~~or for the uses listed in Group VI of WAC 246-235-120 Schedule A of this part~~)) will be approved if:

(1) The applicant satisfies the general requirements in WAC 246-235-020 ((~~of this part~~));

(2) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(a) The radioactive material contained, its chemical and physical form and amount;

(b) Details of design and construction of the source or device;

(c) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(d) For devices containing radioactive material, the radiation profile of a prototype device;

(e) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(f) Procedures and standards for calibrating sources and devices;

(g) Legend and methods for labeling sources and devices as to their radioactive content; and

(h) Instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device: Provided((~~,~~)) that instructions which are too lengthy for ((~~such~~)) the label may be summarized on the label and printed in detail on a brochure which is referenced on the label.

(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the named source or device is licensed by the department for distribution to persons licensed ((~~pursuant to~~)) under chapter 246-240 WAC ((~~246-235-080(3) and Group VI of WAC 246-235-120 Schedule A~~)) or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state: Provided((~~,~~)) that ((~~such~~)) the labeling for sources which do not require long term storage ((~~(e.g., gold-198 seeds)~~)) may be on a leaflet or brochure which accompanies the source.

(4) ((~~In the event~~)) If the applicant desires that the source or device ((~~be required to~~)) be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that ((~~such~~)) the longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a signifi-

cant bearing on the probability or consequences of leakage of radioactive material from the source.

(5) In determining the acceptable interval for test of leakage of radioactive material, the department will consider information that includes, but is not limited to:

(a) Primary containment (source capsule);

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical sources or devices or similarly designed and constructed sources or devices.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-235-110 Special requirements for issuance of specific licenses for source material milling. In addition to the requirements set forth in WAC 246-235-020, the department will issue a specific license for source material milling ((~~will be issued if~~)) when the applicant submits ((~~to the department~~)) a satisfactory application ((~~as described herein~~)) and meets the other conditions specified below:

(1) An application for a license to receive title to, receive, possess, and use source material for milling or byproduct material as defined in WAC 246-220-010 shall address the following:

(a) Description of the proposed project or action.

(b) Area/site characteristics including geology, demography, topography, hydrology and meteorology.

(c) Radiological and nonradiological impacts of the proposed project or action, including waterway and ground water impacts.

(d) Environmental effects of accidents.

(e) Tailings disposal and decommissioning.

(f) Site and project alternatives.

(g) Description of how the provisions of chapter 246-252 WAC shall be met.

(2) ((~~Pursuant to~~)) Under WAC ((~~246-235-080 (6)(a)(i)~~)) 246-235-086, the applicant shall not commence construction of the project until the department has weighed the environmental, economic, technical, and other benefits against the environmental costs and has concluded that the issuance of the license is appropriate.

(3) Prior to issuance of a license, the department shall hold a public hearing ((~~shall be held. The scope shall extend to the question of license issuance and~~)). The hearing will address the adequacy of the reclamation, disposal, decommissioning, and decontamination plans.

(4) At least one full year prior to any major site construction, a preoperational monitoring program shall be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program shall be conducted to measure or evaluate compliance with applicable standards and regulations; to evaluate performance of control systems and procedures; to evaluate environmental impacts of operation; and to detect potential long-term effects.

(5) Prior to issuance of the license, the mill operator shall establish financial surety arrangements consistent with ((~~the requirements of~~)) WAC 246-252-030.

(6) The applicant shall provide procedures describing the means employed to meet the following requirements during the operational phase of any project.

(a) Milling operations shall be conducted so that all effluent releases are reduced to as low as is reasonably achievable below the limits of chapter 246-221 WAC.

(b) The mill operator shall conduct at least a daily inspection of any tailings or waste retention systems. Records of ((~~such~~)) these inspections shall be maintained for review by the department.

(c) The mill operator shall immediately notify the department of ((~~the following~~)):

(i) Any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas; and

(ii) Any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

(7) An application for a license to own, receive, possess and use byproduct material as defined in WAC 246-220-010 shall contain proposed specifications relating to the emissions control and disposition of the byproduct material to achieve the requirements and objectives set forth in the criteria listed in WAC 246-252-030.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-235-120	Schedule A groups of medical uses of radioactive material (ref. WAC 246-235-080(3) and 246-235-100(9)).

Chapter 246-239 WAC

RADIATION PROTECTION((~~—NUCLEAR MEDICINE~~)) FOR SUBSEQUENT USE

NEW SECTION

WAC 246-239-900 Directive. The licensee/reader, looking for nuclear medicine regulations formerly located in chapter 246-239 WAC, "Radiation protection—Nuclear medicine" is directed to the updated nuclear medicine regulations that are now contained entirely within chapter 246-240 WAC, "Radiation protection—Medical use of radioactive material."

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-239-001	Purpose and scope.
WAC 246-239-010	Definitions.
WAC 246-239-020	Radiation safety committee.
WAC 246-239-022	Policy and procedures for radiopharmaceutical administration.
WAC 246-239-025	Notifications, records, and reports of radiopharmaceutical misadministrations.
WAC 246-239-030	Personnel monitoring.
WAC 246-239-035	Bioassay.
WAC 246-239-040	Radiopharmaceuticals.
WAC 246-239-050	Radionuclide generators.
WAC 246-239-055	Release of individuals containing radiopharmaceuticals.
WAC 246-239-060	Laboratory safety.
WAC 246-239-070	Surveys.
WAC 246-239-080	Calibration and reference sources.
WAC 246-239-090	Instrumentation.
WAC 246-239-100	Radioactive gases.

Chapter 246-240 WAC

RADIATION PROTECTION—MEDICAL ((~~THERAPY~~)) USE OF RADIOACTIVE MATERIAL

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-240-001 Purpose and scope. ((~~The provisions of this chapter apply to all licensees who use sealed sources in the healing arts and are in addition to, and not in substitution for, other applicable provisions of these regulations.~~)) This part contains the requirements and provisions for the medical use of radioactive material and for issuance of specific licenses authorizing the medical use of this material. These requirements and provisions provide for the radiation safety of workers, the general public, patients, and human research subjects. The requirements and provisions of chapters 246-220, 246-221, 246-222, 246-232, 246-235, and 246-254 WAC, apply to applicants and licensees subject to this section unless specifically exempted.

NEW SECTION

WAC 246-240-004 Other federal and state requirements. Nothing in this chapter relieves the licensee from complying with applicable FDA, or other federal and state requirements governing radioactive drugs or devices.

NEW SECTION

WAC 246-240-007 Provisions for the protection of human research subjects. (1) A licensee may conduct research involving human research subjects only if it uses the radioactive materials specified on its license for the uses authorized on its license.

(2) If the research is conducted, funded, supported, or regulated by another federal agency that has implemented the Federal Policy for the Protection of Human Subjects (federal policy), the licensee shall, before conducting research:

(a) Obtain review and approval of the research from an "institutional review board," as defined and described in the federal policy; and

(b) Obtain "informed consent," as defined and described in the federal policy, from the human research subject.

(3) If the research will not be conducted, funded, supported, or regulated by another federal agency that has implemented the federal policy, the licensee shall, before conducting research, apply for and receive a specific amendment to its medical use license. The amendment request must include a written commitment that the licensee will, before conducting research:

(a) Obtain review and approval of the research from an "institutional review board," as defined and described in the federal policy; and

(b) Obtain "informed consent," as defined and described in the federal policy, from the human research subject.

(4) Nothing in this section relieves licensees from complying with the other requirements in this chapter.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-240-010 Definitions. ((~~As used in this chapter, the following definitions apply:~~

~~(1) "Authorized user" means a physician who is identified as an authorized user on a department, U.S. Nuclear Regulatory Commission or agreement state license that authorizes the medical use of radioactive material.~~

~~(2) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver a radiation dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.~~

~~(3) "Medical use" means the intentional internal or external administration of radioactive material or the radiation therefrom to patients or human research subjects under the supervision of an authorized user.~~

~~(4) "Prescribed dose" means:~~

~~(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;~~

~~(b) For teletherapy, the total dose and dose per fraction as documented in the written directive; or~~

~~(c) For brachytherapy, either the total source strength and exposure time, or the total dose, as documented in the written directive.~~

~~(5) "Recordable therapy event" means the administration of:~~

~~(a) Radiation without a written directive where a written directive is required;~~

~~(b) Radiation where a written directive is required without daily recording of each radiation dose in the appropriate record;~~

~~(c) A teletherapy radiation dose when the calculated weekly administered dose exceeds the weekly prescribed dose by fifteen percent or more of the weekly prescribed dose; or~~

~~(d) A brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than ten percent of the prescribed dose.~~

~~(6) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.~~

~~(7) "Therapy misadministration" means the administration of:~~

~~(a) A gamma stereotactic radiosurgery radiation dose:~~

~~(i) Involving the wrong individual or wrong treatment site; or~~

~~(ii) When the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose;~~

~~(b) A teletherapy radiation dose:~~

~~(i) Involving the wrong individual, wrong mode of treatment, or wrong treatment site;~~

~~(ii) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose;~~

~~(iii) When the calculated weekly administered dose exceeds the weekly prescribed dose by thirty percent or more of the weekly prescribed dose; or~~

~~(iv) When the calculated total administered dose differs from the total prescribed dose by more than twenty percent of the total prescribed dose;~~

~~(c) A brachytherapy radiation dose:~~

~~(i) Involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);~~

~~(ii) Involving a sealed source that is leaking;~~

~~(iii) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or~~

~~(iv) When the calculated administered dose to the treatment site differs from the prescribed dose by more than twenty percent of the prescribed dose.~~

~~(8) "Written directive" means an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of radiation, except as specified in (d) of this subsection, containing the following information:~~

~~(a) For gamma stereotactic radiosurgery: Target coordinates, collimator size, plug pattern, and total dose;~~

~~(b) For teletherapy: The total dose, dose per fraction, treatment site, and overall treatment period;~~

~~(c) For high-dose-rate remote after loading brachytherapy: The radioisotope, treatment site, and total dose; or~~

~~(d) For all other brachytherapy, (i) prior to implantation: The radioisotope, number of sources, and source strengths; and (ii) after implantation but prior to completion of the procedure: The radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).~~))

Address of use means the building or buildings that are identified on the license and where radioactive material may be received, prepared, used, or stored.

Area of use means a portion of an address of use that has been set aside for the purpose of receiving, preparing, using, or storing radioactive material.

Authorized medical physicist means an individual who:

(1) Meets the requirements in WAC 246-240-072 and 246-240-081; or

(2) Is identified as an authorized medical physicist or teletherapy physicist on a specific medical use license issued by the department, the U.S. Nuclear Regulatory Commission or agreement state prior to October 5, 2005.

(3) A permit issued by a commission or agreement state broad scope medical use licensee prior to October 5, 2005; or

(4) A permit issued by a commission master material license broad scope medical use permittee prior to October 5, 2005.

Authorized nuclear pharmacist means a pharmacist who:

(1) Meets the requirements in WAC 246-240-075 and 246-240-081; or

(2) Is identified as an authorized nuclear pharmacist on a specific license issued by the department, the U.S. NRC or agreement state prior to October 5, 2005, that authorizes medical use or the practice of nuclear pharmacy; or

(3) Is identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

(4) A permit issued by a commission master material licensee that authorizes medical use or the practice of nuclear pharmacy;

(5) A permit issued by a commission or agreement state broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

(6) A permit issued by a commission master material license board scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

(7) Is designated as an authorized nuclear pharmacist in accordance with WAC 246-235-100(2).

Authorized user means a physician, dentist, or podiatrist who:

(1) Meets the requirements in WAC 246-240-081 and 246-240-154, 246-240-163, 246-240-210, 246-240-213, 246-240-216, 246-240-278, 246-240-301, or 246-240-399;

(2) Is identified as an authorized user on a department, U.S. NRC, or agreement state license prior to October 5, 2005, that authorizes the medical use of radioactive material.

(3) A permit issued by a commission master material licensee that is authorized to permit the medical use of by-product material;

(4) A permit issued by a commission or agreement state specific licensee of broad scope that is authorized to permit the medical use of by-product material; or

(5) A permit issued by a commission master material license broad scope permittee that is authorized to permit the medical use of by-product material.

Brachytherapy means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal, or interstitial application.

Brachytherapy source means a radioactive source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.

Client's address means the area of use or a temporary job site for the purpose of providing mobile medical service in accordance with WAC 246-240-125.

Dedicated check source means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years.

Dentist means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

High dose-rate remote afterloader, as used in this chapter, means a brachytherapy device that remotely delivers a dose rate in excess of 12 gray (1200 rads) per hour at the point or surface where the dose is prescribed.

Low dose-rate remote afterloader, as used in this chapter, means a brachytherapy device that remotely delivers a dose rate of less than or equal to 2 gray (200 rads) per hour at the point or surface where the dose is prescribed.

Management means the chief executive officer or other individual having the authority to manage, direct, or administer the licensee's activities, or that person's delegate or delegates.

Manual brachytherapy, as used in this chapter, means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

Medical event means an event that meets the criteria in WAC 246-240-651.

Medical institution means an organization in which more than one medical discipline is practiced.

Medical use means the intentional internal or external administration of radioactive material or the radiation from radioactive material to patients or human research subjects under the supervision of an authorized user.

Medium dose-rate remote afterloader, as used in this chapter, means a brachytherapy device that remotely delivers a dose rate of greater than 2 gray (200 rads), but less than or equal to 12 grays (1200 rads) per hour at the point or surface where the dose is prescribed.

Mobile medical service means the transportation of radioactive material to and its medical use at the client's address.

Output means the exposure rate, dose rate, or a quantity related in a known manner to these rates from a brachytherapy source or a teletherapy, remote afterloader, or gamma stereotactic radiosurgery unit for a specified set of exposure conditions.

Patient intervention means actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.

Podiatrist means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

Preceptor means an individual who provides or directs the training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a radiation safety officer.

Prescribed dosage means the specified activity or range of activity of unsealed radioactive material as documented:

(1) In a written directive; or

(2) In accordance with the directions of the authorized user for procedures performed under WAC 246-240-151 and 246-240-157.

Prescribed dose means:

(1) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(2) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(3) For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(4) For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

Pulsed dose-rate remote afterloader, as used in this chapter, means a special type of remote afterloading brachytherapy device that uses a single source capable of delivering dose rates in the "high dose-rate" range, but:

(1) Is approximately one-tenth of the activity of typical high dose-rate remote afterloader sources; and

(2) Is used to simulate the radiobiology of a low dose-rate treatment by inserting the source for a given fraction of each hour.

Radiation safety officer means an individual who:

(1) Meets the requirements in WAC 246-240-069 and 246-240-081;

(2) Is identified as a radiation safety officer on a specific medical use license issued by the department prior to October 5, 2005, the U.S. NRC or an agreement state; or

(3) A medical use permit issued by a commission master material licensee.

Sealed source and device registry means the national registry that contains all the registration certificates, generated by both the U.S. NRC and the agreement states, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

Stereotactic radiosurgery means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume.

Structured educational program means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

Teletherapy, as used in this chapter, means a method of radiation therapy in which collimated gamma rays are delivered at a distance from the patient or human research subject.

Temporary job site means a location where mobile medical services are conducted other than those location(s) of use authorized on the license.

Therapeutic dosage means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

Therapeutic dose means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

Treatment site means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

Type of use means use of radioactive material under WAC 246-240-151, 246-240-157, 246-240-201, 246-240-251, 246-240-301, 246-240-351, or 246-240-501.

Unit dosage means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

Written directive means an authorized user's written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in WAC 246-240-060.

NEW SECTION

WAC 246-240-013 Maintenance of records. Each record required by this chapter must be legible throughout the retention period specified by each department regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

NEW SECTION

WAC 246-240-016 License required. (1) A person may manufacture, produce, acquire, receive, possess, prepare, use, or transfer radioactive material for medical use only in accordance with a specific license issued by the department, the U.S. NRC or an agreement state, or as allowed in subsection (2)(a) or (b) of this section.

(2) A specific license is not needed for an individual who:

(a) Receives, possesses, uses, or transfers radioactive material in accordance with these rules under the supervision of an authorized user under in WAC 246-240-057, unless prohibited by license condition; or

(b) Prepares unsealed radioactive material for medical use in accordance with these rules under the supervision of an authorized nuclear pharmacist or authorized user under WAC 246-240-057, unless prohibited by license condition.

NEW SECTION

WAC 246-240-019 Application for license, amendment, or renewal. (1) An application must be signed by the applicant's or licensee's management.

(2) An application for a license for medical use of radioactive material as described in WAC 246-240-151, 246-240-157, 246-240-201, 246-240-251, 246-240-301, 246-240-351, and 246-240-501 must be made by:

(a) Filing the original **"Application for Radioactive Material License Medical,"** with the department that includes the facility diagram, equipment, and training and experience qualifications of the radiation safety officer, authorized user(s), authorized medical physicist(s), and authorized nuclear pharmacist(s); and

(b) Submitting applicable procedures required by WAC 246-240-360, 246-240-378, 246-240-381, and 246-240-384.

(3) A request for a license amendment or renewal must be made by:

(a) Submitting an original of either to the department:

(i) **"Application for Radioactive Material License Medical";** or

(ii) A letter requesting the amendment or renewal; and

(b) Submitting applicable procedures required by WAC 246-240-360, 246-240-378, 246-240-381, and 246-240-384.

(4) In addition to the requirements in subsections (2) and (3) of this section, an application for a license or amendment for medical use of radioactive material as described in WAC 246-240-501 must also include information regarding any radiation safety aspects of the medical use of the material that is not addressed in this chapter.

(a) The applicant shall also provide specific information on:

(i) Radiation safety precautions and instructions;

(ii) Methodology for measurement of dosages or doses to be administered to patients or human research subjects; and

(iii) Calibration, maintenance, and repair of instruments and equipment necessary for radiation safety.

(b) The applicant or licensee shall also provide any other information requested by the department in its review of the application.

(5) An applicant that satisfies the requirements specified in WAC 246-235-090 may apply for a Type A specific license of broad scope.

NEW SECTION

WAC 246-240-022 License amendments. A licensee shall apply for and must receive a license amendment before the licensee:

(1) Receives, prepares, or uses radioactive material for a type of use that is permitted under this chapter, but that is not authorized on the licensee's current license issued under this chapter;

(2) Permits anyone to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist under the license, except:

(a) For an authorized user, an individual who meets the requirements in WAC 246-240-154, 246-240-163, 246-240-210, 246-240-213, 246-240-216, 246-240-278, or 246-240-399;

(b) For an authorized nuclear pharmacist, an individual who meets the requirements in WAC 246-240-075 and 246-240-081;

(c) For an authorized medical physicist, an individual who meets the requirements in WAC 246-240-072 and 246-240-081;

(d) An individual who is identified as an authorized user, an authorized nuclear pharmacist, or authorized medical physicist:

(i) On an agreement state or U.S. NRC license or other equivalent license recognized by the department that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy; or

(ii) On a permit issued by a commission or agreement state specific license of broad scope that is authorized to permit the use of by-product material in medical use or in the practice of nuclear pharmacy;

(iii) On a permit issued by a commission master material licensee that is authorized to permit the use of by-product material in medical use or in the practice of nuclear pharmacy; or

(iv) By a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists.

(3) Changes radiation safety officers, except as provided in WAC 246-240-051;

(4) Receives radioactive material in excess of the amount or in a different form, or receives a different radionuclide than is authorized on the license;

(5) Adds to or changes the areas of use identified in the application or on the license, except for areas of use where radioactive material is used only in accordance with either WAC 246-240-151 or 246-240-157;

(6) Changes the address(es) of use identified in the application or on the license; and

(7) Revises procedures required by WAC 246-240-360, 246-240-378, 246-240-381, and 246-240-384, as applicable, where the revision reduces radiation safety.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-240-025 ((~~Release of individuals containing permanent implants.~~)) Notifications. (1) ((~~The licensee may authorize the release from its control of any individual who has permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).~~

~~(2) The licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem).~~

~~(3) The licensee shall maintain a record of the basis for authorizing the release of an individual, for three years after the date of release, if the total effective dose equivalent is calculated by:~~

~~(a) Using an occupancy factor less then 0.25 at 1 meter; or~~

~~(b) Considering the shielding by tissue.~~)) A licensee shall notify the department no later than thirty days after:

(a) An authorized user, an authorized nuclear pharmacist, a radiation safety officer, or an authorized medical physicist permanently discontinues performance of duties under the license or has a name change;

(b) The licensee's mailing address changes;

(c) The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in WAC 246-232-050(2); or

(d) The licensee has added to or changed the areas of use identified in the application or on the license where radioactive material is used under either WAC 246-240-151 or 246-240-157.

(2) The licensee shall send the documents required in this section to the department at P.O. Box 47827, Olympia WA 98504-7827.

NEW SECTION

WAC 246-240-028 Exemptions regarding Type A specific licenses of broad scope. A licensee possessing a Type A specific license of broad scope for medical use, issued under WAC 246-235-090, is exempt from the provisions of:

(1) WAC 246-240-019 regarding the need to file an amendment to the license for medical use of radioactive material, as described in WAC 246-240-501;

(2) WAC 246-240-022;

(3) WAC 246-240-022 regarding additions to or changes in the areas of use at the addresses identified in the application or on the license;

(4) WAC 246-240-025;

(5) WAC 246-240-025 for an authorized user, an authorized nuclear pharmacist, or an authorized medical physicist;

(6) WAC 246-240-025 regarding additions to or changes in the areas of use identified in the application or on the license where radioactive material is used in accordance with either WAC 246-240-151 or 246-240-157;

(7) WAC 246-240-122.

NEW SECTION

WAC 246-240-031 License issuance and specific exemptions. (1) The department shall issue a license for the medical use of radioactive material if:

(a) The applicant has filed "Application for Radioactive Material License Medical" in accordance with the instructions in WAC 246-240-019;

(b) The applicant has paid applicable fee under chapter 246-254 WAC;

(c) The department finds the applicant equipped and committed to observe the safety standards established by the department in these regulations for the protection of the public health and safety; and

(d) The applicant meets the requirements of chapter 246-232 WAC.

(2) The department shall issue a license for mobile medical service if the applicant:

(a) Meets the requirements in subsection (1) of this section; and

(b) Assures that individuals or human research subjects to whom unsealed radioactive material, or radiation from implants containing radioactive material, will be administered may be released following treatment in accordance with WAC 246-240-122.

(3) The department may, upon application of any interested person or upon its own initiative, grant exemptions from this chapter that it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

NEW SECTION

WAC 246-240-051 Authority and responsibilities for the radiation protection program. (1) In addition to the radiation protection program requirements of WAC 246-221-005, a licensee's management shall approve in writing:

(a) Requests for a license application, renewal, or amendment before submittal to the department;

(b) Any individual before allowing that individual to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist; and

(c) Radiation protection program changes that do not require a license amendment and are permitted under WAC 246-240-054;

(2) A licensee's management shall appoint a radiation safety officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the radiation safety officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements.

(3) For up to sixty days each year, a licensee may permit an authorized user or an individual qualified to be a radiation safety officer, under WAC 246-240-069 and 246-240-081, to function as a temporary radiation safety officer and to perform the functions of a radiation safety officer, under subsection (7) of this section, if the licensee takes the actions required in subsections (2), (5), (7), and (8) of this section and notifies the department in accordance with WAC 246-240-025.

(4) A licensee may simultaneously appoint more than one temporary radiation safety officer under subsection (3) of this section, if needed to ensure that the licensee has a temporary radiation safety officer that satisfies the requirements to be a radiation safety officer for each of the different types of uses of radioactive material permitted by the license.

(5) A licensee shall establish the authority, duties, and responsibilities of the radiation safety officer in writing.

(6) Licensees that are authorized for two or more different types of use of radioactive material under WAC 246-240-201, 246-240-251, and/or 246-240-351, shall establish a radiation safety committee to oversee all uses of radioactive material permitted by the license. The committee must include an authorized user of each type of use permitted by the license, the radiation safety officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a radiation safety officer. The committee may include other members the licensee considers appropriate.

(7) A licensee shall provide the radiation safety officer sufficient authority, organizational freedom, time, resources, and management prerogative, to:

(a) Identify radiation safety problems;

(b) Initiate, recommend, or provide corrective actions;

(c) Stop unsafe operations; and

(d) Verify implementation of corrective actions.

(8) A licensee shall retain a record of actions taken under subsections (1), (2), and (5) of this section in accordance with WAC 246-240-551.

NEW SECTION

WAC 246-240-054 Radiation protection program changes. (1) A licensee may revise its radiation protection program without department approval if:

(a) The revision does not require a license amendment under WAC 246-240-022;

(b) The revision is in compliance with this chapter and the license;

(c) The revision has been reviewed and approved by the radiation safety officer and licensee management; and

(d) The affected individuals are instructed on the revised program before the changes are implemented.

(2) A licensee shall retain a record of each change in accordance with WAC 246-240-554.

NEW SECTION

WAC 246-240-057 Supervision. (1) A licensee that permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user, as allowed by WAC 246-240-016, shall in addition to the requirements in WAC 246-222-030:

(a) Instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, this chapter, and license conditions with respect to the use of radioactive material; and

(b) Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures established by the licensee, written directive procedures, regulations of these regulations, and license conditions with respect to the medical use of radioactive material.

(2) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user, as allowed by WAC 246-240-016, shall:

(a) In addition to the requirements in WAC 246-222-030, instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's involvement with radioactive material; and

(b) Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, this chapter, and license conditions.

(c) A licensee that permits supervised activities under subsections (1) and (2) of this section is responsible for the acts and omissions of the supervised individual.

NEW SECTION

WAC 246-240-060 Written directives. (1) A written directive must be dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 megabecquerels (MBq) (30 microcuries (μCi)), any therapeutic dosage of unsealed radioactive material or any therapeutic dose of radiation from radioactive material.

If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive must be documented as soon as possible in writing in the patient's record. A written directive must be prepared within forty-eight hours of the oral directive.

(2) The written directive must contain the patient or human research subject's name and the following information:

(a) For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131: The dosage;

(b) For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: The radioactive drug, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: The total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;

(d) For teletherapy: The total dose, dose per fraction, number of fractions, and treatment site;

(e) For high dose-rate remote afterloading brachytherapy: The radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or

(f) For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:

(i) Before implantation: Treatment site, the radionuclide, and dose; and

(ii) After implantation but before completion of the procedure: The radionuclide, treatment site, number of sources, and total source strength and exposure time (or the total dose).

(3) A written revision to an existing written directive may be made if the revision is dated and signed by an authorized user before the administration of the dosage of unsealed radioactive material, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next fractional dose.

If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within forty-eight hours of the oral revision.

(4) The licensee shall retain a copy of the written directive in accordance with WAC 246-240-557.

NEW SECTION

WAC 246-240-063 Procedures for administrations requiring a written directive. (1) For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

(a) The patient's or human research subject's identity is verified before each administration; and

(b) Each administration is in accordance with the written directive.

(2) At a minimum, the procedures required by subsection (1) of this section must address the following items that are applicable to the licensee's use of radioactive material:

(a) Verifying the identity of the patient or human research subject;

(b) Verifying that the administration is in accordance with the treatment plan, if applicable, and the written directive;

(c) Checking both manual and computer-generated dose calculations; and

(d) Verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical units authorized by WAC 246-240-351.

(3) A licensee shall retain a copy of the procedures required under subsection (1) of this section in accordance with WAC 246-240-560.

NEW SECTION

WAC 246-240-066 Suppliers for sealed sources or devices for medical use. For medical use, a licensee may only use:

(1) Sealed sources or devices manufactured, labeled, packaged, and distributed in accordance with a license issued under WAC 246-235-102.

(2) Sealed sources or devices noncommercially transferred from a U.S. NRC or agreement state licensee; or

(3) Teletherapy sources manufactured and distributed in accordance with a license issued under chapter 246-232 WAC.

NEW SECTION

WAC 246-240-069 Training for radiation safety officer. Except as provided in WAC 246-240-078, the licensee shall require an individual fulfilling the responsibilities of the radiation safety officer under WAC 246-240-051 to be an individual who:

(1) Is certified by a specialty board whose certification process has been recognized by the department, the U.S. NRC, or an agreement state. (Specialty boards whose certification process has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page, at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of twenty college credits in physical science;

(b) Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics;

(c) Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

(i) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(ii) Have two years of full-time practical training and/or supervised experience in medical physics:

(A) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the commission or an agreement state; or

(B) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users under these rules before October 24, 2005; and

(iii) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

(d) Obtain written certification signed by a preceptor radiation safety officer that the individual has achieved a level of radiation safety knowledge sufficient to function independently as a radiation safety officer for a medical use licensee; or

(2)(a) Has completed a structured educational program consisting of both:

(i) Two hundred hours of didactic training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Radiation biology; and

(E) Radiation dosimetry; and

(ii) One year of full-time radiation safety experience under the supervision of the individual identified as the radiation safety officer on a department or agreement state license or license issued by the U.S. NRC that authorizes similar type(s) of use(s) of radioactive material involving the following:

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;

(C) Securing and controlling radioactive material;

(D) Using administrative controls to avoid mistakes in the administration of radioactive material;

(E) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

(F) Using emergency procedures to control radioactive material; and

(G) Disposing of radioactive material; and

(b) Is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the commission or an agreement state under WAC 246-240-072 and has experience in radiation safety for similar types of use of by-product material for which the licensee is seeking the approval of the individual as radiation safety officer and who meets the requirements in (d) and (e) of this subsection; or

(3) Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license or a medical physicist who has been certified by a specialty board whose certification process has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state under WAC 246-240-072 and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has radiation safety officer responsibilities; and

(4) Has obtained written certification, signed by a preceptor radiation safety officer, that the individual has satisfactorily completed the requirements in (a) of this subsection and has achieved a level of radiation safety knowledge sufficient to function independently as a radiation safety officer for a medical use licensee; and

(5) Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by an authorized medical physicist, authorized user, authorized nuclear pharmacist, or radiation safety officer, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

NEW SECTION

WAC 246-240-072 Training for an authorized medical physicist. Except as provided in WAC 246-240-078, the licensee shall require the authorized medical physicist to be an individual who:

(1) Is certified by a specialty board whose certification process has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(b) Have two years of full-time practical training and/or supervised experience in medical physics:

(i) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the commission or an agreement state; or

(ii) In clinical radiation facilities providing high energy, external beam therapy and brachytherapy services under the direction of physicians who meet the requirements for authorized users in WAC 246-240-278 or 246-240-399;

(c) Pass an examination, administered by diplomates of the specialty board, which assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; and

(d) Obtain written certification that the individual has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic use for which the individual is requesting authorized medical physicist status. The written certification must be signed by a preceptor authorized medical physicist who meets the requirements in WAC 246-240-072 or equivalent agreement state or U.S. NRC requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; or

(2)(a) Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use modalities for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high energy, external beam therapy and brachytherapy services and must include:

(i) Performing sealed source leak tests and inventories;

(ii) Performing decay corrections;

(iii) Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(iv) Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(b) Has obtained written certification that the individual has satisfactorily completed the requirements in (a) of this subsection and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written certification must be signed by a preceptor authorized medical physicist who meets the requirements in WAC 246-240-072 or equivalent U.S. NRC or agreement state requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

(3) Has training for the type(s) of use in the modalities for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

NEW SECTION

WAC 246-240-075 Training for an authorized nuclear pharmacist. Except as provided in WAC 246-240-078, the licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Is certified by a specialty board whose certification process has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Have graduated from a pharmacy program accredited by the American Council On Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

(b) Hold a current, active license to practice pharmacy;

(c) Provide evidence of having acquired at least four thousand hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than two thousand hours of the required training and experience; and

(d) Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, which assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or

(2)(a) Has completed seven hundred hours in a structured educational program consisting of both:

(i) Didactic training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of radioactive material for medical use; and

(E) Radiation biology; and

(ii) Supervised practical experience in a nuclear pharmacy involving:

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha-or beta-emitting radionuclides;

(C) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(D) Using administrative controls to avoid medical events in the administration of radioactive material; and

(E) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

(b) Has obtained written certification, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in (a) of this subsection and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

NEW SECTION

WAC 246-240-078 Training for experienced radiation safety officer, teletherapy or medical physicist, authorized user, and nuclear pharmacist. (1) An individ-

ual identified as a radiation safety officer, a teletherapy or medical physicist, or a nuclear pharmacist on a department or agreement state license or by a U.S. NRC license of broad scope before October 24, 2006, need not comply with the training requirements of WAC 246-240-278, 246-240-072, or 246-240-075, respectively.

(2) Physicians, dentists, or podiatrists identified as authorized users for the medical use of radioactive material on a license issued by the department or agreement state, or U.S. NRC broad scope license, or license issued before October 24, 2006, who perform only those medical uses for which they were authorized on that date need not comply with the training requirements of WAC 246-240-151 and 246-240-399.

NEW SECTION

WAC 246-240-081 Recentness of training. Training and experience specified in WAC 246-240-069, 246-240-072, 246-240-075, 246-240-078, 246-240-154, 246-240-163, 246-240-210, 246-240-213, 246-240-216, 246-240-278, 246-240-281, 246-240-399, and 246-240-451 through 246-240-487 (inclusive), must have been obtained within the seven years preceding the date of application or the individual must have had related continuing education and experience since the required training and experience was completed.

NEW SECTION

WAC 246-240-101 Possession, use, and calibration of instruments used to measure the activity of unsealed radioactive material. (1) For direct measurements performed in accordance with WAC 246-240-107, a licensee shall possess and use instrumentation to measure the activity of unsealed radioactive material before it is administered to each patient or human research subject.

(2) A licensee shall calibrate the instrumentation required in subsection (1) of this section in accordance with nationally recognized standards or the manufacturer's instructions.

(3) A licensee shall retain a record of each instrument calibration required by this section in accordance with WAC 246-240-563.

NEW SECTION

WAC 246-240-104 Calibration of survey instruments. (1) A licensee shall calibrate the survey instruments used to show compliance with this section and WAC 246-240-587 before first use, annually, and following a repair that affects the calibration. A licensee shall:

(a) Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;

(b) Calibrate two separated readings on each scale or decade that will be used to show compliance; and

(c) Conspicuously note on the instrument the date of calibration.

(2) A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than twenty percent.

(3) A licensee shall retain a record of each survey instrument calibration in accordance with WAC 246-240-566.

NEW SECTION

WAC 246-240-107 Determination of dosages of unsealed radioactive material for medical use. (1) A licensee shall determine and record the activity of each dosage before medical use.

(2) For a unit dosage, this determination must be made by:

(a) Direct measurement of radioactivity; or

(b) A decay correction, based on the activity or activity concentration determined by:

(i) A manufacturer or preparer licensed under WAC 246-235-100 or equivalent U.S. NRC or agreement state requirements; or

(ii) An agreement state or U.S. NRC licensee for use in research in accordance with a radioactive drug research committee-approved protocol or an investigational new drug (IND) protocol accepted by FDA.

(3) For other than unit dosages, this determination must be made by:

(a) Direct measurement of radioactivity;

(b) Combination of measurement of radioactivity and mathematical calculations; or

(c) Combination of volumetric measurements and mathematical calculations, based on the measurement made by a manufacturer or preparer licensed under WAC 246-235-100 or equivalent agreement state requirements.

(4) Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than twenty percent.

(5) A licensee shall retain a record of the dosage determination required by this section in accordance with WAC 246-240-569.

NEW SECTION

WAC 246-240-110 Authorization for calibration, transmission, and reference sources. Any person authorized by WAC 246-240-016 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use:

(1) Sealed sources, not exceeding 1.11 GBq (30 mCi) each, manufactured and distributed by a person licensed under WAC 246-235-102 or equivalent agreement state or U.S. NRC regulations.

(2) Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under WAC 246-235-102, if the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions.

(3) Any radioactive material with a half-life not longer than one hundred twenty days in individual amounts not to exceed 0.56 GBq (15 mCi).

(4) Any radioactive material with a half-life longer than one hundred twenty days in individual amounts not to exceed

the smaller of 7.4 MBq (200 μCi) or 1000 times the quantities in Schedule B of WAC 246-232-120.

(5) Technetium-99m in amounts as needed.

NEW SECTION

WAC 246-240-113 Requirements for possession of sealed sources and brachytherapy sources. (1) A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.

(2) A licensee in possession of a sealed source shall:

(a) Test the source for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

(b) Test the source for leakage at intervals not to exceed six months or at other intervals approved by the department, the U.S. NRC, or an agreement state in the sealed source and device registry.

(3) To satisfy the leak test requirements of this section, the licensee shall ensure the sample is analyzed by such method that the leak test can detect the presence of 185 Bq (0.005 μCi) of radioactive material in the sample.

(4) A licensee shall retain leak test records in accordance with WAC 246-240-572(1).

(5) If the leak test reveals the presence of 185 Bq (0.005 μCi) or more of removable contamination, the licensee shall:

(a) Immediately withdraw the sealed source from use and store, dispose, or cause it to be repaired in accordance with the requirements in chapters 246-221 and 246-232 WAC; and

(b) File a report within five days of the leak test in accordance with WAC 246-240-657.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than thirty days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 3.7 MBq (100 μCi) or less of beta-or gamma-emitting material or 0.37 MBq (10 μCi) or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. However, the licensee shall test each source for leakage before any use or transfer unless it has been leak tested within six months before the date of use or transfer.

(7) A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory of all the sources in its possession at intervals not to exceed six months. The licensee shall retain each inventory record in accordance with WAC 246-240-572.

NEW SECTION

WAC 246-240-116 Labeling of vials and syringes. Each syringe and vial that contains unsealed radioactive material must be labeled to identify the radioactive drug. Each syringe shield and vial shield must also be labeled unless the label on the syringe or vial is visible when shielded.

NEW SECTION

WAC 246-240-119 Surveys of ambient radiation exposure rate. (1) In addition to the surveys required by chapter 246-221 WAC, a licensee shall survey with a radiation detection survey instrument at the end of each day of use. A licensee shall survey all areas where unsealed radioactive material requiring a written directive was prepared for use or administered.

(2) A licensee does not need to perform the surveys required by subsection (1) of this section in an area(s) where patients or human research subjects are confined when they cannot be released under WAC 246-240-122.

(3) A licensee shall retain a record of each survey in accordance with WAC 246-240-575.

NEW SECTION

WAC 246-240-122 Release of individuals containing unsealed radioactive material or implants containing radioactive material. (1) A licensee may authorize the release from its control of any individual who has been administered unsealed radioactive material or implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 mSv (0.5 rem).

(2) A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 mSv (0.1 rem). If the total effective dose equivalent to a nursing infant or child could exceed 1 mSv (0.1 rem) assuming there were no interruption of breast-feeding, the instructions must also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the potential consequences, if any, of failure to follow the guidance.

(3) A licensee shall maintain a record of the basis for authorizing the release of an individual in accordance with WAC 246-240-578(1).

(4) The licensee shall maintain a record of instructions provided to a breast-feeding female in accordance with WAC 246-240-578(2). NUREG-1556, Vol. 9, "*Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Licenses*," describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding 5 mSv (0.5 rem).

NEW SECTION

WAC 246-240-125 Provision of mobile medical service. (1) A licensee who provides mobile medical service shall:

(a) Obtain a letter signed by the management of each client to whom services are rendered that permits the use of

radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client;

(b) Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this section must include a constancy check;

(c) Check survey instruments for proper operation with a dedicated check source before use at each client's address; and

(d) Before leaving a client's address, survey all areas of use to ensure compliance with chapter 246-221 WAC.

(2) A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client unless the client has a license allowing possession of the radioactive material. Radioactive material delivered to the client must be received and handled in conformance with the client's license.

(3) A licensee providing mobile medical services shall retain the letter required in subsection (1)(a) of this section and the record of each survey required in subsection (1)(d) of this section in accordance with WAC 246-240-581.

NEW SECTION

WAC 246-240-128 Decay-in-storage. (1) A licensee may hold radioactive material with a physical half-life of less than one hundred twenty days for decay-in-storage before disposal without regard to its radioactivity if it:

(a) Monitors radioactive material at the surface before disposal and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey meter set on its most sensitive scale and with no interposed shielding; and

(b) Removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee.

(2) A licensee shall retain a record of each disposal permitted under subsection (1) of this section in accordance with WAC 246-240-584.

NEW SECTION

WAC 246-240-151 Use of unsealed radioactive material for uptake, dilution, and excretion studies for which a written directive is not required. Except for quantities that require a written directive under WAC 246-240-060(2), a licensee may use any unsealed radioactive material prepared for medical use for uptake, dilution, or excretion studies that is:

(1) Obtained from a manufacturer or preparer licensed under WAC 246-235-100(1) or equivalent U.S. NRC or agreement state requirements; or

(2) Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in WAC 246-240-163 or 246-240-210, or an individual under the supervision of either as specified in WAC 246-240-057; or

(3) Obtained from and prepared by an agreement state or U.S. NRC licensee for use in research in accordance with a radioactive drug research committee-approved protocol or an investigational new drug (IND) protocol accepted by FDA; or

(4) Prepared by the licensee for use in research in accordance with a radioactive drug research committee-approved application or an investigational new drug (IND) protocol accepted by FDA.

NEW SECTION

WAC 246-240-154 Training for uptake, dilution, and excretion studies. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under WAC 246-240-151 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state. (Specialty boards whose certification process has been recognized by the department, the U.S. NRC or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Meet the requirements in subsection (3)(a) of this section; and

(b) Pass an examination, administered by diplomates of the specialty board, which assesses knowledge and competence in radiation safety, radionuclide handling, and quality control; or

(2) Is an authorized user under WAC 246-240-163 or 246-240-210 or equivalent agreement state or U.S. NRC requirements; or

(3)(a) Has completed sixty hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies. The training and experience must include:

(i) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of radioactive material for medical use; and

(E) Radiation biology; and

(ii) Work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-154, 246-240-163, or 246-240-210 or equivalent U.S. NRC or agreement state requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

(E) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(b) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in WAC 246-240-154, 246-240-163, or 246-240-210 or equivalent agreement state or U.S. NRC requirements, that the individual has satisfactorily completed the requirements in (a) of this subsection and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under WAC 246-240-151.

NEW SECTION

WAC 246-240-157 Use of unsealed radioactive material for imaging and localization studies for which a written directive is not required. Except for quantities that require a written directive under WAC 246-240-060(2), a licensee may use any unsealed radioactive material prepared for medical use for imaging and localization studies that is:

(1) Obtained from a manufacturer or preparer licensed under WAC 246-235-100(1) or equivalent agreement state or U.S. NRC requirements; or

(2) Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in WAC 246-240-163 or 246-240-210, or an individual under the supervision of either as specified in WAC 246-240-057;

(3) Obtained from and prepared by an agreement state or U.S. NRC licensee for use in research in accordance with a radioactive drug research committee-approved protocol or an investigational new drug (IND) protocol accepted by FDA; or

(4) Prepared by the licensee for use in research in accordance with a radioactive drug research committee-approved application or an investigational new drug (IND) protocol accepted by FDA.

NEW SECTION

WAC 246-240-160 Permissible molybdenum-99 concentration. (1) A licensee may not administer to humans a radiopharmaceutical that contains more than 5.55 kilobecquerel of molybdenum-99 per 37 megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m).

(2) A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with subsection (1) of this section.

(3) If a licensee is required to measure the molybdenum-99 concentration, the licensee shall retain a record of each measurement in accordance with WAC 246-240-587.

NEW SECTION

WAC 246-240-163 Training for imaging and localization studies. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under WAC 246-240-157 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the U.S. NRC's web page at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Satisfy the requirements in subsection (3)(a) of this section; and

(b) Pass an examination, administered by diplomates of the specialty board, which assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;

(2) Is an authorized user under WAC 246-240-210 or equivalent agreement state or U.S. NRC requirements prior to October 24, 2005; or

(3)(a) Has completed seven hundred hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for imaging and localization studies. The training and experience must include, at a minimum:

(i) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of radioactive material for medical use;

(E) Radiation biology; and

(ii) Work experience, under the supervision of an authorized user, who meets the requirements in WAC 246-240-163 or 246-240-210 or equivalent agreement state or U.S. NRC requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

(E) Using procedures to safely contain spilled radioactive material and using proper decontamination procedures;

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(G) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(b) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in WAC

246-240-163 or 246-240-210 or equivalent agreement state or U.S. NRC requirements, that the individual has satisfactorily completed the requirements in (a) of this subsection and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under WAC 246-240-151 and 246-240-157.

NEW SECTION

WAC 246-240-201 Use of unsealed radioactive material for which a written directive is required. A licensee may use any unsealed radioactive material prepared for medical use and for which a written directive is required that is:

(1) Obtained from a manufacturer or preparer licensed under WAC 246-235-100(1) or equivalent agreement state or U.S. NRC requirements; or

(2) Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in WAC 246-240-163 or 246-240-210, or an individual under the supervision of either as specified in WAC 246-240-057; or

(3) Obtained from and prepared by an agreement state or U.S. NRC licensee for use in research in accordance with an investigational new drug (IND) protocol accepted by FDA; or

(4) Prepared by the licensee for use in research in accordance with an investigational new drug (IND) protocol accepted by FDA.

NEW SECTION

WAC 246-240-204 Safety instruction. In addition to the requirements of WAC 246-222-030:

(1) A licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who cannot be released under WAC 246-240-122. To satisfy this requirement, the instruction must be commensurate with the duties of the personnel and include:

(a) Patient or human research subject control;

(b) Visitor control, including:

(i) Routine visitation to hospitalized individuals in accordance with WAC 246-221-060 (1)(a); and

(ii) Visitation authorized in accordance with WAC 246-221-060(2);

(c) Contamination control;

(d) Waste control; and

(e) Notification of the radiation safety officer, or their designee, and the authorized user if the patient or the human research subject has a medical emergency or dies.

(2) A licensee shall retain a record of individuals receiving instruction in accordance with WAC 246-240-590.

NEW SECTION

WAC 246-240-207 Safety precautions. (1) For each patient or human research subject who cannot be released under WAC 246-240-122, a licensee shall:

(a) Quarter the patient or the human research subject either in:

(i) A private room with a private sanitary facility; or

(ii) A room, with a private sanitary facility, with another individual who also has received therapy with unsealed radioactive material and who also cannot be released under WAC 246-240-122;

(b) Visibly post the patient's or the human research subject's room with a "Caution—Radioactive Materials" sign.

(c) Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or the human research subject's room; and

(d) Either monitor material and items removed from the patient's or the human research subject's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle the material and items as radioactive waste.

(2) A licensee shall notify the radiation safety officer, or their designee, and the authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

NEW SECTION

WAC 246-240-210 Training for use of unsealed radioactive material for which a written directive is required. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under WAC 246-240-201 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation oncology or nuclear medicine training program or a program in a related medical specialty that includes seven hundred hours of training and experience as described in subsection (2) of this section. Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the Committee on Postgraduate Training of the American Osteopathic Association;

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, quality assurance, and clinical use of unsealed by-product material; and

(c) Obtain written certification that the individual has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under WAC 246-240-201. The written certification must be signed by a preceptor authorized user who meets the requirements in WAC 246-240-210 or equivalent U.S. NRC or agreement state requirements. The preceptor authorized user, who meets the requirements in WAC 246-240-210 must have experience in administering dosages in the same dosage

category or categories (i.e., this section) as the individual requesting authorized user status; or

(2) Has completed seven hundred hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:

(a) Classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in subsection (1) or (2) of this section, or equivalent U.S. NRC or agreement state requirements. A supervising authorized user, who meets the requirements in this subsection, must also have experience in administering dosages in the same dosage category or categories (i.e., this section) as the individual requesting authorized user status. The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

(v) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;

(vi) Eluting generator systems, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(vii) Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

(A) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131;

(B) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131. Experience with at least three cases in this also satisfies the requirement in (b)(vii)(A) of this subsection;

(C) Parenteral administration of any beta emitter or a photon-emitting radionuclide with a photon energy less than 150 keV for which a written directive is required; and/or

(D) Parenteral administration of any other radionuclide for which a written directive is required; and

(E) Has obtained written certification that the individual has satisfactorily completed the requirements in this subsection (2) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under WAC 246-240-201. The written certification must be signed by a preceptor authorized user who meets the requirements in this section, or equivalent U.S. NRC or agreement state requirements. The preceptor authorized user, who meets the requirements in this subsection (2), must have experience in administering dosages in the same dosage category or categories (i.e., this section) as the individual requesting authorized user status.

NEW SECTION

WAC 246-240-213 Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries). Except as provided in WAC 246-240-078, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in subsection (3) of this section and whose certification has been recognized by the department, the U.S. Nuclear Regulatory Commission or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.); or

(2) Is an authorized user under WAC 246-240-210 for uses listed in WAC 246-240-210 or 246-240-216, or equivalent agreement state or U.S. NRC requirements; or

(3)(a) Has successfully completed eighty hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-210, 246-240-213, 246-240-216, or equivalent agreement state or U.S. NRC requirements. A supervising authorized user who meets the requirements in WAC 246-240-210(2), must have experience in administering dosages as specified in WAC 246-240-210. The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of radioactive material;

(v) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(vi) Administering dosages to patients or human research subjects, that includes at least three cases involving

the oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written certification that the individual has satisfactorily completed the requirements in (a) and (b) of this subsection and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under WAC 246-240-201. The written certification must be signed by a preceptor authorized user who meets the requirements in WAC 246-240-210, 246-240-213, 246-240-216, or equivalent agreement state or U.S. NRC requirements. A preceptor authorized user, who meets the requirement in WAC 246-240-210, must have experience in administering dosages as specified in WAC 246-240-210.

NEW SECTION

WAC 246-240-216 Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries). Except as provided in WAC 246-240-078, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in subsection (3) of this section and whose certification has been recognized by the department, the U.S. NRC or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.); or

(2) Is an authorized user under WAC 246-240-210 for uses listed in WAC 246-240-210, or equivalent agreement state or U.S. NRC requirements; or

(3)(a) Has successfully completed eighty hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-210, 246-240-216, or equivalent agreement state or U.S. NRC requirements. A supervising authorized user, who meets the requirements in WAC 246-240-210(2), must have experience in administering dosages as specified in WAC 246-240-210.

The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of radioactive material;

(v) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(vi) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written certification that the individual has satisfactorily completed the requirements in (a) and (b) of this subsection and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under WAC 246-240-201. The written certification must be signed by a preceptor authorized user who meets the requirements in WAC 246-240-210, 246-240-216, or equivalent agreement state or U.S. NRC requirements. A preceptor authorized user, who meets the requirements in WAC 246-240-210(2), must have experience in administering dosages as specified in WAC 246-240-210.

NEW SECTION

WAC 246-240-251 Use of sources for manual brachytherapy. A licensee shall use only brachytherapy sources for therapeutic medical uses:

(1) As approved in the sealed source and device registry; or

(2) In research in accordance with an active investigational device exemption (IDE) application accepted by the FDA provided the requirements of WAC 246-240-066 are met.

NEW SECTION

WAC 246-240-254 Surveys after source implant and removal. (1) Immediately after implanting sources in a patient or a human research subject, the licensee shall make a survey to locate and account for all sources that have not been implanted.

(2) Immediately after removing the last temporary implant source from a patient or a human research subject, the licensee shall make a survey of the patient or the human research subject with a radiation detection survey instrument to confirm that all sources have been removed.

(3) A licensee shall retain a record of the surveys required by subsections (1) and (2) of this section in accordance with WAC 246-240-593.

NEW SECTION

WAC 246-240-260 Brachytherapy source accountability. (1) A licensee shall maintain accountability at all times for all brachytherapy sources in storage, transport, or use.

(2) As soon as possible after removing sources from a patient or a human research subject, a licensee shall return brachytherapy sources to a secure storage area.

(3) A licensee shall maintain a record of the brachytherapy source accountability in accordance with WAC 246-240-596.

NEW SECTION

WAC 246-240-263 Safety instruction. In addition to the requirements of WAC 246-222-030:

(1) The licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who are receiving brachytherapy and cannot be released under WAC 246-240-122. To satisfy this requirement, the instruction must be commensurate with the duties of the personnel and include the:

(a) Size and appearance of the brachytherapy sources;

(b) Safe handling and shielding instructions;

(c) Patient or human research subject control;

(d) Visitor control, including both:

(i) Routine visitation of hospitalized individuals in accordance with WAC 246-221-060 (1)(a); and

(ii) Visitation authorized in accordance with WAC 246-221-060(2); and

(e) Notification of the radiation safety officer, or their designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.

(2) A licensee shall retain a record of individuals receiving instruction in accordance with WAC 246-240-590.

NEW SECTION

WAC 246-240-266 Safety precautions. (1) For each patient or human research subject who is receiving brachytherapy and cannot be released under WAC 246-240-122, a licensee shall:

(a) Not quarter the patient or the human research subject in the same room as an individual who is not receiving brachytherapy;

(b) Visibly post the patient's or human research subject's room with a "Caution—Radioactive Materials" sign; and

(c) Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room.

(2) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Dislodged from the patient; and

(b) Lodged within the patient following removal of the source applicators.

(3) A licensee shall notify the radiation safety officer, or their designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

NEW SECTION

WAC 246-240-269 Calibration measurements of brachytherapy sources. (1) Before the first medical use of a brachytherapy source on or after October 24, 2006, a licensee shall have:

(a) Determined the source output or activity using a dosimetry system that meets the requirements of WAC 246-240-366(1);

(b) Determined source positioning accuracy within applicators; and

(c) Used published protocols currently accepted by nationally recognized bodies to meet the requirements of (a) and (b) of this subsection.

(2) A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with subsection (1) of this section.

(3) A licensee shall mathematically correct the outputs or activities determined in subsection (1) of this section for physical decay at intervals consistent with one percent physical decay.

(4) A licensee shall retain a record of each calibration in accordance with WAC 246-240-599.

NEW SECTION

WAC 246-240-272 Decay of strontium-90 sources for ophthalmic treatments. (1) Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under WAC 246-240-269.

(2) A licensee shall retain a record of the activity of each strontium-90 source in accordance with WAC 246-240-602.

NEW SECTION

WAC 246-240-275 Therapy-related computer systems. The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(1) The source-specific input parameters required by the dose calculation algorithm;

(2) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(3) The accuracy of isodose plots and graphic displays; and

(4) The accuracy of the software used to determine sealed source positions from radiographic images.

NEW SECTION

WAC 246-240-278 Training for use of manual brachytherapy sources. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under WAC 246-240-251 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, the U.S. NRC, or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the Committee on

Postgraduate Training of the American Osteopathic Association;

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of high and low dose-rate brachytherapy; and

(c) Obtain written certification, signed by a preceptor authorized user who meets the requirements in WAC 246-240-278 or equivalent U.S. NRC or agreement state requirements, that the individual has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized in WAC 246-240-251; or

(2)(a) Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:

(i) Two hundred hours of classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology; and

(ii) Five hundred hours of work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-278 or equivalent agreement state or U.S. NRC requirements at a medical institution, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Checking survey meters for proper operation;

(C) Preparing, implanting, and removing brachytherapy sources;

(D) Maintaining running inventories of material on hand;

(E) Using administrative controls to prevent a medical event involving the use of radioactive material;

(F) Using emergency procedures to control radioactive material; and

(b) Has completed three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in WAC 246-240-278 or equivalent U.S. NRC or agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by (a)(ii) of this subsection; and

(c) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in WAC 246-240-278 or equivalent agreement state or U.S. NRC requirements, that the individual has satisfactorily completed the requirements in (a) and (b) of this subsection and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized under WAC 246-240-251.

NEW SECTION

WAC 246-240-281 Training for ophthalmic use of strontium-90. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of strontium-90 for ophthalmic radiotherapy to be a physician who:

(1) Is an authorized user under WAC 246-240-278 or equivalent agreement state or U.S. NRC requirements; or

(2)(a) Has completed twenty-four hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy. The training must include:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(b) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals.

This supervised clinical training must involve:

(i) Examination of each individual to be treated;

(ii) Calculation of the dose to be administered;

(iii) Administration of the dose; and

(iv) Follow up and review of each individual's case history; and

(c) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in WAC 246-240-278, 246-240-281, or equivalent agreement state or U.S. NRC requirements, that the individual has satisfactorily completed the requirements in subsections (1) and (2) of this section and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

NEW SECTION

WAC 246-240-301 Use of sealed sources for diagnosis. A licensee shall use only sealed sources for diagnostic medical uses as approved in the sealed source and device registry.

NEW SECTION

WAC 246-240-304 Training for use of sealed sources for diagnosis. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under WAC 246-240-301 to be a physician, dentist, or podiatrist who:

(1) Is certified by a specialty board whose certification process includes all of the requirements in subsections (2) and (3) of this section and whose certification has been recognized by the Department, the U.S. NRC, or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.); or

(2) Has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology; and

(3) Has completed training in the use of the device for the uses requested.

NEW SECTION

WAC 246-240-351 Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit. A licensee shall use sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

(1) As approved in the sealed source and device registry; or

(2) In research in accordance with an active investigational device exemption (IDE) application accepted by the FDA provided the requirements of WAC 246-240-066(1) are met.

NEW SECTION

WAC 246-240-354 Surveys of patients and human research subjects treated with a remote afterloader unit. (1) Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that the source(s) has been removed from the patient or human research subject and returned to the safe shielded position.

(2) A licensee shall retain a record of these surveys in accordance with WAC 246-240-593.

NEW SECTION

WAC 246-240-357 Installation, maintenance, adjustment, and repair. (1) Only a person specifically licensed by the department, the U.S. NRC, or an agreement state shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source(s), reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(2) Except for low dose-rate remote afterloader units, only a person specifically licensed by the department, the U.S. NRC, or an agreement state shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.

(3) For a low dose-rate remote afterloader unit, only a person specifically licensed by the department, the U.S. NRC, or an agreement state or an authorized medical physicist shall install, replace, relocate, or remove a sealed source(s) contained in the unit.

(4) A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units in accordance with WAC 246-240-605.

NEW SECTION

WAC 246-240-360 Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. (1) A licensee shall:

(a) Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;

(b) Permit only individuals approved by the authorized user, radiation safety officer, or authorized medical physicist to be present in the treatment room during treatment with the source(s);

(c) Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and

(d) Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the source(s) in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures must include:

(i) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

(ii) The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

(iii) The names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.

(2) A copy of the procedures required by subsection (1)(d) of this section must be physically located at the unit console.

(3) A licensee shall post instructions at the unit console to inform the operator of:

(a) The location of the procedures required by subsection (1)(d) of this section; and

(b) The names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.

(4) A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:

(a) The procedures identified in subsection (1)(d) of this section; and

(b) The operating procedures for the unit.

(5) A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

(6) A licensee shall retain a record of individuals receiving instruction required by subsection (4) of this section, in accordance with WAC 246-240-590.

(7) A licensee shall retain a copy of the procedures required by subsections (1)(d) and (4)(b) of this section in accordance with WAC 246-240-608.

NEW SECTION

WAC 246-240-363 Safety precautions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. (1) A licensee shall control access to the treatment room by a door at each entrance.

(2) A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:

(a) Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

(b) Cause the source(s) to be shielded when an entrance door is opened; and

(c) Prevent the source(s) from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source(s) on-off control is reset at the console.

(3) A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

(4) Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

(5) For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.

(6) In addition to the requirements specified in subsections (1) through (5) of this section, a licensee shall:

(a) For *medium dose-rate and pulsed dose-rate remote afterloader units*, require:

(i) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit to be physically present during the initiation of all patient treatments involving the unit; and

(ii) An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove the source applicator(s) in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.

(b) For *high dose-rate remote afterloader units*, require:

(i) An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and

(ii) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.

(c) For *gamma stereotactic radiosurgery units*, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit.

(d) Notify the radiation safety officer, or their designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

(7) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Remaining in the unshielded position; or

(b) Lodged within the patient following completion of the treatment.

NEW SECTION

WAC 246-240-366 Dosimetry equipment. (1) Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions must be met:

(a) The system must have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration must have been performed within the previous two years and after any servicing that may have affected system calibration; or

(b) The system must have been calibrated within the previous four years. Eighteen to thirty months after that calibration, the system must have been intercompared with another dosimetry system that was calibrated within the past twenty-four months by NIST or by a calibration laboratory accredited by the AAPM. The results of the intercomparison must indicate that the calibration factor of the licensee's system had not changed by more than two percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.

(2) The licensee shall have a dosimetry system available for use for spot-check output measurements, if applicable. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with subsection (1) of this section. This comparison must have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in subsection (1) of this section.

(3) The licensee shall retain a record of each calibration, intercomparison, and comparison in accordance with WAC 246-240-611.

NEW SECTION

WAC 246-240-369 Full calibration measurements on teletherapy units. (1) A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

(a) Before the first medical use of the unit; and

(b) Before medical use under the following conditions:

(i) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(ii) Following replacement of the source or following reinstallation of the teletherapy unit in a new location;

(iii) Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one year.

(2) To satisfy the requirement of subsection (1) of this section, full calibration measurements must include determination of:

(a) The output within ±3 percent for the range of field sizes and for the distance or range of distances used for medical use;

(b) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(c) The uniformity of the radiation field and its dependence on the orientation of the useful beam;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error; and

(f) The accuracy of all distance measuring and localization devices in medical use.

(3) A licensee shall use the dosimetry system described in WAC 246-240-366(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (2)(a) of this section may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by subsection (1) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall mathematically correct the outputs determined in subsection (2)(a) of this section for physical decay for intervals not exceeding one month for cobalt-60, six months for cesium-137, or at intervals consistent with one percent decay for all other nuclides.

(6) Full calibration measurements required by subsection (1) of this section and physical decay corrections required by subsection (5) of this section must be performed by the authorized medical physicist.

(7) A licensee shall retain a record of each calibration in accordance with WAC 246-240-614.

NEW SECTION

WAC 246-240-372 Full calibration measurements on remote afterloader units. (1) A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(i) Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and

(ii) Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one calendar quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds seventy-five days; and

(d) At intervals not exceeding one year for low dose-rate remote afterloader units.

(2) To satisfy the requirement of subsection (1) of this section, full calibration measurements must include, as applicable, determination of:

(a) The output within ±5 percent;

(b) Source positioning accuracy to within ±1 millimeter;

(c) Source retraction with backup battery upon power failure;

(d) Length of the source transfer tubes;

(e) Timer accuracy and linearity over the typical range of use;

(f) Length of the applicators; and

(g) Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

(3) A licensee shall use the dosimetry system described in WAC 246-240-366(1) to measure the output.

(4) A licensee shall make full calibration measurements required by subsection (1) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) In addition to the requirements for full calibrations for low dose-rate remote afterloader units in subsection (2) of this section, a licensee shall perform an autoradiograph of the source(s) to verify inventory and source(s) arrangement at intervals not exceeding one calendar quarter.

(6) For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with subsections (1) through (5) of this section.

(7) A licensee shall mathematically correct the outputs determined in subsection (2)(a) of this section for physical decay at intervals consistent with one percent physical decay.

(8) Full calibration measurements required by subsection (1) of this section and physical decay corrections required by subsection (7) of this section must be performed by the authorized medical physicist.

(9) A licensee shall retain a record of each calibration in accordance with WAC 246-240-614.

NEW SECTION

WAC 246-240-375 Full calibration measurements on gamma stereotactic radiosurgery units. (1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(i) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(ii) Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

(iii) Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

(c) At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

(2) To satisfy the requirement of subsection (1) of this section, full calibration measurements must include determination of:

(a) The output within ±3 percent;

(b) Relative helmet factors;

(c) Isocenter coincidence;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error;

(f) Trunnion centricity;

(g) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(h) Helmet microswitches;

(i) Emergency timing circuits; and

(j) Stereotactic frames and localizing devices (trunnions).

(3) A licensee shall use the dosimetry system described in WAC 246-240-366(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (2)(a) of this section may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by subsection (1) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall mathematically correct the outputs determined in subsection (2)(a) of this section at intervals not exceeding one month for cobalt-60 and at intervals consistent with one percent physical decay for all other radionuclides.

(6) Full calibration measurements required by subsection (1) of this section and physical decay corrections required by subsection (5) of this section must be performed by the authorized medical physicist.

(7) A licensee shall retain a record of each calibration in accordance with WAC 246-240-614.

NEW SECTION

WAC 246-240-378 Periodic spot-checks for teletherapy units. (1) A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit once in each calendar month that include determination of:

(a) Timer accuracy, and timer linearity over the range of use;

(b) On-off error;

(c) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(d) The accuracy of all distance measuring and localization devices used for medical use;

(e) The output for one typical set of operating conditions measured with the dosimetry system described in WAC 246-240-366(2); and

(f) The difference between the measurement made in (e) of this subsection and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay).

(2) A licensee shall perform measurements required by subsection (1) of this section in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot-check measurements.

(3) A licensee shall have the authorized medical physicist review the results of each spot-check within fifteen days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(4) A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility once in each calendar month and after each source installation to assure proper operation of:

(a) Electrical interlocks at each teletherapy room entrance;

(b) Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);

(c) Source exposure indicator lights on the teletherapy unit, on the control console, and in the facility;

(d) Viewing and intercom systems;

(e) Treatment room doors from inside and outside the treatment room; and

(f) Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.

(5) If the results of the checks required in subsection (4) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee shall retain a record of each spot-check required by subsections (1) and (4) of this section, and a copy of the procedures required by subsection (2) of this section, in accordance with WAC 246-240-617.

NEW SECTION

WAC 246-240-381 Periodic spot-checks for remote afterloader units. (1) A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:

(a) Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

(b) Before each patient treatment with a low dose-rate remote afterloader unit; and

(c) After each source installation.

(2) A licensee shall perform the measurements required by subsection (1) of this section in accordance with written procedures established by the authorized medical physicist.

That individual need not actually perform the spot check measurements.

(3) A licensee shall have the authorized medical physicist review the results of each spot-check within fifteen days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(4) To satisfy the requirements of subsection (1) of this section, spot-checks must, at a minimum, assure proper operation of:

(a) Electrical interlocks at each remote afterloader unit room entrance;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

(d) Emergency response equipment;

(e) Radiation monitors used to indicate the source position;

(f) Timer accuracy;

(g) Clock (date and time) in the unit's computer; and

(h) Decayed source(s) activity in the unit's computer.

(5) If the results of the checks required in subsection (4) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee shall retain a record of each check required by subsection (4) of this section and a copy of the procedures required by subsection (2) of this section in accordance with WAC 246-240-620.

NEW SECTION

WAC 246-240-384 Periodic spot-checks for gamma stereotactic radiosurgery units. (1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

(a) Monthly;

(b) Before the first use of the unit on a given day; and

(c) After each source installation.

(2) A licensee shall:

(a) Perform the measurements required by subsection (1) of this section in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(b) Have the authorized medical physicist review the results of each spot-check within fifteen days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(3) To satisfy the requirements of subsection (1)(a) of this section, spot-checks must, at a minimum:

(a) Assure proper operation of:

(i) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(ii) Helmet microswitches;

(iii) Emergency timing circuits; and

(iv) Stereotactic frames and localizing devices (trunnions).

(b) Determine:

(i) The output for one typical set of operating conditions measured with the dosimetry system described in WAC 246-240-366(2);

(ii) The difference between the measurement made in (b)(i) of this subsection and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay);

(iii) Source output against computer calculation;

(iv) Timer accuracy and linearity over the range of use;

(v) On-off error; and

(vi) Trunnion centricity.

(4) To satisfy the requirements of subsection (1)(b) and (c) of this section, spot-checks must assure proper operation of:

(a) Electrical interlocks at each gamma stereotactic radiosurgery room entrance;

(b) Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Timer termination;

(e) Radiation monitors used to indicate room exposures; and

(f) Emergency off buttons.

(5) A licensee shall arrange for the repair of any system identified in subsection (3) of this section that is not operating properly as soon as possible.

(6) If the results of the checks required in subsection (4) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(7) A licensee shall retain a record of each check required by subsections (3) and (4) of this section and a copy of the procedures required by subsection (2) of this section in accordance with WAC 246-240-623.

NEW SECTION

WAC 246-240-387 Additional technical requirements for mobile remote afterloader units. (1) A licensee providing mobile remote afterloader service shall:

(a) Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

(b) Account for all sources before departure from a client's address of use.

(2) In addition to the periodic spot-checks required by WAC 246-240-381, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks must be made to verify the operation of:

(a) Electrical interlocks on treatment area access points;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Applicators, source transfer tubes, and transfer tube-applicator interfaces;

(e) Radiation monitors used to indicate room exposures;

(f) Source positioning (accuracy); and

(g) Radiation monitors used to indicate whether the source has returned to a safe shielded position.

(3) In addition to the requirements for checks in subsection (2) of this section, a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

(4) If the results of the checks required in subsection (2) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(5) A licensee shall retain a record of each check required by subsection (2) of this section in accordance with WAC 246-240-626.

NEW SECTION

WAC 246-240-390 Radiation surveys. (1) In addition to the survey requirement in WAC 246-221-110(1), a person licensed under this chapter shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with the source(s) in the shielded position do not exceed the levels stated in the sealed source and device registry.

(2) The licensee shall make the survey required by subsection (1) of this section at installation of a new source and following repairs to the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(3) A licensee shall retain a record of the radiation surveys required by subsection (1) of this section in accordance with WAC 246-240-629.

NEW SECTION

WAC 246-240-393 Five-year inspection for teletherapy and gamma stereotactic radiosurgery units. (1) A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(2) This inspection and servicing may only be performed by persons specifically licensed to do so by the department, the U.S. NRC or an agreement state.

(3) A licensee shall keep a record of the inspection and servicing in accordance with WAC 246-240-632.

NEW SECTION

WAC 246-240-396 Therapy-related computer systems. The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(1) The source-specific input parameters required by the dose calculation algorithm;

(2) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(3) The accuracy of isodose plots and graphic displays;

(4) The accuracy of the software used to determine sealed source positions from radiographic images; and

(5) The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

NEW SECTION

WAC 246-240-399 Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of a sealed source for a use authorized under WAC 246-240-351 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, the U.S. NRC, or an agreement state. (Specialty boards whose certification process has been recognized by the commission or an agreement state will be posted on the NRC's web page at http://www.nrc.gov.) To be recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the Committee on Postgraduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, high and low dose-rate brachytherapy, and external beam therapy;

(2)(a) Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:

(i) Two hundred hours of classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology; and

(ii) Five hundred hours of work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-399 or equivalent agreement state or U.S. NRC requirements at a medical institution, involving:

(A) Reviewing full calibration measurements and periodic spot-checks;

(B) Preparing treatment plans and calculating treatment doses and times;

(C) Using administrative controls to prevent a medical event involving the use of radioactive material;

(D) Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;

(E) Checking and using survey meters; and

(F) Selecting the proper dose and how it is to be administered; and

(b) Has completed three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in WAC 246-240-399 or equivalent U.S. NRC or agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by (a)(ii) of this subsection; and

(c) Has obtained written certification that the individual has satisfactorily completed the requirements in (a) and (b) of this subsection and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written certification must be signed by a preceptor authorized user who meets the requirements in WAC 246-240-399 or equivalent U.S. NRC or agreement state requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

(d) Has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

NEW SECTION

WAC 246-240-451 Radiation safety officer. Except as provided in WAC 246-240-078, the licensee shall require an individual fulfilling the responsibilities of the radiation safety officer as provided in WAC 246-240-051 to be an individual who:

(1) Is certified by the:

(a) American Board of Health Physics in Comprehensive Health Physics; or

(b) American Board of Radiology; or

(c) American Board of Nuclear Medicine; or

(d) American Board of Science in Nuclear Medicine; or

(e) Board of Pharmaceutical Specialties in Nuclear Pharmacy; or

(f) American Board of Medical Physics in radiation oncology physics; or

(g) Royal College of Physicians and Surgeons of Canada in nuclear medicine; or

(h) American Osteopathic Board of Radiology; or

(i) American Osteopathic Board of Nuclear Medicine; or

(2) Has had classroom and laboratory training and experience as follows:

(a) Two hundred hours of classroom and laboratory training that includes:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Radiation biology; and

(v) Radiopharmaceutical chemistry; and

(b) One year of full-time experience as a radiation safety technologist at a medical institution under the supervision of the individual identified as the radiation safety officer on an agreement state or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(3) Is an authorized user identified on the licensee's license.

NEW SECTION

WAC 246-240-454 Training for uptake, dilution, and excretion studies. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of a radiopharmaceutical in WAC 246-240-151 to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; or

(b) Diagnostic radiology by the American Board of Radiology; or

(c) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or

(d) Nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

(e) American Osteopathic Board of Nuclear Medicine in nuclear medicine; or

(2) Has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, and supervised clinical experience as follows:

(a) Forty hours of classroom and laboratory training that includes:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Radiation biology; and

(v) Radiopharmaceutical chemistry; and

(b) Twenty hours of supervised clinical experience under the supervision of an authorized user and that includes:

(i) Examining patients or human research subjects and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;

(ii) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(iii) Administering dosages to patients or human research subjects and using syringe radiation shields;

(iv) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(v) Patient or human research subject follow up; or

(3) Has successfully completed a six-month training program in nuclear medicine as part of a training program that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in subsection (2) of this section.

NEW SECTION

WAC 246-240-457 Training for imaging and localization studies. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of a radiopharmaceutical, generator, or reagent kit in WAC 246-240-157 to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; or

(b) Diagnostic radiology by the American Board of Radiology; or

(c) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or

(d) Nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

(e) American Osteopathic Board of Nuclear Medicine in nuclear medicine; or

(2) Has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, generators, and reagent kits, supervised work experience, and supervised clinical experience as follows:

(a) Two hundred hours of classroom and laboratory training that includes:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Radiopharmaceutical chemistry; and

(v) Radiation biology; and

(b) Five hundred hours of supervised work experience under the supervision of an authorized user that includes:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

(iii) Calculating and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent the medical event of radioactive material;

(v) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(vi) Eluting technetium-99m from generator systems, measuring and testing the eluate for molybdenum-99 and alumina contamination, and processing the eluate with reagent kits to prepare technetium-99m labeled radiopharmaceuticals; and

(c) Five hundred hours of supervised clinical experience under the supervision of an authorized user that includes:

(i) Examining patients or human research subjects and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;

(ii) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(iii) Administering dosages to patients or human research subjects and using syringe radiation shields;

(iv) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(v) Patient or human research subject follow up; or

(3) Has successfully completed a six-month training program in nuclear medicine that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in subsection (2) of this section.

NEW SECTION

WAC 246-240-460 Training for therapeutic use of unsealed radioactive material. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of radiopharmaceuticals in WAC 246-240-201 to be a physician who:

(1) Is certified by:

(a) The American Board of Nuclear Medicine; or

(b) The American Board of Radiology in radiology, therapeutic radiology, or radiation oncology; or

(c) The Royal College of Physicians and Surgeons of Canada in nuclear medicine; or

(d) The American Osteopathic Board of Radiology after 1984; or

(2) Has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of therapeutic radiopharmaceuticals, and supervised clinical experience as follows:

(a) Eighty hours of classroom and laboratory training that includes:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(b) Supervised clinical experience under the supervision of an authorized user at a medical institution that includes:

(i) Use of iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in ten individuals; and

(ii) Use of iodine-131 for treatment of thyroid carcinoma in three individuals.

NEW SECTION

WAC 246-240-463 Training for treatment of hyperthyroidism. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of only iodine-131 for the treatment of hyperthyroidism to be a physician with special experience in thyroid disease who has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of iodine-131 for treating hyperthyroidism, and supervised clinical experience as follows:

(1) Eighty hours of classroom and laboratory training that includes:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity; and

(d) Radiation biology; and

(2) Supervised clinical experience under the supervision of an authorized user that includes the use of iodine-131 for diagnosis of thyroid function, and the treatment of hyperthyroidism in ten individuals.

NEW SECTION

WAC 246-240-466 Training for treatment of thyroid carcinoma. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of only iodine-131 for the treatment of thyroid carcinoma to be a physician with special experience in thyroid disease who has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of iodine-131 for treating thyroid carcinoma, and supervised clinical experience as follows:

(1) Eighty hours of classroom and laboratory training that includes:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity; and

(d) Radiation biology; and

(2) Supervised clinical experience under the supervision of an authorized user that includes the use of iodine-131 for the treatment of thyroid carcinoma in three individuals.

NEW SECTION

WAC 246-240-469 Training for use of brachytherapy sources. Except as provided in WAC 246-240-078 the licensee shall require the authorized user of a brachytherapy source listed in WAC 246-240-251 for therapy to be a physician who:

(1) Is certified in:

(a) Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or

(b) Radiation oncology by the American Osteopathic Board of Radiology; or

(c) Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2) Is in the active practice of therapeutic radiology, has had classroom and laboratory training in radioisotope handling techniques applicable to the therapeutic use of brachytherapy sources, supervised work experience, and supervised clinical experience as follows:

(a) Two hundred hours of classroom and laboratory training that includes:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology;

(b) Five hundred hours of supervised work experience under the supervision of an authorized user at a medical institution that includes:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Checking survey meters for proper operation;

(iii) Preparing, implanting, and removing sealed sources;

(iv) Maintaining running inventories of material on hand;

(v) Using administrative controls to prevent a medical event involving radioactive material; and

(vi) Using emergency procedures to control radioactive material; and

(c) Three years of supervised clinical experience that includes one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution that includes:

(i) Examining individuals and reviewing their case histories to determine their suitability for brachytherapy treatment, and any limitations or contraindications;

(ii) Selecting the proper brachytherapy sources and dose and method of administration;

(iii) Calculating the dose; and

(iv) Post-administration follow up and review of case histories in collaboration with the authorized user.

NEW SECTION

WAC 246-240-472 Training for ophthalmic use of strontium-90. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of only strontium-90 for ophthalmic radiotherapy to be a physician who is in the active practice of therapeutic radiology or ophthalmology, and has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of strontium-90 for ophthalmic radiotherapy, and a period of supervised clinical training in ophthalmic radiotherapy as follows:

(1) Twenty-four hours of classroom and laboratory training that includes:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity; and

(d) Radiation biology;

(2) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals that includes:

(a) Examination of each individual to be treated;

(b) Calculation of the dose to be administered;

(c) Administration of the dose; and

(d) Follow up and review of each individual's case history.

NEW SECTION

WAC 246-240-475 Training for use of sealed sources for diagnosis. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of a sealed source in a device listed in WAC 246-240-301 to be a physician, dentist, or podiatrist who:

(1) Is certified in:

(a) Radiology, diagnostic radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology;

(b) Nuclear medicine by the American Board of Nuclear Medicine;

(c) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or

(d) Nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

(2) Has had eight hours of classroom and laboratory training in basic radioisotope handling techniques specifically applicable to the use of the device that includes:

(a) Radiation physics, mathematics pertaining to the use and measurement of radioactivity, and instrumentation;

(b) Radiation biology;

(c) Radiation protection; and

(d) Training in the use of the device for the uses requested.

NEW SECTION

WAC 246-240-478 Training for use of therapeutic medical devices. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of a sealed source listed in WAC 246-240-351 to be a physician who:

(1) Is certified in:

(a) Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or

(b) Radiation oncology by the American Osteopathic Board of Radiology; or

(c) Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2) Is in the active practice of therapeutic radiology, and has had classroom and laboratory training in basic radioisotope techniques applicable to the use of a sealed source in a therapeutic medical device, supervised work experience, and supervised clinical experience as follows:

(a) Two hundred hours of classroom and laboratory training that includes:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology;

(b) Five hundred hours of supervised work experience under the supervision of an authorized user at a medical institution that includes:

(i) Review of the full calibration measurements and periodic spot-checks;

(ii) Preparing treatment plans and calculating treatment times;

(iii) Using administrative controls to prevent medical events;

(iv) Implementing emergency procedures to be followed in the event of the abnormal operation of the medical device or console; and

(v) Checking and using survey meters; and

(c) Three years of supervised clinical experience that includes one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution that includes:

(i) Examining individuals and reviewing their case histories to determine their suitability for teletherapy, remote afterloader, or gamma stereotactic radiosurgery treatment, and any limitations or contraindications;

(ii) Selecting the proper dose and how it is to be administered;

(iii) Calculating the doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses as warranted by patients' or human research subjects' reaction to radiation; and

(iv) Post-administration follow up and review of case histories.

NEW SECTION

WAC 246-240-481 Training for authorized medical physicist. The licensee shall require the authorized medical physicist to be an individual who:

(1) Is certified by the American Board of Radiology in:

(a) Therapeutic radiological physics; or

(b) Roentgen ray and gamma ray physics; or

(c) X-ray and radium physics; or

(d) Radiological physics; or

(2) Is certified by the American Board of Medical Physics in radiation oncology physics; or

(3) Holds a master's or doctor's degree in physics, biophysics, radiological physics, or health physics, and has completed one year of full-time training in therapeutic radiological physics and an additional year of full-time work experience under the supervision of a medical physicist at a medical institution that includes the tasks listed in WAC 246-240-113, 246-240-369, 246-240-372, 246-240-375, 246-240-378, 246-240-381, 246-240-384, and 246-240-390, as applicable.

NEW SECTION

WAC 246-240-484 Training for an authorized nuclear pharmacist. The licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Has current board certification as a nuclear pharmacist by the Board of Pharmaceutical Specialties; or

(2)(a) Has completed seven hundred hours in a structured educational program consisting of both:

(i) Didactic training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of radioactive material for medical use; and

(E) Radiation biology; and

(ii) Supervised experience in a nuclear pharmacy involving the following:

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of dose calibrators, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;

(C) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(D) Using administrative controls to avoid mistakes in the administration of radioactive material;

(E) Using procedures to prevent or minimize contamination and using proper decontamination procedures; and

(b) Has obtained written certification, signed by a preceptor authorized nuclear pharmacist, that the above training has been satisfactorily completed and that the individual has achieved a level of competency sufficient to independently operate a nuclear pharmacy.

NEW SECTION

WAC 246-240-487 Training for experienced nuclear pharmacists. A licensee may apply for and must receive a license amendment identifying an experienced nuclear pharmacist as an authorized nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program as specified in WAC 246-240-484 before December 2, 1994, and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements for a preceptor statement (WAC 246-240-484) and recentness of training (WAC 246-240-081) to qualify as an authorized nuclear pharmacist.

NEW SECTION

WAC 246-240-501 Other medical uses of radioactive material or radiation from radioactive material. A licensee may use radioactive material or a radiation source approved for medical use which is not specifically addressed in WAC 246-240-251 through 246-240-399 (inclusive) if:

(1) The applicant or licensee has submitted the information required by WAC 246-240-019; and

(2) The applicant or licensee has received written approval from the department in a license or license amendment and uses the material in accordance with the regulations and specific conditions the department considers necessary for the medical use of the material.

NEW SECTION

WAC 246-240-551 Records of authority and responsibilities for radiation protection programs. (1) A licensee shall retain a record of actions taken by the licensee's management in accordance with WAC 246-240-051(1) for five years. The record must include a summary of the actions taken and a signature of licensee management.

(2) The licensee shall retain a copy of both authority, duties, and responsibilities of the radiation safety officer as required by WAC 246-240-051(5), and a signed copy of each radiation safety officer's agreement to be responsible for implementing the radiation safety program, as required by WAC 246-240-051(2), for the duration of the license. The records must include the signature of the radiation safety officer and licensee management.

NEW SECTION

WAC 246-240-554 Records of radiation protection program changes. A licensee shall retain a record of each radiation protection program change made in accordance with WAC 246-240-054(1) for five years. The record must include a copy of the old and new procedures; the effective date of the change; and the signature of the licensee management that reviewed and approved the change.

NEW SECTION

WAC 246-240-557 Records of written directives. A licensee shall retain a copy of each written directive as required by WAC 246-240-060 for three years.

NEW SECTION

WAC 246-240-560 Records for procedures for administrations requiring a written directive. A licensee shall retain a copy of the procedures required by WAC 246-240-063(1) for the duration of the license.

NEW SECTION

WAC 246-240-563 Records of calibrations of instruments used to measure the activity of unsealed radioactive material. A licensee shall maintain a record of instrument calibrations required by WAC 246-240-101 for three years. The records must include the model and serial number of the instrument, the date of the calibration, the results of the calibration, and the name of the individual who performed the calibration.

NEW SECTION

WAC 246-240-566 Records of radiation survey instrument calibrations. A licensee shall maintain a record of radiation survey instrument calibrations required by WAC 246-240-104 for three years. The record must include the model and serial number of the instrument, the date of the calibration, the results of the calibration, and the name of the individual who performed the calibration.

NEW SECTION

WAC 246-240-569 Records of dosages of unsealed radioactive material for medical use. (1) A licensee shall

maintain a record of dosage determinations required by WAC 246-240-107 for three years.

(2) The record must contain:

(a) The radiopharmaceutical;

(b) The patient's or human research subject's name, or identification number if one has been assigned;

(c) The prescribed dosage, the determined dosage, or a notation that the total activity is less than 1.1 MBq (30 μCi);

(d) The date and time of the dosage determination; and

(e) The name of the individual who determined the dosage.

NEW SECTION

WAC 246-240-572 Records of leak tests and inventory of sealed sources and brachytherapy sources. (1) A licensee shall retain records of leak tests required by WAC 246-240-113 for three years. The records must include the model number, and serial number if one has been assigned, of each source tested; the identity of each source by radionuclide and its estimated activity; the results of the test; the date of the test; and the name of the individual who performed the test.

(2) A licensee shall retain records of the semiannual physical inventory of sealed sources and brachytherapy sources required by WAC 246-240-113 for three years. The inventory records must contain the model number of each source, and serial number if one has been assigned, the identity of each source by radionuclide and its nominal activity, the location of each source, and the name of the individual who performed the inventory.

NEW SECTION

WAC 246-240-575 Records of surveys for ambient radiation exposure rate. A licensee shall retain a record of each survey required by WAC 246-240-119 for three years. The record must include the date of the survey, the results of the survey, the instrument used to make the survey, and the name of the individual who performed the survey.

NEW SECTION

WAC 246-240-578 Records of the release of individuals containing unsealed radioactive material or implants containing radioactive material. (1) A licensee shall retain a record of the basis for authorizing the release of an individual in accordance with WAC 246-240-122, if the total effective dose equivalent is calculated by:

(a) Using the retained activity rather than the activity administered;

(b) Using an occupancy factor less than 0.25 at 1 meter;

(c) Using the biological or effective half-life; or

(d) Considering the shielding by tissue.

(2) A licensee shall retain a record that the instructions required by WAC 246-240-122(2) were provided to a breast-feeding female if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 mSv (0.5 rem).

(3) The records required by subsections (1) and (2) of this section must be retained for three years after the date of release of the individual.

NEW SECTION

WAC 246-240-581 Records of mobile medical services. (1) A licensee shall retain a copy of each letter that permits the use of radioactive material at a client's address, as required by WAC 246-240-125. Each letter must clearly delineate the authority and responsibility of the licensee and the client and must be retained for three years after the last provision of service.

(2) A licensee shall retain the record of each survey required by WAC 246-240-125 (1)(d) for three years. The record must include the date of the survey, the results of the survey, the instrument used to make the survey, and the name of the individual who performed the survey.

NEW SECTION

WAC 246-240-584 Records of decay-in-storage. A licensee shall maintain records of the disposal of licensed materials, as required by WAC 246-240-128, for three years. The record must include the date of the disposal, the survey instrument used, the background radiation level, the radiation level measured at the surface of each waste container, and the name of the individual who performed the survey.

NEW SECTION

WAC 246-240-587 Records of molybdenum-99 concentrations. A licensee shall maintain a record of the molybdenum-99 concentration tests required by WAC 246-240-160(2) for three years. The record must include, for each measured elution of technetium-99m, the ratio of the measures expressed as kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (or microcuries of molybdenum per millicurie of technetium), the time and date of the measurement, and the name of the individual who made the measurement.

NEW SECTION

WAC 246-240-590 Records of safety instruction. A licensee shall maintain a record of safety instructions required by WAC 246-240-204, 246-240-263, and 246-240-360 for three years. The record must include a list of the topics covered, the date of the instruction, the name(s) of the attendee(s), and the name(s) of the individual(s) who provided the instruction.

NEW SECTION

WAC 246-240-593 Records of surveys after source implant and removal. A licensee shall maintain a record of the surveys required by WAC 246-240-354 and 246-240-593 for three years. Each record must include the date and results of the survey, the survey instrument used, and the name of the individual who made the survey.

NEW SECTION

WAC 246-240-596 Records of brachytherapy source accountability. (1) A licensee shall maintain a record of brachytherapy source accountability required by WAC 246-240-260 for three years.

(2) For temporary implants, the record must include:

(a) The number and activity of sources removed from storage, the time and date they were removed from storage, the name of the individual who removed them from storage, and the location of use; and

(b) The number and activity of sources returned to storage, the time and date they were returned to storage, and the name of the individual who returned them to storage.

(3) For permanent implants, the record must include:

(a) The number and activity of sources removed from storage, the date they were removed from storage, and the name of the individual who removed them from storage;

(b) The number and activity of sources not implanted, the date they were returned to storage, and the name of the individual who returned them to storage; and

(c) The number and activity of sources permanently implanted in the patient or human research subject.

NEW SECTION

WAC 246-240-599 Records of calibration measurements of brachytherapy sources. (1) A licensee shall maintain a record of the calibrations of brachytherapy sources required by WAC 246-240-269 for three years after the last use of the source.

(2) The record must include:

(a) The date of the calibration;

(b) The manufacturer's name, model number, and serial number for the source and the instruments used to calibrate the source;

(c) The source output or activity;

(d) The source positioning accuracy within the applicators; and

(e) The name of the individual, the source manufacturer, or the calibration laboratory that performed the calibration.

NEW SECTION

WAC 246-240-602 Records of decay of strontium-90 sources for ophthalmic treatments. (1) A licensee shall maintain a record of the activity of a strontium-90 source required by WAC 246-240-272 for the life of the source.

(2) The record must include:

(a) The date and initial activity of the source as determined under WAC 246-240-269; and

(b) For each decay calculation, the date and the source activity as determined under WAC 246-240-272.

NEW SECTION

WAC 246-240-605 Records of installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units as required by WAC 246-240-357 for three years. For each installation, maintenance, adjustment and repair, the record must include the date, description of the service, and name(s) of the individual(s) who performed the work.

NEW SECTION

WAC 246-240-608 Records of safety procedures. A licensee shall retain a copy of the procedures required by WAC 246-240-360 (1)(d) and (4)(b) until the licensee no longer possesses the remote afterloader, teletherapy unit, or gamma stereotactic radiosurgery unit.

NEW SECTION

WAC 246-240-611 Records of dosimetry equipment used with remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. (1) A licensee shall retain a record of the calibration, intercomparison, and comparisons of its dosimetry equipment done in accordance with WAC 246-240-366 for the duration of the license.

(2) For each calibration, intercomparison, or comparison, the record must include:

(a) The date;

(b) The manufacturer's name, model numbers and serial numbers of the instruments that were calibrated, intercompared, or compared as required by WAC 246-240-366;

(c) The correction factor that was determined from the calibration or comparison or the apparent correction factor that was determined from an intercomparison; and

(d) The names of the individuals who performed the calibration, intercomparison, or comparison.

NEW SECTION

WAC 246-240-614 Records of teletherapy, remote afterloader, and gamma stereotactic radiosurgery full calibrations. (1) A licensee shall maintain a record of the teletherapy unit, remote afterloader unit, and gamma stereotactic radiosurgery unit full calibrations required by WAC 246-240-369, 246-240-372, and 246-240-375 for three years.

(2) The record must include:

(a) The date of the calibration;

(b) The manufacturer's name, model number, and serial number of the teletherapy, remote afterloader, and gamma stereotactic radiosurgery unit(s), the source(s), and the instruments used to calibrate the unit(s);

(c) The results and an assessment of the full calibrations;

(d) The results of the autoradiograph required for low dose-rate remote afterloader units; and

(e) The signature of the authorized medical physicist who performed the full calibration.

NEW SECTION

WAC 246-240-617 Records of periodic spot-checks for teletherapy units. (1) A licensee shall retain a record of each periodic spot-check for teletherapy units required by WAC 246-240-378 for three years.

(2) The record must include:

(a) The date of the spot-check;

(b) The manufacturer's name, model number, and serial number of the teletherapy unit, source and instrument used to measure the output of the teletherapy unit;

(c) An assessment of timer linearity and constancy;

(d) The calculated on-off error;

(e) A determination of the coincidence of the radiation field and the field indicated by the light beam localizing device;

(f) The determined accuracy of each distance measuring and localization device;

(g) The difference between the anticipated output and the measured output;

(h) Notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each source exposure indicator light, and the viewing and intercom system and doors; and

(i) The name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

(3) A licensee shall retain a copy of the procedures required by WAC 246-240-378(2) until the licensee no longer possesses the teletherapy unit.

NEW SECTION

WAC 246-240-620 Records of periodic spot-checks for remote afterloader units. (1) A licensee shall retain a record of each spot-check for remote afterloader units required by WAC 246-240-381 for three years.

(2) The record must include, as applicable:

(a) The date of the spot-check;

(b) The manufacturer's name, model number, and serial number for the remote afterloader unit and source;

(c) An assessment of timer accuracy;

(d) Notations indicating the operability of each entrance door electrical interlock, radiation monitors, source exposure indicator lights, viewing and intercom systems, and clock and decayed source activity in the unit's computer; and

(e) The name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

(3) A licensee shall retain a copy of the procedures required by WAC 246-240-381(2) until the licensee no longer possesses the remote afterloader unit.

NEW SECTION

WAC 246-240-623 Records of periodic spot-checks for gamma stereotactic radiosurgery units. (1) A licensee shall retain a record of each spot-check for gamma stereotactic radiosurgery units required by WAC 246-240-384 for three years.

(2) The record must include:

(a) The date of the spot-check;

(b) The manufacturer's name, model number, and serial number for the gamma stereotactic radiosurgery unit and the instrument used to measure the output of the unit;

(c) An assessment of timer linearity and accuracy;

(d) The calculated on-off error;

(e) A determination of trunnion centricity;

(f) The difference between the anticipated output and the measured output;

(g) An assessment of source output against computer calculations;

(h) Notations indicating the operability of radiation monitors, helmet microswitches, emergency timing circuits, emergency off buttons, electrical interlocks, source exposure indicator lights, viewing and intercom systems, timer termination, treatment table retraction mechanism, and stereotactic frames and localizing devices (trunnions); and

(i) The name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

(3) A licensee shall retain a copy of the procedures required by WAC 246-240-384(2) until the licensee no longer possesses the gamma stereotactic radiosurgery unit.

NEW SECTION

WAC 246-240-626 Records of additional technical requirements for mobile remote afterloader units. (1) A licensee shall retain a record of each check for mobile remote afterloader units required by WAC 246-240-387 for three years.

(2) The record must include:

(a) The date of the check;

(b) The manufacturer's name, model number, and serial number of the remote afterloader unit;

(c) Notations accounting for all sources before the licensee departs from a facility;

(d) Notations indicating the operability of each entrance door electrical interlock, radiation monitors, source exposure indicator lights, viewing and intercom system, applicators, source transfer tubes, and transfer tube applicator interfaces, and source positioning accuracy; and

(e) The signature of the individual who performed the check.

NEW SECTION

WAC 246-240-629 Records of surveys of therapeutic treatment units. (1) A licensee shall maintain a record of radiation surveys of treatment units made in accordance with WAC 246-240-390 for the duration of use of the unit.

(2) The record must include:

(a) The date of the measurements;

(b) The manufacturer's name, model number and serial number of the treatment unit, source, and instrument used to measure radiation levels;

(c) Each dose rate measured around the source while the unit is in the off position and the average of all measurements; and

(d) The signature of the individual who performed the test.

NEW SECTION

WAC 246-240-632 Records of five-year inspection for teletherapy and gamma stereotactic radiosurgery units. (1) A licensee shall maintain a record of the five-year

inspections for teletherapy and gamma stereotactic radiosurgery units required by WAC 246-240-393 for the duration of use of the unit.

(2) The record must contain:

(a) The inspector's radioactive materials license number;

(b) The date of inspection;

(c) The manufacturer's name and model number and serial number of both the treatment unit and source;

(d) A list of components inspected and serviced, and the type of service; and

(e) The signature of the inspector.

NEW SECTION

WAC 246-240-651 Report and notification of a medical event. (1) A licensee shall report any event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

(a) A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and

(i) The total dose delivered differs from the prescribed dose by twenty percent or more;

(ii) The total dosage delivered differs from the prescribed dosage by twenty percent or more or falls outside the prescribed dosage range; or

(iii) The fractionated dose delivered differs from the prescribed dose, for a single fraction, by fifty percent or more.

(b) A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:

(i) An administration of a wrong radioactive drug containing radioactive material;

(ii) An administration of a radioactive drug containing radioactive material by the wrong route of administration;

(iii) An administration of a dose or dosage to the wrong individual or human research subject;

(iv) An administration of a dose or dosage delivered by the wrong mode of treatment; or

(v) A leaking sealed source.

(c) A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and fifty percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(2) A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

(3) The licensee shall notify by telephone (360-236-3300) the department no later than the next calendar day after discovery of the medical event.

(4) By an appropriate method listed in WAC 246-221-250, the licensee shall submit a written report to the department at P.O. Box 47827, Olympia WA 98504-7827 within fifteen days after discovery of the medical event.

(a) The written report must include:

(i) The licensee's name;

(ii) The name of the prescribing physician;

(iii) A brief description of the event;

(iv) Why the event occurred;

(v) The effect, if any, on the individual(s) who received the administration;

(vi) What actions, if any, have been taken or are planned to prevent recurrence; and

(vii) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

(5) The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than twenty-four hours after its discovery, unless the referring physician personally informs the licensee either that they will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within twenty-four hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this section, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide a written description if requested.

(6) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

(7) A licensee shall:

(a) Annotate a copy of the report provided to the department with the:

(i) Name of the individual who is the subject of the event; and

(ii) Social Security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and

(b) Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than fifteen days after the discovery of the event.

NEW SECTION

WAC 246-240-654 Report and notification of a dose to an embryo/fetus or a nursing child. (1) A licensee shall report to the department at P.O. Box 47827, Olympia WA 98504-7827, (phone 360-236-3300), any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

(2) A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:

(a) Is greater than 50 mSv (5 rem) total effective dose equivalent; or

(b) Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

(3) The licensee shall notify by telephone the department no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in subsection (1) or (2) of this section.

(4) By an appropriate method listed in WAC 246-221-250, the licensee shall submit a written report to the department within fifteen days after discovery of a dose to the embryo/fetus or nursing child that requires a report in subsection (1) or (2) of this section.

(a) The written report must include:

(i) The licensee's name;

(ii) The name of the prescribing physician;

(iii) A brief description of the event;

(iv) Why the event occurred;

(v) The effect, if any, on the embryo/fetus or the nursing child;

(vi) What actions, if any, have been taken or are planned to prevent recurrence; and

(vii) Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.

(b) The report must not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

(5) The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than twenty-four hours after discovery of an event that would require reporting under subsection (1) or (2) of this section, unless the referring physician personally informs the licensee either that they will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within twenty-four hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide a written description if requested.

(6) A licensee shall:

(a) Annotate a copy of the report provided to the department with the:

(i) Name of the pregnant individual or the nursing child who is the subject of the event; and

(ii) Social Security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and

(b) Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than fifteen days after the discovery of the event.

NEW SECTION

WAC 246-240-657 Report of a leaking source. A licensee shall file a report within five days if a leak test required by WAC 246-240-113 reveals the presence of 185 Bq (0.005 μCi) or more of removable contamination. The report must be filed with the department, and sent to the department at P.O. Box 47827, Olympia WA 98504-7827, (phone 360-236-3300). The written report must include the model number and serial number if assigned, of the leaking source; the radionuclide and its estimated activity; the results of the test; the date of the test; and the action taken.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-240-015	Policy and procedures for therapy administration.
WAC 246-240-020	Interstitial, intracavitary and superficial applications.
WAC 246-240-030	Teletherapy.
WAC 246-240-040	Special requirements for teletherapy licensees.
WAC 246-240-050	Notifications, records, and reports of therapy misadministrations.

WSR 05-19-058
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed September 16, 2005, 11:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-081.

Title of Rule and Other Identifying Information: Amending WAC 388-478-0015 Need standards for cash assistance.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on October 25, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 26, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 25, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by October 21, 2005, TTY (360) 664-6178 or phone (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is being amended to revise basic need standards for cash assistance.

Reasons Supporting Proposal: RCW 74.04.770, requires the department to annually establish consolidated standards of need. A forecast of basic needs costs for 2006 is being used to establish new basic needs standards.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

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

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Ebben, 1009 College S.E., Lacey, WA 98504, (360) 725-4618.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to....rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

September 16, 2005
Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-01-074, filed 12/9/04, effective 1/9/05)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	$ ((~~1,021~~)) 989
2	((~~1,293~~)) 1,251
3	((~~1,596~~)) 1,545
4	((~~1,883~~)) 1,823
5	((~~2,170~~)) 2,101
6	((~~2,458~~)) 2,379
7	((~~2,841~~)) 2,749
8	((~~3,144~~)) 3,043
9	((~~3,447~~)) 3,336
10 or more	((~~3,750~~)) 3,360

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	$ ((~~530~~)) 528
2	((~~671~~)) 668
3	((~~828~~)) 825
4	((~~977~~)) 973
5	((~~1,126~~)) 1,122
6	((~~1,275~~)) 1,270
7	((~~1,474~~)) 1,468
8	((~~1,631~~)) 1,625
9	((~~1,788~~)) 1,782
10 or more	((~~1,946~~)) 1,939

WSR 05-19-063
PROPOSED RULES
SECRETARY OF STATE
(Elections Division)
[Filed September 16, 2005, 2:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-167.

Title of Rule and Other Identifying Information: Official statewide voter registration data base.

Hearing Location(s): Conference Room, 520 Union Avenue S.E., Olympia, WA 98501, on October 26, 2005, at 9:00 a.m.

Date of Intended Adoption: November 15, 2005.

Submit Written Comments to: Pam Floyd, P.O. Box 40232, Olympia, WA 98504-0232, e-mail pfloyd@secstate.wa.gov, fax (360) 664-6419, by October 25, 2005.

Assistance for Persons with Disabilities: Contact TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: State and federal law mandates that a new voter registration system, the official statewide voter registration data base, be implemented by January 1, 2006. All voter registration records will be entered into this system and maintained. It will be screened for felons, deceased voters, and duplicate registrations. Each county will have an election management system that will

exchange information with the official statewide voter registration data base. Rules for this exchange of information, entry of information from voter registration applications, and additional procedures are provided.

Reasons Supporting Proposal: The Help America Vote Act of 2002 requires all states to develop and maintain a statewide list of registered voters.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: Chapter 243, Laws of 2005; chapter 267, Laws of 2004.

Rule is necessary because of federal law, Help America Vote Act of 2002, 42 U.S.C. 15301.

Name of Proponent: Office of the Secretary of State, governmental.

Name of Agency Personnel Responsible for Drafting: Tami Neilson, Legislative Building, (360) 902-4182; Implementation and Enforcement: Pam Floyd, 520 Union Avenue, (360) 725-5781.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not appear to have an impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 16, 2005
Sam Reed
Secretary of State

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-208-100	Registering to vote—Nontraditional address.

NEW SECTION

WAC 434-253-024 Contents of poll book of registered voters. Poll books must be printed utilizing information from the official statewide voter registration data base. The poll book of registered voters must contain the name, residence address, sex, month and day of birth, and county voter registration number of each voter in the precinct, a listing of the districts in which that voter resides, and a designation of the applicable county, legislative district, and precinct, or a ballot code identifying this information. The names must be listed alphabetically by surname. The list must contain a space for each voter to sign his/her name and to verify his/her current address and a space for the inspector or judge to credit the voter with having participated in a particular election. The auditor may eliminate from poll books ongoing absentee voters and voters requesting absentee ballots for that election. If the names of such voters do not appear, the poll book must clearly indicate that the voters are not included on the list.

Chapter 434-324 WAC

((~~MAINTENANCE OF VOTER REGISTRATION RECORDS ON ELECTRONIC DATA PROCESSING SYSTEMS~~)) OFFICIAL STATEWIDE VOTER REGISTRATION DATA BASE

NEW SECTION

WAC 434-324-005 Definitions. As used in this chapter:

(1) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.

(2) "Applicant" means a person who has applied to become a registered voter in the state of Washington.

(3) "Auditor" means "county auditor" and means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.

(4) "County election management system" means software used by auditors to manage computer files pertaining to elections and includes, but is not limited to, voter registration records.

(5) "County registration number" means a unique identifier assigned to each registered voter by the auditor.

(6) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration data base.

(7) "Late registration absentee ballot" means an absentee ballot cast by a voter who registered pursuant to RCW 29A.08.145 after the close of the regular registration period.

(8) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.

(9) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.

(10) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter.

(11) "Pending cancellation" means the registered voter's registration record will be canceled within a specified amount of time and he or she is not eligible to vote.

(12) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.

(13) "Secretary" means secretary of state or any other person authorized by the secretary of state to act in his or her behalf.

(14) "State registration number" means a unique identifier assigned to each registered voter by the state, pursuant to RCW 29A.08.651.

NEW SECTION

WAC 434-324-008 Review of county election management systems. (1) Each auditor must notify the secretary of the intent to purchase or install a new county election management system. The county election management system

must be approved by the secretary to ensure it meets the technical specifications promulgated by the secretary to interface with the official statewide voter registration data base. This approval must be obtained prior to the purchase or installation of the system.

(2) A county election management system must have the capability to:

(a) Store information required in WAC 434-324-010;

(b) Generate a list of registered voters in a county and their registration statuses;

(c) Track information specific to single elections, including the issuance and return of vote by mail and absentee ballots;

(d) Scan voter registration forms; and

(e) Store and provide access to images of signatures of registered voters.

(3) A county's election management system must conform to all of the requirements of state law and of these regulations, and if it does not, the secretary must notify the auditor of the nature of the nonconformity. The auditor must correct the nonconforming aspects of the county election management system and provide to the secretary such evidence of the change or changes in the system as that office may deem appropriate.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-324-010 ((~~Contents of computer file of registered voters.~~)) County election management system—Applications for voter registration. ((~~Records containing the following information shall be maintained on each registered voter in the computer file: Name, address, registration number, sex, date of birth, date of registration, applicable district and precinct codes, and up to five dates upon which the individual has voted since establishing that registration record. The county may~~)) (1) Each auditor must enter and maintain voter registration records in a county election management system. Each record must contain at least the following information:

(a) Name;

(b) Complete residential address;

(c) Mailing address;

(d) County registration number;

(e) State registration number;

(f) Sex;

(g) Date of birth;

(h) Date of registration;

(i) Applicable district and precinct codes;

(j) Five dates upon which the individual has voted since establishing that registration record, if available;

(k) Washington state driver license number, Washington state identification card number, or the last four digits of the applicant's Social Security number if he or she does not have a Washington state driver license or Washington state identification card; and

(l) A scanned image file (format .tiff) of the applicant's signature.

(2) The auditor may also assign numeric or alphabetic codes for city names in order to facilitate economical storage of the voter's address.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-324-020 County codes. All ((~~counties~~)) auditors shall use the following system of two character codes for designating the county in which the voter is registered:

Adams	-AD	Lewis	- LE
Asotin	- AS	Lincoln	- LI
Benton	- BE	Mason	-MA
Chelan	- CH	Okanogan	- OK
Clallam	-CM	Pacific	- PA
Clark	- CR	Pend Oreille	- PE
Columbia	- CU	Pierce	- PI
Cowlitz	- CZ	San Juan	- SJ
Douglas	- DG	Skagit	- SK
Ferry	- FE	Skamania	-SM
Franklin	- FR	Snohomish	- SN
Garfield	- GA	Spokane	- SP
Grant	- GR	Stevens	- ST
Grays Harbor	- GY	Thurston	- TH
Island	- IS	Wahkiakum	-WK
Jefferson	- JE	Walla Walla	-WL
King	- KI	Whatcom	-WM
Kitsap	- KP	Whitman	-WT
Kittitas	- KS	Yakima	- YA
Klickitat	- KT		

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-324-035 Maintenance of recent voting record. After each primary or election, a date ((~~shall~~)) must be entered in the voter registration record of each individual who cast a proper ballot at that election((~~, either at the polling place or by absentee~~)). In the case of each individual record, the five most recent of such dates shall be retained in that record: Provided, That if the voter has not voted at least five times since establishing his current registration record, only the available dates ((~~shall~~)) must be recorded. If there are already five such dates being maintained in a given record, the least recent date ((~~shall~~)) must be deleted at the time that any new date is added to that record.

NEW SECTION

WAC 434-324-040 Data transfer to secretary and registration status. (1) Following entry into the county election management system, all information in the application for voter registration must be transferred electronically to the secretary for identity verification, outlined in RCW 29A.08.-

107. The application for voter registration must remain in the county election management system in pending status until the applicant's identity has been verified.

(2) Once the secretary has verified the applicant's identity pursuant to RCW 29A.08.107, the secretary must assign a state identification number, and the auditor must change the voter's registration code in the county election management system from pending status to active. If the applicant's identity has not been verified, the secretary must notify the auditor accordingly.

NEW SECTION

WAC 434-324-055 Duplicate voter registration search conducted by secretary. Upon receipt of an applicant's electronic voter registration record from the auditor, and on a quarterly basis pursuant to WAC 434-324-113(3), the secretary must search for potential duplicate registration records in the official statewide voter registration data base, required in RCW 29A.08.651, by comparing the applicant's name and date of birth or other identifying information provided by the applicant on the voter registration form. Pursuant to RCW 29A.08.107, if a potential duplicate is identified, the secretary must work with the auditor to determine if the registration record is a transfer, update, or duplicate. If a voter is transferring his or her registration to a new county or if any other information on the application has changed, the secretary must update the registration record pursuant to RCW 29A.08.107(4). A duplicate registration record must not be entered as a new registration record.

NEW SECTION

WAC 434-324-075 Transfer of voter registration record to another county—New voter registration application. Up until thirty days prior to a primary, special election, or general election, a registered voter moving to a different county within Washington state may transfer his or her registration record by completing and submitting a new application for voter registration to the new county's auditor pursuant to RCW 29A.08.420. Upon receipt, the auditor must process the application for voter registration in the same manner as all other applications for voter registration pursuant to WAC 434-324-010.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-324-085 Notice of new registration or transfer. ((~~Whenever an individual~~)) (1) The auditor, or in the case of a transfer from one county to another, the new auditor, must send notification to an individual by nonforwardable, address correction requested mail if an individual:

(a) Registers to vote ((~~or~~));

(b) Transfers his/her registration record ((~~pursuant to RCW 29A.08.530 or whenever a change in precinct boundaries requires that the existing record of a voter be moved~~)) within the county;

(c) Transfers his or her registration record from another county within Washington state; or

(d) Changes from one precinct to another ((~~or be placed in a new precinct, the county auditor shall notify by nonforwardable, address correction requested mail, the individual or voter of such new registration, transfer, or change of precinct boundary acknowledging~~)) because of a change in precinct boundaries.

(2) The notice must acknowledge that the request of the individual or voter with respect to his or her record has been processed, if received. Such notices and acknowledgment ((~~shall~~)) must be provided on a form containing the following information:

((~~The~~)) (a) Voter's full name((~~,~~));

(b) Mailing address((~~,~~));

(c) County name((~~,~~));

(d) Precinct name and/or number((~~, voter ID~~));

(e) State registration number((~~,~~));

(f) The date the voter registered; and

(g) A signature line for the voter.

NEW SECTION

WAC 434-324-087 Late transfer of voter registration record to another county—Issuance of late registration absentee ballot. If a registered voter transfers his or her registration late, as outlined in RCW 29A.08.145, the new auditor must issue the voter a late registration absentee ballot and envelope for the next primary, special election, or general election. The late registration absentee ballot must not be counted until it is confirmed that it is a valid ballot.

A late registration absentee ballot must be issued in a specially marked envelope along with an instructional notice. The notice must explain why a late registration absentee ballot is being issued, that the enclosed ballot is the correct ballot for the voter to cast, and that no other ballot submitted by the voter for that same primary, special election, or general election will be counted. The auditor's contact information must be included, and it must be stated that the voter may call the auditor regarding questions. The previous county must promptly flag the voter's registration so any returned absentee ballots will not be counted.

If a new county receives a late registration absentee ballot, it must contact the previous county to ensure it did not receive an absentee ballot from the same voter.

(1) If the previous county does not receive an absentee or vote by mail ballot from the voter, the late registration absentee ballot received by the new county must be counted. Any subsequent ballot returned to the previous county must not be counted.

(2) If the previous county receives an absentee or vote by mail ballot from the voter whose registration has been canceled in accordance with this section, it must contact the new county. If the late registration absentee ballot was not returned to the new county, the previous county must send the absentee ballot to the new county, and the new county must count only races applicable to that county.

NEW SECTION

WAC 434-324-090 Cancellation due to death—Process and notification. (1) An auditor must cancel the voter

registration records of a deceased voter when authorized to do so by RCW 29A.08.510.

(2) In addition to comparing a list of deceased persons prepared by the registrar of vital statistics with voter registration records pursuant to RCW 29A.08.510, the secretary may also compare voter registration records with deceased persons information from the Social Security Administration. For any potential matches identified through the registrar of vital statistics or Social Security Administration, the secretary must confirm that the dates of birth on the records being compared are identical. The secretary must generate a list of matching names, identified as potentially deceased voters, and deliver it to the auditor electronically. An auditor with a potential deceased voter in his or her county must review the list within five days and approve or reject the proposed cancellations. Upon the sixth day, if the auditor has failed to approve or reject the proposed cancellations, the official statewide voter registration data base must automatically send notification to the county to cancel the appropriate registrations.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-324-095 Cancellation due to death—Forms to cancel voter registration. Pursuant to RCW 29A.08.510, the ((~~county~~)) auditor ((~~shall~~)) must maintain a supply of, furnish to the public upon request, and include in the supplies sent to each precinct for use by the precinct election officials, forms for the purpose of permitting registered voters to request that the voter registration record of any person, whom they personally know to be deceased, be cancelled.

NEW SECTION

WAC 434-324-100 Felony conviction—Cancellation by auditors. Upon receiving official notice of a person's conviction of a felony as outlined in RCW 29A.08.520, the auditor for the county in which the named potential felon resides must search his or her county election management system to determine whether the potential felon named in the official notice is a registered voter. If the auditor finds a match, he or she must confirm that the first name, last name, and date of birth on the official notice match the voter registration record before canceling the potential felon's voter registration. After canceling a potential felon's voter registration, the auditor must send a cancellation notice to the potential felon using the last known address and send notification to the secretary through the county election management system.

NEW SECTION

WAC 434-324-106 Felony conviction—Secretary's quarterly comparisons and pending cancellation notifications. Once a quarter, the secretary must perform comparisons with the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies, as authorized in RCW 29A.08.520 to search for registration records of potential felons. When a primary, special election, or general election is planned, the quarterly comparison must be performed prior to the first extraction or pull of absentee ballots. The secretary must create a list of matches by confirming that the first name, last name, and date of birth match. This list must be compared to information provided by the administrator of the court and the clemency board data base to identify felons who have certificates of discharge on file for all causes and gubernatorial pardons.

(1) The secretary must not cancel the voter registration records of persons with a discharge on file for all causes or gubernatorial pardons but must flag the voter registration records to prevent future cancellation based on these previous felon convictions.

(2) When a matched potential felon has not been issued a certificate of discharge or a gubernatorial pardon, the secretary or auditor must change the voter's registration status to "pending cancellation." This change of status must be entered prior to the first extraction or pull of absentee ballots. The official statewide voter registration data base must automatically notify the county election management system of the change. Voters with pending cancellation status must not be included in the poll book and must not receive an absentee ballot.

The secretary must mail a notification letter to potential felons whose status is pending cancellation. In addition to sending a copy of the notification letter to the auditor, the secretary must also send notification of the voter's pending cancellation status to the auditor through the election management system. The notification letter must be sent to the potential felon's last known address indicating that his or her voter registration is about to be canceled. The form must contain language notifying the voter that if the pending cancellation status was assigned in error, he or she may contact his or her auditor's office to reconcile the error. As outlined in RCW 29A.08.520, the form must also provide information on how a person may have his or her voting rights reinstated, as well as how to register to vote after his or her rights have been reinstated. The notification letter must contain substantially the following language:

Dear . . . . . ,

According to the Washington state Constitution, a person who has been convicted of a felony is disqualified from voting until the right has been restored. State law requires that the right be restored only after all conditions of all felony sentences have been fulfilled, or by a certificate of restoration issued by the governor.

Based on name and date of birth information maintained in state voter registration records and felony conviction records, you have been found ineligible to vote due to a felony conviction. Your voter registration is pending cancellation. If you would like to dispute this finding, you must contact the . . . . . county auditor's office within twenty days of the postmark on the envelope:

Address
Address
Phone number
E-mail address

If you do not dispute this finding within twenty days, your voter registration must be canceled.

Voting before the right is restored is a class C felony (RCW 29A.84.660). The right to vote may be restored by:

1. A certificate of discharge, issued by the sentencing court (RCW 9.94A.637);

2. A court order restoring civil right, issued by the sentencing court (RCW 9.92.066);

3. A final order of discharge, issued by the indeterminate sentence review board (RCW 9.96.050); or

4. A certificate of restoration, issued by the governor (RCW 9.96.020).

Further information about how to get the right to vote restored may be found at www.secstate.wa.gov/elections/restoring.aspx.

Sincerely,

. . . . . Secretary of State

If the potential felon has neglected to contact his or her auditor after the twentieth day, the potential felon's voter registration must be canceled.

NEW SECTION

WAC 434-324-111 Voluntary cancellation of one's own voter registration. A voter may cancel his or her own voter registration by submitting a signed written notification to the auditor for the county in which he or she is registered to vote. Prior to cancellation of such a registration record, the auditor must ensure the signature on the notification matches the signature in the voter registration file by utilizing criteria outlined in WAC 434-379-020.

NEW SECTION

WAC 434-324-113 Voter registration list maintenance. (1) Each even-numbered year, maintenance of the voter registration list, as required by RCW 29A.08.605, must be completed ninety days prior to the date of the primary in that year. The voter registration list maintenance program is complete upon mailing the required notices. Counties may also run the voter registration list maintenance program in odd-numbered years as well.

(2) Should the secretary enter into one or more contracts with the United States Postal Service or its licensee, the secretary must check the official statewide voter registration data base against the United States Postal Service's records twice a year and send each auditor an electronic copy of all changes of address for his or her county, a paper copy of such information, or both an electronic and paper copy. Auditors may use the change of address list from the secretary to satisfy the requirements for voter registration list maintenance.

(3) In addition to conducting quarterly comparisons to identify felons as required in WAC 434-324-106, the secretary must search the official statewide voter registration data base on a quarterly basis to ensure there are no duplicate voter registration records or deceased voter registration records maintained. Duplicate voter registration records must be processed in accordance with WAC 434-324-050, felon registration records in accordance with WAC 434-324-106, and deceased voter registration records in accordance with WAC 434-324-090.

(4) If, at any time, the secretary finds that a registered voter does not possess the qualifications required by state law to exercise his or her right to vote for reasons not listed in this chapter, the secretary must refer such information to the appropriate county auditor for a voter registration challenge. The county prosecutor must be copied on the notification.

NEW SECTION

WAC 434-324-118 Data auditing of county voter election management system with the official statewide voter registration data base. Each auditor must perform data audits of its county election management system to ensure all of its data matches data in the official statewide voter registration data base. The data audits must be performed on a periodic basis and must be performed within a reasonable amount of time prior to an election.

During data auditing, the auditor must transfer voter registration records from the county election management system to the official statewide voter registration data base for verification of voter status. The official statewide voter registration data base must verify that the voter status provided by the county election management system matches the voter status in the official statewide voter registration data base. Upon completion of this verification process, the voter's registration status is either:

(1) Confirmed, and the county is authorized to issue a ballot to the voter; or

(2) Denied because the official statewide voter registration data base indicates the voter's registration record is in pending or canceled status. The auditor must update the county election management system with the appropriate voter status. The voter is not authorized to vote.

In addition, the county election management system must update the statewide voter registration data base with the appropriate voter information.

In the event a data audit is in question for a voter registration or a system error, the auditor may process a manual override to allow the voter to vote. Any manual override must be logged to ensure accountability. The secretary must be notified of any manual overrides.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-324-130 Contents of list of registered voters for the public. Pursuant to the provisions of RCW 29A.08.710, 29A.08.720 and 29A.08.740, the ((~~county~~)) auditor ((~~shall~~)) must furnish to any person, upon request, current lists of registered voters at actual reproduction cost. The ((~~county~~)) auditor ((~~shall~~)) must, upon request, select names and addresses from the voter registration records on the basis of the precinct code, the district code, date of registration, or voting history of each individual voter in that portion of the voter registration file. Such lists may contain ((~~any~~)) the information ((~~maintained on the computer file except the date of birth of~~)) prescribed in RCW 29A.08.710 each registered voter and may be in the form of computer printouts, ((~~computer-prepared labels,~~)) microfilm duplicates, or ((~~magnetic tape~~)) electronic media copies of such information. Such voter registration lists ((~~shall~~)) must be

used only for political purposes; commercial use of this information ((~~shall be~~)) is punishable as provided in RCW 29A.08.740 as now or hereafter amended.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-324-140 Requests for list of registered voters. The ((~~county~~)) auditor ((~~shall~~)) may require each person who requests a list of registered voters under the authority of RCW 29A.08.720 and WAC 434-324-130 to sign a request on a form ((~~substantially similar to the sample included below~~)) which includes penalty requirements as set forth in RCW 29A.08.720 and 29A.08.740.

((~~REQUEST FOR LIST OF REGISTERED VOTERS~~

_____ ~~County Auditor~~ _____ ~~Date~~

~~I request a listing of registered voters for the following precinct and/or taxing districts:~~

_____

_____

_____

_____

_____

_____

❑ ~~computer printed list~~

❑ ~~mailing labels~~

❑ ~~magnetic tape~~

~~I understand that the County Auditor is required by law to furnish copies of current registration lists of registered voters in his possession to any person, upon request, PROVIDED: That such lists be used only for political purposes and shall not be used for commercial purposes. (RCW 29A.08.720)~~

~~I further understand that any violation of RCW 29A.08.720 relating to the use of lists of registered voters is a felony and shall be punished by imprisonment in the state penitentiary for a period of not more than five years or a fine of not more than five thousand dollars, or both such fine and imprisonment, in addition to possible civil penalties.~~

_____ _____

~~(Name of Requester (please print)~~ ~~(Witness)~~

_____ _____

~~(Address)~~ ~~(Approved by)~~

_____

~~(Signature)~~))

NEW SECTION

WAC 434-324-150 Retaining voter registration records. On an annual basis, the secretary must copy all voter registration records after the general election. By December 31st of each year, the secretary must transfer the copy to the state archives division for permanent retention.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-324-015	Uniform control number.
WAC 434-324-025	Precinct codes.
WAC 434-324-030	Taxing district codes.
WAC 434-324-050	Basic voter registration form.
WAC 434-324-060	Transmittal of signature cards to the secretary of state.
WAC 434-324-065	Exemption of transmittal of signature cards to the secretary of state.
WAC 434-324-110	Transmittal of cancellations to the secretary of state.
WAC 434-324-120	Contents of precinct list of registered voters.
WAC 434-324-160	Review of automated voter registration systems.

WSR 05-19-066
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed September 16, 2005, 3:31 p.m.]

Supplemental Notice to WSR 05-16-095.

Preproposal statement of inquiry was filed as WSR 05-05-069.

Title of Rule and Other Identifying Information: Board of Boiler Rules—Substantive (chapter 296-104 WAC).

Hearing Location(s): Department of Labor and Industries, 950 Broadway, Suite 200, Tacoma, WA, on October 19, 2005, at 9:00 a.m.

Date of Intended Adoption: November 1, 2005.

Submit Written Comments to: Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by October 19, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by October 1, 2005, (360) 902-6411 or yous235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is postponing the public hearing for the Board of Boiler Rules to October 19, 2005, due to scheduling conflicts.

September 16, 2005
Craig Hopkins, Chair
Board of Boiler Rules

WSR 05-19-074
PROPOSED RULES
DEPARTMENT OF RETIREMENT SYSTEMS

[Filed September 19, 2005, 1:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-053.

Title of Rule and Other Identifying Information: New WAC 415-501-472 Who determines DCP's investment options? and amending WAC 415-501-475 May I choose how I want my deferred compensation invested?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on October 26, 2005, at 10:00 a.m.

Date of Intended Adoption: October 27, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail leslies@drs.wa.gov, fax (360) 753-3166, by 5:00 p.m. on October 26, 2005.

Assistance for Persons with Disabilities: Contact Leslie Saeger, Rules Coordinator, by October 18, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This WAC change is to clarify that the department has the right to limit the number of times a deferred compensation plan (DCP) participant changes investment options, and to impose other restrictions if necessary to protect the performance results of the DCP program. The department separated WAC 415-501-475 into two WACs for clarity.

Statutory Authority for Adoption: RCW 41.50.050(5) and 41.50.780(10).

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

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dave Nelsen, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

September 16, 2005
Leslie Saeger
Rules Coordinator

NEW SECTION

WAC 415-501-472 Who determines DCP's investment options? (1) The state investment board, in consultation with the employee retirement benefits board, makes certain investment options available to plan participants. The investment board may:

(a) Open, change, or close investment options according to its investment policy; or

(b) Change investment managers for any investment option.

(2) If the state investment board closes or substantially changes an investment option, the state investment board may transfer the funds invested in that option to another option that, in the board's judgment, most closely represents the investment characteristics of the option being closed or changed.

AMENDATORY SECTION (Amending WSR 04-22-053, filed 10/29/04, effective 11/29/04)

WAC 415-501-475 May I choose how I want my deferred compensation invested? (1) ((~~The state investment board, in consultation with the employee retirement benefits board, makes certain investment options available to plan participants. The investment board may:~~

~~(a) Open, change, or close investment options according to its investment policy; or~~

~~(b) Change investment managers for any investment option.~~

~~(2)~~)) You must designate on your participation agreement the investment option(s) in which you wish to have your deferrals invested.

(((~~(3) Changes in investment options.~~

~~(a)~~)) (2) In general, you may change the investment ((~~options at any time~~)) of your accumulated deferrals, the investment of your future deferrals, or both, through the methods established by the department. ((~~You may change the investment of your accumulated deferrals; the investment of your future deferrals; or both.~~

~~(b)~~)) However, if necessary to protect the performance results of the DCP program, the department has the right to:

(a) Limit the number of times you change investment options;

(b) Limit the frequency of the changes;

(c) Limit the manner of making changes; or

(d) Impose other restrictions.

In addition, changes must be consistent with any restrictions on trading imposed by the investment options involved.

(3) Beneficiaries receiving a distribution may change investment options ((~~through the methods established by the department.~~

~~(c) If the state investment board closes or substantially changes an investment option, the state investment board may transfer the funds invested in that option to another option that, in the board's judgment, most closely represents the investment characteristics of the option being closed or changed~~)) according to the provisions of subsection (2) of this section.

WSR 05-19-075
PROPOSED RULES
DEPARTMENT OF RETIREMENT SYSTEMS
[Filed September 19, 2005, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-041.

Title of Rule and Other Identifying Information: WAC 415-110-690 How is a position determined eligible?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on October 26, 2005, at 10:00 a.m.

Date of Intended Adoption: October 27, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail leslies@drs.wa.gov, fax (360) 753-3166, by 5:00 p.m. on October 26, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by October 18, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This school employees' retirement system rule has been rewritten to improve clarity.

Statutory Authority for Adoption: RCW 41.50.050(5) and 41.35.020.

Statute Being Implemented: RCW 41.35.010(22).

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

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dave Nelsen, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

September 19, 2005
Leslie Saeger
Rules and Contracts Coordinator

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-110-690 How is ((~~my eligibility evaluated~~)) a position determined eligible? (1) ((~~Your eligibility is based on your position. In evaluating whether your position is eligible, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.35.010. Your employer will not consider your membership status or individual circumstances unless you:~~

~~(a) Leave employment in an eligible position to serve in a project position (see WAC 415-110-680); or~~

~~(b) Work in both a SERS and TRS position during the same school year (see WAC 415-110-728).~~)) A position is eligible if it meets the criteria of an eligible position under RCW 41.35.010.

(2) Your employer will evaluate your position's eligibility for a particular year at the beginning of the year unless you are working as an on-call substitute.

(3) Your employer ((~~or the department~~)) may reclassify ((~~your~~)) a position's eligibility based upon ((~~your actual~~)) its work history.

(a) If your employer declares ((~~your~~)) a position to be ineligible at the beginning of a year, and by the end of the year((~~, you have~~)) it has actually ((~~worked~~)) required five or more months of seventy or more hours of compensated service, your employer will((~~, at that time,~~)) review ((~~your~~)) the position's eligibility. If at the end of the first year:

(((~~(a)~~))) (i) Your employer believes ((~~your~~)) the position meets the requirements for an eligible position and declares the position as eligible, ((~~you will enter membership and~~)) your employer will report ((~~you~~)) your hours and compensation to the department effective prospectively from the date your employer ((~~declares~~)) makes the determination that the position ((~~as~~)) is eligible; or

(((~~(b)~~))) (ii) Your employer believes that the position will not meet the criteria for an eligible position during the next year, your employer may continue to define ((~~your position~~)) it as ineligible. However, if during the next year, the position actually requires ((~~you to again work~~)) five or more months of seventy or more hours ((~~each month for at least five months~~)) of compensated service, ((~~the department~~)) your employer will declare ((~~your~~)) the position as eligible. ((~~You will enter membership in the retirement system.~~

~~(i) Except as provided in (b)(ii) of this subsection, your employer will report you to the department effective from the first month of the first year in which your position required you to work for seventy or more hours.~~

~~(ii) If:~~

~~(A) Your employer has monitored the work history of your position for eligibility;~~

~~(B) Has notified you in writing when you entered the position that the position was not considered eligible; and~~

~~You will enter membership prospectively.~~)) Once the position is reclassified as eligible, your employer will report your hours and compensation to the department retroactively from the first month of the first year that the position required seventy or more hours of compensated service.

(b) If the position has been classified as eligible, but does not require five or more months of seventy or more hours of compensated service during at least one year in any two-year period, your employer will reclassify it as ineligible.

(4) The department ((~~will not~~)) may reclassify ((~~your~~)) a position's eligibility ((~~until~~)) if the history of the position shows ((~~that it meets the criteria for an eligible position. If your employer has declared your position ineligible, the department will not reclassify your position as eligible until history of the position shows a period of two consecutive years of at least five months of seventy or more hours of compensated employment each month.~~

~~(5) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.~~

~~(a) "Eligible position" - RCW 41.35.010.~~

~~(b) "Employer" - RCW 41.35.010.~~

~~(c) "Ineligible position" - RCW 41.35.010.~~

~~(d) "Membership" - RCW 41.35.030.~~

~~(e) "Project position" - WAC 415-110-010.~~

~~(f) "Report" - WAC 415-110-010.~~

~~(g) "Year" - WAC 415-110-010~~)) it has required five or more months of seventy or more hours of compensated service for a period of two consecutive years. Once the position is reclassified as eligible, your employer will report your

hours and compensation to the department retroactively from the first month of the first year that the position required seventy or more hours of compensated service.

WSR 05-19-076
PROPOSED RULES
DEPARTMENT OF RETIREMENT SYSTEMS

[Filed September 19, 2005, 1:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-049.

Title of Rule and Other Identifying Information: WAC 415-104-202 Survivor benefit options—LEOFF Plan 1.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on October 26, 2005, at 10:00 a.m.

Date of Intended Adoption: October 27, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail leslies@drs.wa.gov, fax (360) 753-3166, by 5:00 p.m. on October 26, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by October 18, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This amendment implements HB 1329 by allowing LEOFF Plan 1 retirees to select a flexible survivor option for their current spouse even if a property division obligation affects part of their retirement allowance. This rule has also been rewritten in plain English.

Statutory Authority for Adoption: RCW 41.26.164.

Statute Being Implemented: RCW 41.26.164.

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

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dave Nelsen, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

September 19, 2005

Leslie Saeger

Rules and Contracts Coordinator

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-104-202 Survivor benefit options—LEOFF Plan 1. (1) **To whom does this section apply?** This section ((~~only applies to members of the law enforcement officers' and fire fighters' retirement system who first became members of the system prior to October 1, 1977 (LEOFF Plan 1)~~)) applies to you if you are a retiree of LEOFF Plan 1.

(2) **What are flexible survivor benefit options?** RCW 41.26.164 allows a retiree to provide a survivor option for a spouse who ((~~does not otherwise qualify as an eligible surviving spouse~~)) is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161. The survivor option will provide a lifetime benefit for the spouse after the retiree's death.

(3) **How will ((~~the retiree's benefit~~)) my monthly retirement allowance be affected by selecting a flexible survivor option?** ((~~The monthly benefit payment~~)) Your monthly retirement allowance will be actuarially reduced beginning the first month following the month in which the department receives the completed form.

(4) **What are the flexible survivor option choices?**

(a) **Joint and whole allowance option.** ((~~When the retiree dies~~)) The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department ((~~pays the~~)) will pay your surviving spouse a monthly ((~~benefit~~)) allowance equal to the gross monthly retirement allowance ((~~then payable to the retiree~~)) you were receiving.

(b) **Joint and one-half allowance option.** ((~~When the retiree dies~~)) The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department ((~~pays the~~)) will pay your surviving spouse a monthly ((~~benefit~~)) allowance equal to one-half of the ((~~amount of the retiree's~~)) gross monthly retirement allowance ((~~then payable to the retiree~~)) you were receiving.

(c) **Joint and two-thirds allowance option.** ((~~When the retiree dies~~)) The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department ((~~pays the~~)) will pay your surviving spouse a monthly ((~~benefit~~)) allowance equal to two-thirds (66.667%) of the ((~~retiree's~~)) gross monthly retirement allowance ((~~then payable to the retiree~~)) you were receiving.

(5) **((~~How does one~~)) Do I qualify to add a flexible survivor option?** ((~~A retiree may qualify to~~)) You may select a flexible survivor option if:

(a) ((~~The retiree does not have a spouse who qualifies as an eligible surviving spouse (see subsection (2) of this section);~~

~~(b) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation; and~~)) Your current spouse is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161;

(b) Some portion of your monthly retirement allowance is payable to you, after any reduction pursuant to a property division obligation under RCW 41.50.670;

(c) ((~~The retiree has~~)) You have not previously selected a flexible survivor option; and

(d) You meet the deadline and application requirements in subsection (6) of this section.

(6) **((~~What steps must one take to~~)) How do I add a flexible survivor option?** ((~~To add a flexible survivor option, the retiree must:~~

~~(a) Make the choice during the one-year window, on or after the date of the first anniversary and before the second anniversary of the marriage;~~

~~(b) Provide the department with proof of the birth date of the spouse and a copy of a marriage certificate as proof of the marriage; and~~

~~(c) Properly and in a timely manner complete and file the correct forms with the department.~~)) You may select a flexible survivor option and name your current spouse as your survivor beneficiary, provided that:

(a) The selection is made:

(i) During a one-year window, on or after the date of the first anniversary and before the second anniversary of the marriage; or

(ii) No later than June 30, 2006, if you cannot comply with (a)(i) of this subsection because you were married prior to July 1, 2005;

(b) You provide a certified copy of your marriage certificate to the department;

(c) You provide proof, satisfactory to the department, of your current spouse's birth date; and

(d) You file the properly completed forms with the department in a timely manner.

(7) **May I remove the flexible survivor option in the future?** Your choice of a flexible survivor option is irrevocable with the following exceptions:

(a) Your spouse dies before you; or

(b) You and your spouse divorce.

See subsection (8) of this section.

(8) **What happens if ((~~the survivor~~)) my spouse dies before ((~~the retiree~~)) me, or if we divorce?** If ((~~the~~)) your spouse dies before ((~~the retiree~~)) you, or if you divorce, ((~~the retiree's~~)) your monthly retirement allowance will increase((~~s~~)), effective the first day of the following month((~~, to~~)). Your increased monthly allowance will be the amount ((~~that the retiree~~)) you would have received had ((~~the retiree~~)) you not chosen a flexible survivor option plus any cost-of-living adjustments (COLA) ((~~the retiree~~)) you received prior to ((~~the~~)) your spouse's death.

(((~~8~~))) (9) **What happens to ((~~the~~)) my eligible surviving children's share if ((~~the retiree~~)) I select((~~s~~)) a flexible survivor option?** There is ***no*** impact to the benefit provided under RCW 41.26.160 or 41.26.161 to surviving children if ((~~the retiree selects~~)) you select a flexible survivor option.

(((~~9~~))) (10) **Actuarial information.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating retirement allowances.

Terms used in this section:

(a) Child or children - RCW 41.26.030(7).

(b) Eligible surviving child - RCW 41.26.160 and 41.26.161.

(c) Eligible surviving spouse - RCW 41.26.161 and 41.26.162.

(d) Surviving spouse - RCW 41.26.030(6).

WSR 05-19-084
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed September 20, 2005, 9:40 a.m.]

Supplemental Notice to WSR 05-18-090.

Preproposal statement of inquiry was filed as WSR 05-13-149.

Title of Rule and Other Identifying Information: 2006 Workers' compensation premium rates; General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance, chapter 296-17 WAC.

Hearing Location(s): Department of Labor and Industries, Tukwila Office, 12506 Gateway Drive, Tukwila, WA 98168-1050, on October 24, 2005, at 10 a.m.

Date of Intended Adoption: November 15, 2005.

Submit Written Comments to: Department of Labor and Industries, Kathy Kimbel, Program Manager for Employer Services, P.O. Box 44140, Olympia, WA 98504-4140, e-mail LANZ235@LNI.WA.GOV, fax (360) 902-4729, by October 28, 2005, 12 noon.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by October 10, 2005, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule filing is to add an additional hearing for the 2006 workers' compensation premium rates.

Name of Agency Personnel Responsible for Drafting: Tammy Turner, Tumwater, Washington, (360) 902-4777; Implementation: Kathy Kimbel, Tumwater, Washington, (360) 902-4739; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

September 20, 2005
Gary Weeks
Director

WSR 05-19-085
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed September 20, 2005, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-112.

Title of Rule and Other Identifying Information: Fire brigades, chapters 296-24, 296-78, 296-305 and 296-811 WAC, the department is proposing to rewrite and clarify requirements relating to fire brigades. The department is repealing the rule in chapter 296-24 WAC and proposing fire brigades as a new chapter. This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity.

Hearing Location(s): Department of Labor and Industries, Room S118, 7273 Linderson Way S.W., Tumwater, WA, on November 16, 2005, at 1:30 p.m.

Date of Intended Adoption: December 20, 2005.

Submit Written Comments to: Cindy Ireland, Project Manager, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98507-4620, e-mail mooc235@lni.wa.gov, fax (360) 902-5529, by November 23, 2005.

Assistance for Persons with Disabilities: Contact Kim Johnson by November 2, 2005, at rhok235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to make this rule easy to read, understand and more usable for employers. This proposal will place fire brigade requirements from chapter 296-24 WAC into chapter 296-811 WAC, Fire brigades. Also, references will be updated. There are no anticipated effects.

AMENDED SECTIONS:

WAC 296-78-71011 Egress and exit.

- Added a reference to the new fire brigade chapter.

WAC 296-79-040 Fire protection, ignition sources and means of egress.

- Update a reference.

WAC 296-305-01003 Scope and application.

- Update a reference.

NEW CHAPTER:

- Chapter 296-811 WAC, Fire brigades.

NEW SECTIONS:

WAC 296-811-100 Scope.

- Added language to this section relating to what this chapter covers.

WAC 296-811-200 Section contents.

- This section is a short table of contents of the sections located in this 3-digit WAC number.

WAC 296-811-20005 Organizing statement.

- This section requires that a written fire brigade statement is available for inspection by employees. Elements of this statement are located in this section.
- The requirements in this section are currently located in WAC 296-24-58507. No new requirements have been added.

WAC 296-811-20010 Physical capability of brigade members.

- This section requires that brigade members who are assigned to fight interior structural fires are physically capable of doing that activity.
- The requirements in this section are currently located in WAC 296-24-58507 and 296-24-58517. No new requirements have been added.

WAC 296-811-300 Section contents.

- This section is a short table of contents of the sections located in this 3-digit WAC number.

WAC 296-811-30005 Special hazards.

- This section requires written procedures to be developed relating to the special hazards of a fire brigade.
- The requirements in this section are currently located in WAC 296-24-58509. No new requirements have been added.

WAC 296-811-30010 Firefighting training.

- This section requires firefighting training.
- The requirements in this section are currently located in WAC 296-24-58509 and 296-24-58517. No new requirements have been added.

WAC 296-811-400 Section contents.

- This section is a short table of contents of the sections located in this 3-digit WAC number.

WAC 296-811-40005 Firefighting equipment.

- This section requires providing and maintaining firefighting equipment.
- The requirements in this section are currently located in WAC 296-24-58511. No new requirements have been added.

WAC 296-811-40010 Protective clothing.

- This section requires providing appropriate personnel protective equipment for fire brigade members.
- The requirements in this section are currently located in WAC 296-24-58513. No new requirements have been added.

WAC 296-811-40015 Self-contained breathing apparatuses (SCBAs).

- This section contains requirements relating to SCBAs.
- The requirements in this section are currently located in WAC 296-24-58515 and 296-24-58517. No new requirements have been added.

WAC 296-811-500 Section contents.

- This section is a short table of contents of the sections located in this 3-digit WAC number.

WAC 296-811-50005 Brigade members in interior structural fires.

- This section contains the requirements in an "Immediately Dangerous to Life or Health" (IDLH) and standby assistance situation.
- The requirements in this section are currently located in WAC 296-24-58516. No new requirements have been added.

WAC 296-811-600 Definitions.

- This section contains applicable definitions relating to fire brigades. They are: Approved, buddy-breathing device, education, extinguisher classification, extinguisher rating, fire brigade, fire classifications, flammable, incipient fire stage, inspection, interior structural firefighting, maintenance, positive-pressure breathing apparatus, quick-disconnect valve, and training.

REPEALED SECTIONS:

WAC 296-24-58505 Fire brigades, 296-24-58507 Organization, 296-24-58509 Training and education, 296-24-58511 Fire fighting equipment, 296-24-58513 Protective clothing, 296-24-58515 Respiratory protection devices, 296-24-58516

Procedures for interior structural fire fighting, and 296-24-58517 Appendix A—Fire brigades.

- Requirements in these sections were moved to chapter 296-811 WAC, Fire brigades.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Steve Cant, Tumwater, (360) 902-5495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. According to RCW 19.85.030 (1)(a), a small business economic impact statement is required only when a rule will "impose more than a minor cost on businesses in an industry." An analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will make WISHA rules easier for employers and employees to understand and use, and thus save them time and resources. Therefore, no small business economic impact statement is required.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs to assess within these rule amendments. Additionally, the amendments will make the rules easier for employers and employees to understand and use, and thus save them time (see RCW 34.05.328 (5)(b)(iv)).

September 20, 2005
Gary Weeks
Director

Chapter 296-811 WAC

FIRE BRIGADES

NEW SECTION

WAC 296-811-100 Scope. This chapter applies if you choose to establish a fire brigade.

Definition:

A fire brigade is an organized group of employees whose primary employment is other than fire fighting but who are knowledgeable, trained, and skilled in specialized fire fighting operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

Note: Nothing in this chapter requires you to establish an employee fire brigade.

NEW SECTION

WAC 296-811-200 Section contents.

Your responsibility:

To decide on brigade functions in the workplace and make sure brigade members are capable of doing them.

Organizing statement
WAC 296-811-20005.

Physical capability of brigade members
WAC 296-811-20010.

NEW SECTION

WAC 296-811-20005 Organizing statement.

You must:

• Develop a written fire brigade policy that is available for inspection by employees or their designated representatives, that covers all of the following:

– The role and responsibilities of the fire brigade in the workplace.

– The basic organizational structure of the fire brigade.

– The number of brigade members.

– Type, amount, and frequency of training for brigade members according to the section Fire fighting training, WAC 296-811-30010, in this chapter.

Note: You may also want to include:
- Descriptions of brigade member duties.
- Line authority of each brigade officer.
- Number of brigade officers.
- Number of training instructors.

NEW SECTION

WAC 296-811-20010 Physical capability of brigade members.

You must:

• Make sure brigade members who are assigned to fight interior structural fires are physically capable of doing this activity.

– Do not permit employees with known physical limitations that can be reasonably identified, such as heart disease or seizure disorder, to participate in structural fire fighting activities unless the employee has been released by a physician to do so.

Note: Not all brigade members need to be physically capable of fighting interior structural fires. Brigade members who are not physically capable of fighting interior structural fires may be assigned to other brigade duties that match their physical capabilities, such as pump operation or fire prevention inspection.

NEW SECTION

WAC 296-811-300 Section contents.

Your responsibility:

To inform brigade members of special hazards in the workplace and train them for their brigade functions.

Special hazards
WAC 296-811-30005.

Fire fighting training
WAC 296-811-30010.

NEW SECTION

WAC 296-811-30005 Special hazards.

You must:

• Develop, include in training, and make available to brigade members, written procedures that describe the following:

– The special hazards they may encounter in their workplace.

– The actions they need to take in situations that involve these hazards.

• Inform brigade members of any changes to those hazards, or the actions to take, when changes happen.

– Examples of special hazards include storing and using flammable liquids and gases, toxic chemicals, and radioactive substances.

NEW SECTION

WAC 296-811-30010 Fire fighting training.

You must:

• Make sure training that a brigade member receives elsewhere that meets one or more requirements in Table 1, Training for brigade members, has been:

– Received within the past year;

– Documented as having been received, such as with a completion certificate.

• Provide training frequently enough to keep brigade members able to do their functions satisfactorily and safely.

Note: You may choose to train more often, monthly or even weekly, for some equipment or techniques. Consult fire training resources, such as the International Fire Service Training Association, the National Fire Protection Association (NFPA), or the International Society of Fire Service Instructors, for recommendations about fire training schools or programs.

• Make sure brigade members are trained according to Table 1, Training for Brigade Members.

Table 1: Training for Brigade Members

For these brigade members	Provide training that is	At these times
All brigade members, including leaders, trainers, and incident commanders.	• Appropriate to their assigned duties and functions. • Appropriate to special hazards in the workplace. • Similar to that of reputable fire training schools. • A combination of hands-on and classroom experiences. • Suited to the industry you are part of, such as oil refining or chemical processing.	• Initially before they do any fire brigade emergency activities; **AND** • Every year after initial training.
Brigade members assigned to do interior structural fire fighting.	All of the above **plus** the following: • Specific training in interior structural fire fighting.	At the above times **plus** the following: • Every quarter.
Brigade members assigned as leaders, training instructors, or both.	All of the above **plus** the following: • Additional training that is more comprehensive than that of other brigade members and appropriate to their assigned duties and functions.	As needed to maintain their expertise at a higher level than that of other brigade members.

NEW SECTION

WAC 296-811-400 Section contents.

Your responsibility:

To provide brigade members with equipment and protective clothing appropriate for their brigade functions.

Fire fighting equipment
WAC 296-811-40005.
Protective clothing
WAC 296-811-40010.
Respiratory protective devices
WAC 296-811-40015.

NEW SECTION

WAC 296-811-40005 Fire fighting equipment.

You must:

• Provide appropriate fire fighting equipment for the fire brigade.

• Inspect and maintain brigade fire fighting equipment according to Table 2, Fire Brigade Equipment Inspection and Maintenance.

Table 2: Fire Brigade Equipment Inspection and Maintenance

For this equipment	Do the following
All brigade fire fighting equipment.	• Inspect at least every year. • Maintain in safe operating condition. • Replace if damaged or in unsafe condition.
Brigade respirators and portable fire extinguishers.	Inspect at least every month.

NEW SECTION

WAC 296-811-40010 Protective clothing.

You must:

• Provide appropriate protective clothing for fire brigade members who do interior structural fire fighting. Make sure protective clothing is:

– Provided at no cost.

– Meets the requirements for foot, body, hand, eye, face, and head protection found in another chapter, Safety standards for fire fighters, chapter 296-305 WAC.

Exemption: • Protective clothing requirements do not apply to the following fire brigade members:
– Those who don't perform interior structural fire fighting.
– Those who use only standpipe systems or portable fire extinguishers to control or put out fires that are in the incipient stage only.

NEW SECTION

WAC 296-811-40015 Self-contained breathing apparatuses (SCBAs).

You must:

• Provide SCBAs, other than escape self-contained breathing apparatuses (ESCBAs), and make sure they are used by fire brigade members who do interior structural fire fighting.

• Make sure SCBAs do the following:

– Meet the requirements found in another chapter, Respirators, chapter 296-842 WAC.

– Are positive-pressure or pressure-demand type, or can be set that way when used for interior structural fire fighting.

– Use only compressed-air cylinders that both:

■ Meet DOT and NIOSH requirements;

AND

■ Have the same capacity and pressure ratings as the SCBA's original cylinder(s).

– Have a service life of at least thirty minutes, as required by 42 CFR, Part 84.

– Have an automatic alarm that can be heard when seventy-five to eighty percent of its service life has been used up.

Note: • An SCBA can have a quick-disconnect valve or "buddy breathing" accessory **only if** the valve or accessory **does not** do any of the following:
– Damage the SCBA.
– Restrict the SCBA's air flow.
– Interfere with the SCBA's normal operation.
– The "buddy breathing" accessory or quick-disconnect valve need not be certified by the National Institute for Occupational Safety and Health (NIOSH).

NEW SECTION

WAC 296-811-500 Section contents.

Your responsibility:

To make sure brigade members use safe practices during interior structural fire fighting.

Brigade members in interior structural fires
WAC 296-811-50005.

NEW SECTION

WAC 296-811-50005 Brigade members in interior structural fires.

IMPORTANT:

Nothing in this section is meant to prevent fire brigade members assigned to respond to fires from rescue activities in an immediately dangerous to life and health (IDLH) atmosphere before the whole team assigned to respond to fires has arrived.

You must:

• Make sure at least two qualified fire brigade members go together into an IDLH atmosphere and remain in visual or voice contact with each other at all times.

• Maintain standby assistance, with two people, as required by another section, Standby requirements for immediately dangerous to life or health (IDLH) conditions, WAC 296-842-19005**.**

Note: One of the two brigade members providing standby assistance can be assigned another role, such as safety officer, as long as the safety or health of any fire fighter working the incident will not be jeopardized if the brigade member becomes unavailable through giving assistance or rescue.

NEW SECTION

WAC 296-811-600 Definitions.

Buddy-breathing device

An equipment accessory for self-contained breathing apparatus (SCBA) that permits a second person (a "buddy") to share the air supply used by the SCBA wearer.

Extinguisher classification

The letter classification given an extinguisher to designate the class or classes of fires on which that extinguisher will be effective. For example, use a Class A extinguisher on a Class A fire. See also fire classifications.

Portable fire extinguishers are classified for use on certain classes of fires and are rated within that class for relative extinguishing effectiveness at a temperature of plus 70°F by nationally recognized testing laboratories. This is based upon fire classifications and fire extinguishment potentials as determined by fire tests.

Note: The classification and rating system described in this section is used by Underwriters' Laboratories, Inc., and Underwriters' Laboratories of Canada, and is based on extinguishing preplanned fires of determined size and description as follows:

Extinguisher Class	Fire Test for Classification and Rating
Class A	Wood and excelsior fires excluding deep-seated conditions.
Class B	Two-inch depth gasoline fires in square pans.
Class C	No fire test. Agent must be a nonconductor of electricity.
Class D	Special tests on specific combustible metal fires.

Extinguisher rating (see also "extinguisher classification")

The numerical rating, such as 2A, given to an extinguisher that indicates the extinguishing potential of the unit based on standardized tests developed by Underwriters' Laboratories, Inc.

Fire brigade

An organized group of employees whose primary employment is other than fire fighting but who are knowledgeable, trained, and skilled in specialized fire fighting operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

Fire classifications

Fires are classified based on the types of burning materials:

Fire Class	Types of Burning Materials
Class A	Fires involving ordinary combustible materials such as paper, wood, cloth, and some rubber and plastic materials.
Class B	Fires involving flammable or combustible liquids, flammable gases, greases, and similar materials, and some rubber and plastic materials.
Class C	Fires involving energized (live) electrical equipment where it is important that the extinguishing agent not conduct electricity. (When electrical equipment is de-energized, it is safe to use an extinguisher for Class A or B fires on it, since electricity is not an issue then.)
Class D	Fire involving combustible metals such as magnesium, titanium, zirconium, sodium, lithium, and potassium.

Incipient fire stage

A fire in the beginning stage that can be controlled or put out by portable fire extinguishers, or Class II standpipe or small hose systems, without the need for protective clothing or breathing apparatus.

Inspection

A visual check of fire protection systems and equipment to ensure they are in place, charged, and ready for use if there is a fire.

Interior structural fire fighting

The physical activity of suppressing fire, rescuing people, or both, inside buildings or enclosed structures involved in a fire that is past the incipient stage.

Maintenance

Servicing fire protection equipment and systems to ensure they will perform as expected if there is a fire. Maintenance differs from inspection in that maintenance requires checking internal fittings, devices, and agent supplies, as well as correcting deficiencies found.

Positive-pressure breathing apparatus

Self-contained breathing apparatus (SCBA) in which the air pressure in the breathing zone is higher than that of the immediate environment during both inhaling and exhaling.

Quick-disconnect valve

A device that starts the flow of air when the hose from the facepiece is inserted into the regulator of a self-contained breathing apparatus (SCBA), and stops the flow of air when the hose is disconnected from the regulator.

AMENDATORY SECTION (Amending WSR 03-06-076, filed 3/4/03, effective 8/1/03)

WAC 296-78-71011 Egress and exit. (1) In all enclosed buildings, means of egress shall be provided in accordance with the provisions of WAC 296-800-310.

(2) All swinging doors shall be provided with windows, the bottom of which shall be not more than forty-eight inches above the floor. One window shall be provided for each section of double swinging doors. All such windows shall be of shatter proof or safety glass unless otherwise protected against breakage.

(3) Outside exits shall open outward. Where sliding doors are used as exits, an inner door not less than two feet six inches by six feet shall be cut inside each of the main doors and arranged to open outward.

(4) At least two fire escapes or substantial outside stairways, shall be provided for mill buildings where the floor level is more than eight feet above the ground.

(a) Buildings over one hundred fifty feet in length shall have at least one additional fire escape or substantial outside stairway for each additional one hundred fifty feet of length or fraction thereof.

(b) Passageways to fire escapes or outside stairways shall be marked and kept free of obstructions at all times.

(c) Fire protection. The requirements of ((~~Part G2 (Fire Protection) and Part G3 (Fire Suppression Equipment),~~)) chapter 296-24 WAC, Part G-3 of the general safety and health standard, and WAC 296-800-300 of the safety and health core rules, and chapter 296-811 WAC, Fire brigades, shall be complied with in providing the necessary fire protection for sawmills.

(d) Fire drills shall be held at least quarterly and shall be documented.

(5) Where a doorway opens upon a roadway, railroad track, or upon a tramway or dock over which vehicles travel, a barricade or other safeguard and a warning sign shall be placed to prevent workers from stepping directly into moving traffic.

(6) Tramways and trestles shall be substantially supported by piling or framed bent construction which shall be frequently inspected and maintained in good repair at all times. Tramways or trestles used both for vehicular and pedestrian traffic shall have a walkway with standard hand rail at the outer edge and shear timber on the inner edge, and shall provide three feet clearance to vehicles. When walkways cross over other thoroughfares, they shall be solidly fenced at the outer edge to a height of 42 inches over such thoroughfares.

(7) Where tramways and trestles are built over railroads they shall have a vertical clearance of twenty-two feet above the top of the rails. When constructed over carrier docks or roads, they shall have a vertical clearance of not less than six feet above the drivers foot rest on the carrier, and in no event shall this clearance be less than twelve feet from the surface of the lower roadway or dock.

(8) Walkways (either temporary or permanent) shall be not less than twenty-four inches wide and two inches thick, nominal size, securely fastened at each end. When such walkways are used on an incline the angle shall not be greater than twenty degrees from horizontal.

(9) Walkways from the shore or dock to floats or barges shall be securely fastened at the shore end only and clear space provided for the other end to adjust itself to the height of the water.

(10) Cleats of one by four inch material shall be fastened securely across walkways at uniform intervals of eighteen inches whenever the grade is sufficient to create a slipping hazard.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-79-040 Fire protection, ignition sources and means of egress. For fire protection, ignition source, and means of egress requirements see chapter 296-24 WAC, Parts G-1((~~, G-2~~)) and G-3 ((~~and~~)), WAC 296-800-300 of the safety and health core rules, and chapter 296-811 WAC, Fire brigades.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01003 Scope and application. (1) The rules of this chapter shall apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).

(2) The provisions of this chapter apply to all fire fighters and their work places, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a fire fighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.

(3) In the development of this document many consensus standards of the industry were considered and evaluated as to adaptability to the Washington state fire service industry. Where adaptable and meaningful, the fire fighter safety elements of these standards were incorporated into this WAC. Chapter 296-305 WAC, shall be considered as the fire fighter safety standards for the state of Washington.

(4) The provisions of this chapter cover existing requirements that apply to all fire departments. All fire departments shall have in place their own policy statement and operating instructions that meet or exceed these requirements. This chapter contains state and/or federal performance criteria that fire departments shall meet.

(5) Unless specifically stated otherwise by rule, if a duplication of regulations, or a conflict exists between the rules regulating wildland fire fighting and other rules in the chapter, only the rules regulating wildland fire fighting shall apply to wildland fire fighting activities and equipment.

(6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of the department of labor and industries, chapters 296-24 ((~~(including Part G-2, Fire protection)~~)), 296-62 ((~~and~~)), 296-800, and 296-811 WAC. In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply.

(7) The provisions of this standard do not apply to industrial fire brigades, as defined in this chapter. Industrial fire brigades are covered under the provisions of chapter ((~~296-24 WAC, Part G-2, Fire protection~~)) 296-811 WAC, Fire brigades.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-58505	Fire brigades.
WAC 296-24-58507	Organization.
WAC 296-24-58509	Training and education.
WAC 296-24-58511	Fire fighting equipment.
WAC 296-24-58513	Protective clothing.
WAC 296-24-58515	Respiratory protection devices.
WAC 296-24-58516	Procedures for interior structural fire fighting.
WAC 296-24-58517	Appendix A—Fire brigades.

WSR 05-19-087
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed September 20, 2005, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-098.

Title of Rule and Other Identifying Information: Cholinesterase monitoring, chapter 296-307 WAC, Part J-1.

Hearing Location(s): Red Lion Hotel Yakima Center, 607 East Yakima Avenue, East Ballroom, Yakima, WA, on October 26, 2005, at 1:30 p.m. and 6:00 p.m.; and at the Department of Labor and Industries Building, 7273 Linderson Way S.W., Auditorium, Tumwater, WA, on October 28, 2005, at 1:30 p.m.

Date of Intended Adoption: November 22, 2005.

Submit Written Comments to: Cindy Ireland, Project Manager, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98507-4620, e-mail mooc235@lni.wa.gov, phone (360) 902-5522, fax (360) 902-5529, by November 4, 2005.

Assistance for Persons with Disabilities: Contact Kim Johnson by October 14, 2005, at rhok235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is being proposed based on recommendations made by members of the Cholinesterase Scientific Committee and the Cholinesterase Advisory Committee. These proposed changes are to modify the written opinion to address all employee blood tests, to clarify some requirements, and to make some minor housekeeping changes.

- WAC 296-307-14805, currently there is a requirement in RCW 49.17.285 which requires employers

to provide handling hours to the medical provider/laboratory, we are adding this language to our rule for clarity.
- WAC 296-307-14815, adding a requirement for the employer to obtain a written opinion from the health care provider for all blood testing and to make the opinion available to the employee. This will provide employees with ready access to test results and health care provider recommendations.
- WAC 296-307-14830, clarifying the medical removal protection requirements, which are confusing to some employers.

AMENDED SECTIONS:

WAC 296-307-14805 Maintain handling records for covered pesticides.
- Delete the reference to the table and add the reference to the applicable WAC section.
- There is a current requirement in RCW 49.17.285 which requires employers to provide handling hours to the medical provider/laboratory; we are adding this for clarity.

WAC 296-307-14810 Implement a medical monitoring program.
- Delete the table and the reference to this table in this section.
- Add two notes to this section for clarity.

WAC 296-307-14815 Identify a physician or licensed health care professional.
- Add a requirement for the employer to obtain a written opinion from the health care provider for all blood testing and to make the opinion available to the employee. This will provide employees with ready access to test results and health care provider recommendations.
- Add a note relating to testing being done by the same laboratory whenever possible.
- Add a note relating to obtaining employee's written consent to obtain blood test results.
- Clarified language.

WAC 296-307-14820 Make cholinesterase testing available.
- Delete the reference to the table and add the reference to the applicable WAC section.
- Add a note relating to a "working baseline."
- Move two notes to WAC 296-307-14810 for better organization.
- Add language relating to the employee receiving a copy of the signed declination statement within five business days after receipt from the LHCP.
- Clarified language.

WAC 296-307-14825 Respond to depressed cholinesterase levels.
- Change the table to "Table 1."
- Add language in the table for clarity.

WAC 296-307-14830 Provide medical removal protection benefits.
- Add a clarifying note relating to benefits being paid while on medical removal.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Steve Cant, Tumwater, (360) 902-5495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement (SBEIS) is required if a proposed rule will impose more than a minor cost on business, RCW 19.85.030 (1)(a). An analysis of these rule amendments reveals that these rules will not impose more than minor costs. In addition to not imposing new costs on businesses, these revisions will make labor and industries rules easier for employers and employees to understand and use, and thus save them time, therefore, an SBEIS is not required (see RCW 34.05.310 (4)(d)).

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs to assess within these rule amendments. Additionally, the amendments will make the rules easier for employers and employees to understand and use, and thus save them time (see RCW 34.05.328 (5)(b)(iv)).

September 20, 2005

Gary Weeks

Director

AMENDATORY SECTION (Amending WSR 03-24-105, filed 12/3/03, effective 2/1/04)

WAC 296-307-14805 Maintain handling records for covered pesticides.

You must:

• Maintain accurate records of all time that each employee spends handling category I or II organophosphate or N-methyl-carbamate pesticides (this includes employees who do not meet the handling hour thresholds in ((~~Table 1~~)) WAC 296-307-14810).

• Provide a completed CHOLINESTERASE MONITORING HANDLING HOURS REPORT (F413-065-000) to the physician or licensed health care professional (LHCP) for each employee receiving a periodic cholinesterase blood test and make sure the report is submitted to the laboratory with each periodic cholinesterase test.

• Provide the employee with:

– A copy of the CHOLINESTERASE MONITORING HANDLING HOURS REPORT upon request.

– Access to the employee's pesticide handling records.

• Retain pesticide handling records for seven years.

• Make sure that pesticide-handling records are readily accessible to employees, their designated representatives, and treating health care professionals.

AMENDATORY SECTION (Amending WSR 03-24-105, filed 12/3/03, effective 2/1/04)

WAC 296-307-14810 Implement a medical monitoring program.

You must:

• Implement a medical monitoring program for your employees who handle or will be expected to handle category I or II organophosphate or N-methyl-carbamate pesticides ((~~according to the schedule in Table 1~~)) for thirty or more hours in any consecutive thirty-day period.

((~~Table 1~~
~~Implementation Schedule~~

~~Provide medical monitoring for each employee who handles organophosphate or N-methyl-carbamate pesticides for:~~	~~Beginning~~
~~Fifty or more hours in any consecutive thirty-day period~~	~~February 1, 2004~~
~~Thirty or more hours in any consecutive thirty-day period~~	~~February 1, 2005~~))

Note: ((~~• The department will adjust the threshold for medical monitoring of employees under this rule on February 1, 2005, if the data collected during 2004 clearly demonstrates that the threshold should be either lower or higher than thirty hours.~~)) • You do not need to count time spent mixing and loading using closed systems (as defined in WAC 296-307-13045 (4)(d)) in determining the need for periodic testing. Time using closed systems is still counted for purposes of establishing coverage under this rule and determining the need for obtaining baseline cholinesterase levels. Closed cabs are not "closed systems."

• The first thirty consecutive day period begins on the first day of handling organophosphate or N-methyl-carbamate pesticides after obtaining the baseline cholinesterase test.

• There is nothing in this rule that prohibits employers from providing cholinesterase monitoring to employees who handle organophosphate or N-methyl-carbamate pesticides for fewer ((~~hours~~)) than ((~~specified in Table 1~~)) thirty hours in any consecutive thirty-day period.

AMENDATORY SECTION (Amending WSR 03-24-105, filed 12/3/03, effective 2/1/04)

WAC 296-307-14815 Identify a physician or licensed health care professional.

You must:

• Identify a physician or other licensed health care professional (LHCP) who will:

– Provide baseline and periodic cholinesterase testing through ((~~the department of health public health laboratory, or beginning in 2006, through~~)) any laboratory approved by the department of labor and industries.

– Interpret tests.

((~~– Provide you with written recommendations and opinions that:~~

~~■ Identify employees with periodic test results requiring a work practice evaluation.~~

~~■ Identify employees with periodic test results indicating they must be removed from handling and other exposure to organophosphate and N-methyl-carbamate pesticides.~~))

• Obtain the LHCP's written opinion for each employee's blood test and evaluation (including baseline tests) and give a copy of this opinion to the employee within five business days after you receive the opinion.

• Make sure the written opinion is limited to the following information:

– The employee's cholinesterase status based on the LHCP's evaluation.

■ Identify changes in cholinesterase levels requiring a work practice evaluation for the employee.

■ Identify changes in cholinesterase levels requiring the employee to be removed from handling and other exposure to organophosphate and N-methyl-carbamate pesticides.

((■ ~~Provide~~)) – Guidance on medical monitoring.

((■ ~~Include~~)) – Any other relevant information concerning an employee's workplace exposure to organophosphate and N-methyl-carbamate pesticides.

Note: All testing for an employee should, whenever possible, be conducted through the same laboratory. This will allow for the most accurate comparison between baseline and periodic tests.

You must:

• Instruct the physician or other licensed health care professional (LHCP) to **NOT** reveal in writing or in any other communication with you((~~,~~)) any other personally identifiable medical information((~~, other than laboratory test results, for any employee~~)).

• Make sure the physician or LHCP is familiar with the requirements of this rule (for example, by providing a copy of the rule or by confirming that the provider has attended training on the rule).

• Post the name, address, and telephone number of the medical provider you have identified at the locations where employees usually start their work day.

• Make sure ((~~copies of employee test results and~~)) written recommendations from the physician or LHCP are maintained for seven years.

Note: You may only obtain the employee's actual test results if the employee provides written consent.

AMENDATORY SECTION (Amending WSR 03-24-105, filed 12/3/03, effective 2/1/04)

WAC 296-307-14820 Make cholinesterase testing available.

You must:

• Make medical monitoring available to employees who will meet the exposure thresholds in ((~~Table 1~~)) WAC 296-307-14810, at no cost and at a reasonable time and place, as follows:

– Provide annual baseline red blood cell (RBC) and plasma cholinesterase tests that are taken at least thirty days after the employee last handled organophosphate or N-methyl-carbamate pesticides.

– Provide periodic RBC and plasma cholinesterase testing:

■ Within three days after the end of each thirty-day period where the employee meets the handling levels in ((~~Table 1~~)) WAC 296-307-14810; however, testing is not required more often than every thirty days;

OR

■ At least every thirty days for those employees who may meet the handling levels in ((~~Table 1~~)) WAC 296-307-14810.

• Arrange to obtain a "working baseline" as soon as possible for employees who initially decline cholinesterase testing and later choose to participate in testing.

((~~– Follow the recommendations of the physician or LHCP regarding continued employee pesticide handling or removal from handling until a thirty-day exposure free baseline can be established.~~))

Exemption: You do not need to provide baseline or periodic testing for those employees whose work exposure is limited to handling only N-methyl-carbamate pesticides.

Note: ((~~• You do not need to count time spent mixing and loading using closed systems (as defined in WAC 296-307-13045 (4)(d)) in determining the need for periodic testing. Time using closed systems is still counted for purposes of establishing coverage under this rule and determining the need for obtaining baseline cholinesterase levels.~~)) • For employees who have had exposure to organophosphate or N-methyl-carbamate pesticides in the thirty days prior to the test obtain a working baseline. For example, a worker who initially declines cholinesterase testing and later chooses to participate in testing would obtain a "working baseline."

• For new employees, the medical provider may accept previous baselines, if they are obtained according to this rule.

((~~• The first thirty consecutive day period begins on the first day of handling organophosphate or N-methyl-carbamate pesticides after obtaining the baseline cholinesterase test.~~))

You must:

• Obtain a signed declination statement from the physician or LHCP for each employee((~~s~~)) who declines cholinesterase testing.

– Employees may decline cholinesterase testing only after they receive training about cholinesterase inhibiting pesticides and discuss the risks and benefits of participation with the physician or LHCP.

– An employee may change his or her mind and elect to participate or decline to continue participation in the program at any time.

• Make sure the employee receives a copy of the signed declination statement within five business days after receipt from the LHCP.

Note: If employers discourage participation in cholinesterase monitoring, or in any way interfere with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17.160, Discrimination against employee filing, instituting proceedings, or testifying prohibited—Procedure—Remedy.

AMENDATORY SECTION (Amending WSR 03-24-105, filed 12/3/03, effective 2/1/04)

WAC 296-307-14825 Respond to depressed cholinesterase levels.

You must:

• Respond to an employee's depressed cholinesterase levels by:

– Taking the actions required in Table ((~~2~~)) 1;

AND

– Following any additional occupational health recommendations from the physician or LHCP.

Table ((~~2~~)) 1
Required Responses to an Employee's Depressed Cholinesterase Levels

When:	Action to be taken:	Methods:
An employee's RBC or plasma cholinesterase levels fall more than twenty percent below the baseline	Evaluate the employee's workplace and work practices to identify and correct potential sources of pesticide exposure	Review: • Personal protective equipment (PPE) and its condition • Employees' PPE usage • General sanitation and decontamination practices and availability of decontamination facilities required by WAC 296-307-13050 • Pesticide handling practices • Pesticide label requirements
An employee's RBC cholinesterase level falls thirty percent or more from the baseline **or** An employee's plasma cholinesterase level falls forty percent or more from the baseline	Remove the employee from handling and other work exposures to organophosphate and N-methyl-carbamate pesticides such as thinning and harvesting in recently treated areas AND Evaluate the employee's work practices to identify and correct potential sources of pesticide exposure	• When available, provide the employee with other duties that do not include handling and other work exposures to organophosphate and N-methyl-carbamate pesticides • Provide medical monitoring and cholinesterase testing as recommended by the physician or LHCP • Provide salary and benefits as if employee was continuing pesticide application activities
A removed employee's cholinesterase levels return to twenty percent or less below baseline	The employee may return to handling class I and II organophosphate and N-methyl-carbamate pesticides	Continue periodic cholinesterase monitoring

AMENDATORY SECTION (Amending WSR 03-24-105, filed 12/3/03, effective 2/1/04)

WAC 296-307-14830 Provide medical removal protection benefits.

You must:

• Provide medical removal protection benefits for a maximum of three months on each occasion:

– An employee is temporarily removed from work due to depressed cholinesterase levels;

OR

– Assigned to other duties due to depressed cholinesterase levels.

• Provide medical removal protection benefits that include maintenance of the same pay, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to organophosphate or N-methyl-carbamate pesticides or otherwise limited.

Note: Determine the employee's pay using the number of pesticide handling hours and pay rate the employee would have received if they had **not** been removed from handling organophosphate or N-methyl-carbamate pesticides. Some examples:

• A removed worker is assigned to work eight hours a day but the employer's pesticide handlers are working ten hours a day. The removed worker would be paid for ten hours at the handler's pay rate.

• The farmer pays workers two dollars more per hour when they are handling organophosphate or N-methyl-carbamate pesticides. The removed worker will be paid the additional two dollars per hour when the pesticides are being handled on the farm; however, the worker will be paid at their usual pay rate when the pesticides are not being handled on the farm.

WSR 05-19-088
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed September 20, 2005, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-097.

Title of Rule and Other Identifying Information: Factory assembled structures, chapters 296-150C, 296-150F, and 296-150V WAC.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA, on October 25, 2005, at 8:30 a.m.

Date of Intended Adoption: November 3, 2005.

Submit Written Comments to: Sally Elliott, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by October 25, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by September 15, 2005, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The electrical program recently adopted rules that directly impact the factory assembled structure rules. The factory assembled structure rules reference the electrical rules, which now states electrical plan reviews are not required for structures under 400 amp electrical service. Examples of these types of buildings are: Portable classrooms, educational facilities, city or county jail cells, prisons, small hospitals, MRI structures, or medical clinics. The factory assembled structure statute states the program needs to conduct plan review on all systems within the structure. Therefore, we are proceeding with rule making to ensure the statute and rules are consistent.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 43.22 RCW.

Statute Being Implemented: Chapter 43.22 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Pete Schmidt, Tumwater, (360) 902-5571; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not require that a small business economic impact statement be conducted because the proposed changes are exempted by law since the proposed changes are updating the rule based on changes in Washington state statutes, RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules do not require a cost-benefit analysis because the proposed changes are exempted by law since the proposed changes are updating the rule based upon Washington state statutes, RCW 34.05.328 (5)(b)(iii).

September 20, 2005
Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, fire and life safety, or the plumbing, mechanical, and electrical systems of a commercial coach.

The following are not considered alterations:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Approved" is approved by the department of labor and industries.

"Building site" is a tract, parcel, or subdivision of land on which a commercial coach will be installed.

"Consumer" is a person or organization, excluding a manufacturer or dealer of commercial coaches, who buys or leases a commercial coach.

"Commercial coach" is a structure (referred to as a unit) that:

- Can be transported in one or more sections;
- Is used for temporary commercial purposes;
- Is built on a permanent chassis;
- Conforms to the construction standards of this chapter;
- May include plumbing, mechanical, electrical and other systems.

Note: A commercial coach may not be used as a single-family dwelling or hazardous storage building. A commercial coach does not have to be placed on a permanent foundation.

"Damaged in transit" means damage that affects the integrity of a structural design or any of the systems.

"Dealer" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading commercial coaches.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a plan for the construction or alteration of a commercial coach or conversion of a vehicle to a commercial coach including floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its commercial coach design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a commercial coach.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to commercial coaches. (See RCW 43.22.420.)

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010).

"Insignia" is a label that we attach to a commercial coach to verify that the structure meets the requirements of this chapter and the applicable codes.

"Install" is to erect, construct, assemble, or set a commercial coach in place.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Labeled" is to bear the department's insignia.

"Listed" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of a commercial coach.

"Master design plan" is a design plan that expires when a new state building code has been adopted.

"One-year design plan" is a design plan that expires one year after approval or when a new state building code has been adopted.

"System" is part of a commercial coach designed to serve a particular function. Examples include structural, plumbing, electrical, or mechanical systems.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department? All requests for design-plan approval must include:

(1) A completed design-plan approval request form;

(2) Two sets of design plans plus elevation drawings, specifications, engineering analysis, and test results and procedures necessary for a complete evaluation of the design; (See WAC 296-150C-0340 and 296-150C-0350.)

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) Receipt of a one-time initial design plan filing fee and the initial design plan fee (see WAC 296-150C-3000);

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules;

(6) The occupancy class of the commercial coach according to the occupancy classifications in The Uniform Building Code;

(7) ((~~All plans required by WAC 296-46-140 (Plan review for educational, institutional or health care facilities and other buildings) must be reviewed by the department. The department's fee for this plan review is listed in the fee table in WAC 296-150C-3000, Commercial coach fees.~~))

Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(8) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(9) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(10) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150C-3000 Commercial coach fees.

INITIAL FILING FEE	$32.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	$222.80
INITIAL FEE - ONE YEAR DESIGN	$91.20
RENEWAL FEE	$38.60
RESUBMIT FEE	$65.10
ADDENDUM (Approval expires on same date as original plan)	$65.10
ELECTRONIC PLAN SUBMITTAL FEE $4.90 per page for the first set of plans and $0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (((~~When required by chapter 296-46B WAC.~~)) Plan review	
for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	$65.10
Service/feeder Ampacity:	
0 - 100	$28.80
101 - 200	$35.90
201 - 400	$67.40
401 - 600	$79.50
601 - 800	$102.50
801 - 1000	$125.40
Over 1000	$136.10
Over 600 volts surcharge	$21.50
Thermostats:	
First	$12.70
Each additional	$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	$11.60
Each additional circuit or zone	$2.00

Generators, refer to appropriate service/feeder ampacity fees	
Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.	
Supplemental submissions of plans (resubmittals, addendums, renewals,	
code updates, etc.) shall be charged per hour or fraction of an hour*	$77.10
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	207 plus
Service/feeder	$189.80
Additional Feeder	$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus
Service/feeder	$100.70
Additional Feeder	$25.70
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	$62.40
FIRST STATION	$62.40
EACH ADDITIONAL STATION	$22.80
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	$99.30
INITIAL FEE - ONE YEAR DESIGN	$60.10
RENEWAL FEE	$60.10
ADDENDUM	$60.10
PLANS APPROVED BY PROFESSIONALS	$45.30
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	$12.20
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	$65.10
TRAVEL (Per hour)	$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	$65.10
TRAVEL (Per hour*)	$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	$97.40
INSIGNIA FEES:	
FIRST SECTION	$19.70
EACH ADDITIONAL SECTION	$12.20
ALTERATION	$32.30

REISSUED-LOST/DAMAGED	$12.20
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	$65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	$12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150F-0020 What definitions apply to this chapter? "Approved" is approved by the department of labor and industries.

"Building site" is a tract, parcel, or subdivision of land on which a factory-built house or commercial structure will be installed.

((~~"Closed construction" is a factory-built house, commercial structure, or component that is not open for visible inspection at the building site. It may enclose factory-installed structural, mechanical, electrical, plumbing, or other systems and equipment.~~))

"Commercial structure" is a structure designed or used for human habitation (such as a dormitory) or human occupancy for industrial, educational, assembly, professional, or commercial purposes. It may also include a component.

"Component" is a discrete element that cannot be inspected at the time of installation either in the factory or in a site-built unit, but is:

• Designed to be installed in a structure;

• Manufactured as a unit; and

• Designed for a particular function or group of functions.

A component may be a floor, wall panel, roof panel, plumbing wall, electrical service wall, or heating assembly.

It may also be a service core. A service core is a factory assembled, three-dimensional section of a building. It may include mechanical, electrical, plumbing, and related systems. It may be a complete kitchen, bathroom, or utility room. Service cores are referred to as "wet boxes," "mechanical cores," or "utility cores."

Note: A roof truss is not considered a component.

"Damaged in transit" is damage that effects the integrity of the structural design or damage to any other system referenced in the codes required by the State Building Code, or other applicable codes.

"Department" is the department of labor and industries. The department may also be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a plan for the construction of factory-built housing, commercial structures, or components that includes floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of factory-built housing, commercial structures, and components.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to factory-built housing, commercial structures and components. (See RCW 43.22.420.)

"Factory-built housing" is housing designed for human occupancy such as a single-family dwelling. The structure of any room is entirely or substantially prefabricated or assembled at a place other than a building site. It may also include a component. A factory-built house is also referred to as a "modular" structure. Factory-built housing does not include manufactured (mobile) housing. (See RCW 43.22.450(3).)

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010.)

"Insignia" is a label that we attach to a structure to verify that a factory-built house or commercial structure meets the requirements of this chapter. It could also be a stamp or label attached to a component to verify that it meets the requirements of this chapter.

"Install" is to erect or set in place a structure at a building site. It may also be the construction or assembly of a component as part of a factory-built house or commercial structure.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Listed" is a piece of equipment, a component, or an installation that appears in a list published by a testing or listing agency and is suitable for use in a specified manner.

"Listing agency" is an organization whose business is approving equipment, components, or installations for publication.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of factory-built housing and commercial structures.

"Master design plan" is a design plan that expires when a new State Building Code has been adopted.

"Manufacturing" is making, fabricating, forming, or assembling a factory-built house, commercial structure, or component.

"One-year design plan" is a design plan that expires one year after approval or when a new State Building Code has been adopted.

"Repair" is the replacement, addition, modification, or removal of any construction, equipment, system, or installation to correct damage in transit or during on-site installation before occupancy.

"Unit" is a factory-built house, commercial structure, or component.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department? All requests for design-plan approval must include:

(1) A completed design-plan approval request form;

(2) One complete set of design plans, specifications, engineering analysis, test procedures and results plus one additional set for each manufacturing location where the design plan will be used (see WAC 296-150F-0340 and 296-150F-0350);

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) A one-time initial filing fee and the design-plan fee (see WAC 296-150F-3000); and

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules.

(6) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(7) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(8) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(9) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

INITIAL FILING FEE	$57.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	$282.80
INITIAL FEE - ONE YEAR DESIGN	$165.70
RENEWAL FEE	$57.30
RESUBMIT FEE	$82.80
ADDENDUM (Approval expires on same date as original plan.)	$82.80
ELECTRONIC PLAN SUBMITTAL FEE $4.80 per page for the first set of plans and $0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (((~~When required by chapter 296-46A WAC,~~)) Plan review for educational, institutional or health care facilities and other buildings):	
Electrical Plan submission fee	$63.10
Service/feeder Ampacity:	
0 - 100	$28.00
101 - 200	$34.90
201 - 400	$65.30
401 - 600	$77.10
601 - 800	$99.30
801 - 1000	$121.50
Over 1000	$131.80
Over 600 volts surcharge	$20.90
Thermostats:	
First	$12.40
Each additional	$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	$11.30
Each additional circuit or zone	$2.00
Generators, refer to appropriate service/feeder ampacity fees	
Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour*	$74.60
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service /feeders Ampacity	207 plus
Service/feeder	$189.80
Additional Feeder	$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus
Service/feeder	$100.70
Additional Feeder	$25.70
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	$78.60
FIRST STATION	$78.60
EACH ADDITIONAL STATION	$28.60

RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN	$126.50
INITIAL FEE-ONE YEAR DESIGN	$76.50
RENEWAL FEE	$76.50
ADDENDUM	$76.50
PLANS APPROVED BY DESIGN PROFESSIONALS	$57.30
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	$14.80
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	$73.30
TRAVEL (Per hour*)	$73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	$73.30
TRAVEL (Per hour*)	$73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	$233.80
EACH ADDITIONAL SECTION	$21.20
REISSUED-LOST/DAMAGED	$57.30
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	$73.30
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	$31.80
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	$11.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 6/30/03)

WAC 296-150V-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction for concentrated floor loads, fire and life safety, or the plumbing, mechanical, and electrical systems of a conversion vendor unit or medical unit.

The following are not considered alterations:

• Repairs with approved parts;

• Modifications of a fuel-burning appliance according to the listing agency's specifications; or

• Adjustment and maintenance of equipment.

"Approved" is approved by the department of labor and industries.

"Consumer" is a person or organization, excluding a manufacturer or dealer of conversion vendor units or medical units, who buys or leases a conversion vendor unit or medical unit.

"Conversion vendor unit" means a motor vehicle or other structure that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be 8 feet 6 inches or less in width (exterior floor measurement) in the set-up position, and the inside working area must be less than 40 feet in length (interior floor measurement). Conversion vendor units:

• Are transported in only one section;

• Are designed for highway use;

• Are temporarily occupied for distribution of items, e.g., food;

• Are built on a permanent chassis; and

• Include at least one of the following systems: Plumbing, mechanical or 120 and/or 240 volt electrical.

Note: The conversion vendor unit may NOT include a dining area.

"Damaged in transit" means damage that affects the integrity of a concentrated floor load design or any of the systems.

"Dealer" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading conversion vendor units, or medical units.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, P.O. Box 44440, Olympia, WA 98504-4440.

"Design plan" is a plan for the construction or alteration of a conversion vendor unit or medical unit or conversion of a vehicle to a conversion vendor unit or medical unit including floor plans, specifications, or test results necessary for a complete evaluation of the design, if applicable.

"Design option" is a design that a manufacturer may use as an option to its conversion vendor unit or medical unit design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a conversion vendor unit or medical unit.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to conversion vendor units and medical units.

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010.)

"Insignia" is a label that we attach to a conversion vendor unit or medical unit to verify that the structure meets the requirements of this chapter and the applicable codes.

"Install" is to erect, construct, assemble, or set a conversion vendor unit or medical unit in place.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Labeled" is to bear the department's insignia.

"Listed" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of a conversion vendor unit or medical unit.

"Medical unit" is a type of self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles, and which:

• Is transportable;

• Is temporarily placed and used;

• Is built on a permanent chassis;

• Includes at least one system;

• Is for temporary use only.

"One-year design plan" is a design plan that expires one year after approval or when a new state building code has been adopted.

"System" is part of a conversion vendor unit or medical unit designed to serve a particular function. Examples include plumbing, electrical, or mechanical systems.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-0320 What must I provide with my request for conversion vendor unit or medical unit design-plan approval by the department? (1) All requests for design-plan approval must include:

(a) A completed design-plan approval request form;

(b) Two sets of design plans, specifications and test results and procedures necessary for a complete evaluation of the design;

(c) Receipt of the design-plan fee listed in WAC 296-150V-3000;

(d) Receipt of the initial design-plan filing fee and the initial design-plan fee.

(2) If a structural analysis or test is required for a concentrated floor load, at least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under the engineer or architect's direct supervision shall be signed, dated and stamped with his or her seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed and he or she must prepare a report concerning the plans. This report must:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) Be stamped and signed by the reviewer.

(3) Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp.

(4) ((~~All plans required by WAC 296-46-140, plan review for health care facilities, require a separate electrical plan review and electrical plan review fees (see fees in WAC 296-150V-3000).~~)) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(5) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(6) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable, and stamped with the engineer's mark and signature.

(7) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

INITIAL FILING FEE	$32.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	$222.80
INITIAL FEE - ONE YEAR DESIGN	$91.20
RENEWAL FEE	$38.90
RESUBMIT FEE	$65.10
ADDENDUM (Approval expires on same date as original plan)	$65.10
ELECTRONIC PLAN SUBMITTAL FEE $4.80 per page for the first set of plans and $0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (Plan review for educational, institutional or health care facilities and other buildings)	
Electrical plan submission fee	$65.10
Service/feeder ampacity:	
0 - 100	$28.80
101 - 200	$35.90
201 - 400	$67.40
401 - 600	$79.50
601 - 800	$102.50
801 - 1000	$125.40
Over 1000	$136.10
Over 600 volts surcharge	$21.50
Thermostats:	
First	$12.70
Each additional	$3.00

Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	$11.60
Each additional circuit or zone	$2.00
Generators, refer to appropriate service/feeder ampacity fees	
Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	$77.10
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	$99.30
INITIAL FEE - ONE YEAR DESIGN	$60.10
RENEWAL FEE	$60.10
ADDENDUM	$60.10
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	$12.20
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	$65.10
TRAVEL (Per hour)*	$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	$97.40
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	$65.10
TRAVEL (Per hour*)	$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	$18.80
ALTERATION	$32.30
REISSUED-LOST/DAMAGED	$12.20
EXEMPT	$32.30
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	207 plus
Service/feeder	$189.80
Additional Feeder	$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus
Service/feeder	$100.70
Additional Feeder	$25.70

OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	$65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	$12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

WSR 05-19-092
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-162.

Title of Rule and Other Identifying Information: WAC 180-79A-211 Academic and experience requirements for certification—Administrators.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631, or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to this rule are editorial. They correct wording that is not accurate and clarify current requirements.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.410.010.

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

Name of Proponent: [State Board of Education], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 15, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

WAC 180-79A-211 Academic and experience requirements for certification—Administrators. Candidates for the respective administrative certificate shall complete the following requirements in addition to those set forth in WAC 180-79A-150 and 180-79A-213.

(1) Superintendent.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least forty-five quarter credit hours (thirty semester credit hours) of graduate level course work in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(b) Continuing.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least sixty quarter credit hours (forty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(iii) Candidates applying for continuing superintendent's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) Principal.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(b) Residency.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of principals.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(c) Continuing.

(i) The candidate who ((~~applies~~)) holds a valid initial principal's certificate issued prior to August 31, 1998, shall hold an approved master's degree and completed subsequent to the baccalaureate degree at least forty-five hours (thirty semester hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate who applies on or after August 31, 1998, shall hold a valid initial principal's certificate, an

approved master's degree and shall have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 180-85 WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 180-78A-270 (2)(a) or (b);

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

(iii) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the academic requirement for the continuing certificate described in WAC 180-79A-211 (2)(c)(i), if the candidate meets requirements for and applies for the continuing certificate by the expiration date on that initial certificate.

(iv) The candidate must meet requirements for a principal's certificate pursuant to WAC 180-79A-150(4).

(v) Candidates applying for continuing principal's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer. Candidates applying for the continuing principal's certificate on or after August 31, 1998, shall provide documentation of three contracted school years of full-time employment as a principal or assistant principal.

(vi) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the one hundred-eighty day experience requirement described in WAC 180-79A-211 (2)(c)(v), if that candidate meets requirements and applies for the continuing certificate by the expiration date on that initial certificate.

(d) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program.

(ii) The candidate shall have satisfactory evaluations while serving in the principal or assistant principal role as verified by a school district or a state board of education approved private school.

(iii) The candidate shall have documentation of three contracted school years of employment as a principal or assistant principal.

(3) Program administrator.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least twenty-four quarter credit hours (sixteen semester credit hours) of graduate level course work in education.

(b) Residency certificate.

(i) The candidate shall hold an approved master's degree and have completed an approved program for the preparation of ((~~principals~~)) program administrators.

(ii) The candidate shall have documented successful school-based experience in an instructional role with students.

(c) Continuing.

(i) The candidate shall hold a valid initial program administrator's certificate, an approved master's degree and have completed subsequent to the baccalaureate degree at least thirty quarter credit hours (twenty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) Candidates applying for continuing program administrator's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(d) Professional certificate.

(i) The candidate shall have completed an approved professional certificate program.

(ii) The candidate shall have satisfactory evaluations while serving in a program administrator role as verified by a school district or a state board of education approved private school.

WSR 05-19-093
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed September 20, 2005, 1:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-162.

Title of Rule and Other Identifying Information: WAC 180-78A-264 (10)(b) Approval standard—Program design.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631, or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify the rules for using the pedagogy assessment instrument to assess teacher candidate competencies.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.410.010.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 19, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 04-21-038, filed 10/15/04, effective 11/15/04)

WAC 180-78A-264 Approval standard—Program design. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program design standard of WAC 180-78A-220(4):

(1) The conceptual framework establishes the shared vision for the unit's efforts in preparing educators to work effectively in P-12 schools. It provides the basis for coherence among curriculum, instruction, field experiences, clinical practice, assessment, and evaluation. The conceptual framework is based on current research and best practice, is cohesive and integrated, supports the state's student learning goals and for teacher preparation programs, and reflects the essential academic learning requirements. The conceptual framework reflects the unit's commitment to preparing candidates to support learning for all students and the unit's commitment to preparing candidates who are able to use educational technology to help all students learn.

(2) Candidates who demonstrate potential for acquiring the content and pedagogical knowledge and skills for success as educators in schools are recruited, admitted, and retained (see WAC 180-78A-200 Candidate admission policies). These candidates include members from under represented groups.

(3) Programs shall assure that candidates are provided with opportunities to learn the pedagogical and professional knowledge and skills required for the particular certificate, and for teacher preparation programs, the competencies for endorsement areas.

(4) A set of learner expectations for program completion are identified and published.

(5)(a) The unit and its school partners design, implement, and evaluate field experiences and clinical practices so that candidates develop and demonstrate the knowledge and skills necessary to help all students learn. Provided, That candidates for an administrator certificate shall complete an internship pursuant to WAC 180-78A-325, candidates for a school psychologist certificate shall complete an internship pursuant to WAC 180-78A-317, and candidates for a school counselor certificate shall complete an internship pursuant to WAC 180-78A-315, and candidates for a school social worker certificate shall complete an internship pursuant to WAC 180-78A-319.

(b) Field experiences are integrated throughout the preparation program and occur in settings with students representing diverse populations.

(c) Clinical practice is sufficiently extensive and intensive for candidates to demonstrate competence in the professional roles for which they are preparing.

(6) The preparing institution shall assure that candidates are provided with appropriate course work and experiences in teaching methods for each endorsement area. The methods should include:

(a) Instructional strategies.

(b) Curriculum frameworks (essential academic learning requirements).

(c) Assessment strategies, including performance-based measurements of student work.

(d) Unit/lesson planning.

(7) Entry and exit criteria exist for candidates in clinical practice.

(8) Programs reflect ongoing collaboration with P-12 schools.

(9) Candidates for a teacher certificate shall hold/obtain a baccalaureate degree from a regionally accredited college or university pursuant to WAC 180-79A-030(5).

(10)((~~(a)~~)) Beginning fall 2003, approved programs shall administer the pedagogy assessment adopted by the state board of education and published by the superintendent of public instruction to all candidates in a residency certificate program.

((~~(b) At such time that the state board of education determines the pedagogy assessment has sufficient credibility evidence (i.e., interrater reliability and validity), successful performance on the pedagogy assessment by the candidate shall be required in order for the institution to verify completion of the state board approved residency teacher preparation program.~~)) Candidates must take the pedagogy assessment as a condition of residency program completion. However, passage is not required for program completion as long as the program can provide other evidence, separately or in combination with the results of the pedagogy assessment, that the candidate has satisfied all program completion requirements.

WSR 05-19-094
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-050.

Title of Rule and Other Identifying Information: WAC 180-79A-123 Certificates—Previous standards, 180-79A-130 Fee for certification, and 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631, or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments to these rules will make it possible for administrators and educational staff associates to obtain the continuing certificate in specific situations when their initial certificate has expired by paying a $100 late fee.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.410.010.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 19, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 05-15-050, filed 7/12/05, effective 8/12/05)

WAC 180-79A-123 Certificates—Previous standards. (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 180-79A-130.

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the state board of education shall be issued upon application, including payment of applicable fees, continuing administrative for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter 180-85 WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the state board of education shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsections (7), (8) or (9) of this section.

(7) Any person with a valid initial teacher's certificate granted under previous standards of the state board of education may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for initial renewal or continuing certificate under the provisions of WAC 180-79A-250 (1)(a) prior to their expiration date, but whose initial certificate expired after August 31, 2000, because they applied for certification too late, may apply once for such renewal or continuing certificate and will be issued such certificate.

(8) Any person with a valid initial administrator certificate granted under previous standards of the state board of education shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 180-79A-250 (1)(b) prior to their expiration date, but whose initial certificate expired after June 30, 2004, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

(9) Any person with a valid initial ESA certificate granted under previous standards of the state board of education shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification: Provided, That any person who qualified for a continuing certificate under the provisions of WAC 180-79A-250 (1)(c) prior to their expiration date, but whose initial certificate expired after June 30, 2005, because they applied for certification too late, may apply for such continuing certificate and will be issued such certificate.

AMENDATORY SECTION (Amending WSR 05-15-024, filed 7/7/05, effective 8/7/05)

WAC 180-79A-130 Fee for certification. (1) In accordance with provisions of RCW 28A.410.060 and 28A.415.-010, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) The first issue of the residency certificate, thirty-five dollars;

(b) The continuing certificate, seventy dollars;

(c) The reinstatement, additional endorsement on the teaching certificate, duplicate certificates, substitute certificates, and certificates issued for the purpose of showing a name change, fifteen dollars; and

(d) Any other certificate or credential or any renewal thereof, five dollars for each year of validity:

(e) Provided, That the fee for all career and technical education certificates shall be one dollar:

(f) Provided, That a one-time late fee for a renewed initial or continuing certificate issued under the provisions of

WAC 180-79A-123 (7), (8), or (9) for those whose initial certificate had already expired shall be one hundred dollars.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, or their designees. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as credit toward certificate fees if such applicant reapplies within twenty-four months of the date of denial. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute, all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to statewide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional in-service training programs and evaluations thereof.

(d) Use of certification fees described in this section shall be reported annually to the state board of education pursuant to WAC 180-79A-131(5).

AMENDATORY SECTION (Amending WSR 05-15-053, filed 7/12/05, effective 8/12/05)

WAC 180-79A-250 Initial/residency and continuing/professional certificates—Renewal, reinstatement, and continuing education requirements. The following shall apply to initial/residency and continuing/professional certificates issued pursuant to this chapter:

(1) Initial certificate.

(a) Teachers.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from a regionally accredited institution of higher education as defined in WAC 180-78A-010(6) for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 180-79A-123 will apply.

(b) Administrators.

After June 30, 2004, provisions of WAC 180-79A-123(8) will apply.

(c) Educational staff associates.

After June 30, 2005, provisions of WAC 180-79A-123(9) will apply.

(2) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Teachers.

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 (1)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work (normally one hundred level or higher) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(iii) An individual who completes a national board certification assessment but does not earn national board certification, may use that completed assessment to renew the residency certificate for two years.

(iv) Individuals who complete the requirements in their school district professional growth plan may use that completed plan to maintain the continuing certificate or renew the professional certificate.

(b) Principals/program administrators.

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535 (2)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who do not qualify for enrollment in a professional certificate program under WAC 180-78A-535 (2)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(c) School counselors, school psychologists, or school social workers.

(i) Individuals who hold a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 180-78A-535(3) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, a residency certificate who do not qualify for admission to a professional certificate program under WAC 180-78A-535 (3)(a) may have their residency certificates renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work, directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate. Renewal for an additional five-year period requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) completed since the issuance of the most recent residency certificate plus an internship approved by a college or university with a state board approved residency certificate program and taken since the issuance of the last residency certificate.

(d) Renewals based on conditions other than those described in WAC 180-79A-250 (2)(a) and (b) may be appealed to the state board of education, or its designated appeals committee. The following conditions apply to such appeals:

(i) Individuals who appeal shall present a rationale and evidence to support their request to have their residency certificates renewed.

(ii) The state board of education, or its designated appeals committee, in making its decision shall determine the length of the renewal and may establish specific conditions (such as course work requirements) as prerequisites for the reissuance of the residency certificate.

(3) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and subject to the terms and conditions applicable to certification at the time of reissuance including the continuing education requirements of chapter 180-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement, to include the filing requirement specified in chapter 180-85 WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 WAC and must meet the conditions stated in WAC 180-79A-253.

(4) Professional certificate.

(a) Teachers.

(i) A valid professional certificate may be renewed for additional five year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued. An expired professional certificate may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:

(A) One or more of the following three standards outlined in WAC 180-78A-540:

(I) Effective instruction.

(II) Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in RCW 28A.415.023.

(I) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(II) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(III) Is necessary to obtain an endorsement as prescribed by the state board of education;

(IV) Is specifically required to obtain advanced levels of certification; or

(V) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(ii) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five year periods for individuals employed as a principal, assistant principal or program administrator in a public school or state board approved private school by:

(A) Completion of a professional growth plan that is developed and approved with the superintendent, superintendent designee, or appointed representative (e.g., educational service district personnel, professional association or organization staff, or peer from another district), and that documents formalized learning opportunities and professional development activities that:

(I) Emphasize continuous learning;

(II) Positively impact student learning;

(III) Relate to the six standards and "career level" benchmarks defined in WAC 180-78A-270 (2)(b);

(IV) Explicitly connect to the evaluation process;

(V) Reflect contributions to the school, district, and greater professional community; and

(VI) Identify areas in which knowledge and skills need to be enhanced.

(B) Verification of satisfactory performance evaluations for the five year periods; and

(C) Documented evidence of results of the professional growth plan on student learning.

(ii) Individuals not employed as a principal, assistant principal, or program administrator in a public school or state board approved private school may have their professional certificate renewed for one additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the professional certificate. Renewal beyond one time requires the completion of fifteen quarter credits (ten semester credits) directly related to the current performance-based leadership standards as defined in WAC 180-78A-270 (2)(b) plus an internship approved by a college or university with a state board approved professional certificate program, and taken since the issuance of the last professional certificate.

(c) School counselors, school psychologists, or school social workers.

(i) A professional certificate may be renewed for additional five-year periods for individuals employed as a school counselor, school psychologist, or school social worker in a public school, state board approved private school, or in a state agency which provides educational services to students by:

(A) Completion of a professional growth plan that is developed and approved with the principal or principal designee, and that documents formalized learning opportunities and professional development activities that:

(I) Emphasize continuous learning;

(II) Positively impact student learning; and

(III) Reflect contributions to the school, district, and greater professional community; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

(ii) Individuals not employed as a school counselor, school psychologist, or a school social worker in a public school or state board approved private school may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 180-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 180-78A-270 (5), (7), or (9).

WSR 05-19-095
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed September 20, 2005, 1:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-159.

Title of Rule and Other Identifying Information: WAC 180-50-320 Equivalency course of study—National Guard high school career training and Washington National Guard youth challenge program—Approval procedures and new section WAC 180-50-325 Washington National Guard youth challenge program—Course content—Credits.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631, or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes will clarify the issuance of high school credits through the national guard youth challenge program.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.305.130.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 7, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending Order 12-84, filed 10/4/84)

WAC 180-50-320 Equivalency course of study—National Guard high school career training and Washington National Guard youth challenge program—Approval procedures. (1) School districts may accept National Guard high school career training and Washington National Guard youth challenge program participation in lieu of either

required or elective high school credits. Students who are enrolled in such training or a National Guard program with the approval of the school district of last attendance shall be considered enrolled in such district for state equalization apportionment and other appropriate purposes in accord with the provisions of RCW 28A.150.310.

(2) Approval by the district shall be obtained prior to a student's participation in a National Guard career training or youth challenge program as follows:

(((~~(1) MIL Form 115 or an equivalent form now or hereafter~~)) (a) An appropriate form provided by the National Guard shall be completed and filed with the school district; and

(((~~(2)~~))) (b) The number of credits toward high school graduation to be granted shall be calculated, agreed upon by the student and an authorized representative of the school district, and such agreement shall be noted on ((~~MIL Form 115 or such equivalent form~~)) the form required under (a) of this subsection.

(c) Credit toward high school graduation may be granted by the school district upon written certification by a National Guard training unit commander ((~~on the completion component of MIL Form 115 or such equivalent form~~)) or National Guard youth challenge program instructor that the student has met all program requirements.

NEW SECTION

WAC 180-50-325 Washington National Guard youth challenge program—Course content—Credits. See WAC 180-51-120.

WSR 05-19-096
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-045.

Title of Rule and Other Identifying Information: Chapter 180-10 WAC, Access to public records.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631, or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This chapter will be repealed. In 2002 the chapter was incorporated into chapter 180-08 WAC, but was not repealed.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.305.130.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 7, 2005
Larry Davis
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 180-10-001	Purpose.
WAC 180-10-003	Description of organization.
WAC 180-10-005	Operations and procedures.
WAC 180-10-007	Definitions.
WAC 180-10-010	Access to public records.
WAC 180-10-015	Public records officer.
WAC 180-10-020	Office hours.
WAC 180-10-025	Requests for public records.
WAC 180-10-030	Copying.
WAC 180-10-035	Determination regarding exempt records.
WAC 180-10-040	Review of denials of public record requests.
WAC 180-10-045	Protection of public records.

WSR 05-19-097
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-162.

Title of Rule and Other Identifying Information: WAC 180-78A-507 and 180-79A-145, these proposed amendments provide some technical editing to the title of WAC 180-78A-507 and delays the implementation of the professional certificate requirements for principals and program administrators from August 31, 2006, until August 31, 2007.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631, or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes delay the implementation date of the professional certificate for principals and program administrators to August 31, 2007.

Reasons Supporting Proposal: To clarify the title of the rule, to allow more time to develop program requirements and to allow colleges/universities more time to develop their professional certificate principal and program administrator programs.

Statutory Authority for Adoption: RCW 28A.410.010.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 7, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 04-21-039, filed 10/15/04, effective 11/15/04)

WAC 180-78A-507 Overview—Principal/program administrator((~~, school psychologist, school counselor, and school social worker~~)) professional certificate programs. By September 1, ((~~2006~~)) 2007, all colleges and universities offering a professional certificate program for principals/program administrators must be in compliance with the new program standards. ((~~By September 1, 2007, all colleges and universities offering a professional certificate program for school psychologists, school counselors, and school social workers must be in compliance with the new standards for the professional certificate.~~)) To obtain a professional certificate, the residency principal will need to complete a state board of education approved professional certificate program, have satisfactory district evaluations for an administrator role, and document three contracted school years of employment as a principal or assistant principal; the residency program administrator will need to complete a state board of education approved professional certificate program and have satisfactory district evaluations for an administrator role.

The professional certificate for principals/program administrators requires successful demonstration of six standards at the professional certification benchmark levels, or above, and the candidate will need to provide evidence that he/she has had a positive impact on student learning.

The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration with his/her professional growth team. The individual growth plan shall address the six knowledge and skills standards, focus on activities that enhance student learning, and be informed by the performance evaluation process, and an analysis of the administrative context and assignment.

AMENDATORY SECTION (Amending WSR 05-15-023, filed 7/7/05, effective 8/7/05)

WAC 180-79A-145 Levels of certificates, initial/residency and continuing/professional. Two levels of certification may be issued.

(1) Initial and continuing certificates: Teachers with program completion dates through August 31, 2000, administrators with program completion dates through August 31, 2004, and educational staff associates with program completion dates through August 31, 2005, will be issued the following levels of certificates: Provided, That initial and continuing teachers' certificates after August 31, 2000, initial and continuing principal and program administrator certificates after August 31, 2004, and initial and continuing educational staff associate certificates after August 31, 2005, will be issued only to previous Washington certificate holders, pursuant to WAC 180-79A-123:

(a) Initial certificate. The initial teacher certificate is valid for four years and the initial administrator and educational staff associate certificates are valid for seven years. Initial teacher certificates shall be subject to renewal pursuant to WAC 180-79A-250(1) and 180-79A-123. Initial administrator and educational staff associate certificates shall not be subject to renewal. Initial administrator and educational staff associate certificate holders shall be issued a continuing certificate if they meet the requirements for such certificate. Initial administrator and educational staff associate certificate holders shall be issued a residency certificate if their initial certificate has lapsed or they do not meet the requirements for a continuing certificate.

(b) Continuing certificate. The continuing certificate is valid on a continuing basis as specified in WAC 180-79A-250(3).

(2) Residency and professional certificates: Teachers, administrators, and educational staff associates with program completion dates commencing with the dates indicated below will be issued the following levels of certificates:

(a) Residency certificate. The residency certificate will be issued to teachers beginning September 1, 2000, to principal/program administrators beginning September 1, 2004, and to educational staff associate school counselors, school psychologists, and school social workers no later than September 1, 2005.

(b) The residency certificate for principals, program administrators, and educational staff associates is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250 (2)(b) and (c).

(c) The first issue of a residency certificate for teachers employed in a school district or state agency that provides educational services for students shall be valid until the holder is no longer on provisional status. When the teacher for the first time in their career completes provisional status, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(d) The first issue of a residency certificate for teachers employed in a state approved private school shall be valid until the holder has completed two years of successful teaching. When the teacher for the first time in their career completes two years of successful teaching, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the teacher must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(a).

(e) The first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two successful years of service in the role. When the principal, program administrator, or educational staff associate for the first time in their career completes two years of successful service in a school district, state approved private school, or state agency, their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 180-79A-250 (2)(b) and (c).

(f) Professional certificate. The professional certificate will be issued to teachers beginning September 1, 2001, to principals/program administrators beginning September 1, ((~~2006~~)) 2007, and to educational staff associate school counselors, school psychologists, and school social workers beginning September 1, 2007. The professional certificate is valid for five years and shall be subject to renewal pursuant to WAC 180-79A-250. Provided, That a professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards National Board Certification pursuant to WAC 180-79A-257 (3)(b) or 180-79A-206 (3)(a) shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

WSR 05-19-098
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-162.

Title of Rule and Other Identifying Information: Chapter 180-81 WAC, Professional certification—Masters in teaching degree.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631, or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is the proposed repeal of chapter 180-81 WAC as statutory authority for the chapter has been decodified.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 28A.305 RCW.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 15, 2005
Larry Davis
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 180-81-003	Authority.
WAC 180-81-005	Purpose.
WAC 180-81-010	Compliance with this chapter necessary for certification.
WAC 180-81-015	Application for degree approval.
WAC 180-81-020	Admission standard—Program approval requirement.
WAC 180-81-025	Certification standard—Program approval requirement.
WAC 180-81-030	Academic advising—Program approval requirement.
WAC 180-81-035	Program review—Program approval standard.

WSR 05-19-099
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-155.

Title of Rule and Other Identifying Information: WAC 180-38-005 Purpose and authority.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a technical correction to this section of the rule to remove an incomplete citing of authority that is not needed.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.210.160.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 15, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 02-24-019, filed 11/26/02, effective 12/27/02)

WAC 180-38-005 Purpose and authority. (1) The purpose of this chapter is to establish the procedural and substantive due process requirements governing the exclusion of students from public and private schools for failure to comply with the immunization requirement of the state of Washington or, in the case of public schools only, failure to present a medication or treatment order for a life-threatening health condition.

(2) The authority for this chapter is RCW 28A.210.160 ((~~and 28A.210.xxx~~)).

WSR 05-19-100
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-155.

Title of Rule and Other Identifying Information: Chapter 180-41 WAC, Pupil safety.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This chapter is being repealed as the authority for the rules has been eliminated.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.305.130 (11).

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 7, 2005
Larry Davis
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 180-41-010	Evacuation of buildings in sudden emergency—Regulatory provisions relating to RCW 28A.305.130(11).
WAC 180-41-015	Evacuation of buildings in sudden emergency—Responsibilities of school authorities.
WAC 180-41-020	Evacuation of buildings in sudden emergency—Classroom instruction.
WAC 180-41-025	Evacuation of buildings in sudden emergency—Out-of-class traffic.
WAC 180-41-030	Evacuation of buildings in sudden emergency—School personnel.

WAC 180-41-035	Evacuation of buildings in sudden emergency—Emergency exit drills.
WAC 180-41-040	Evacuation of buildings in sudden emergency—Exit alarm and recall signal systems.

WSR 05-19-101
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed September 20, 2005, 1:45 p.m.]

Continuance of WSR 05-15-060.

Preproposal statement of inquiry was filed as WSR 04-12-111.

Title of Rule and Other Identifying Information: WAC 180-33-015 Eligibility for state financial assistance.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The adoption of the proposed changes will make permanent clarifying changes adopted at the August state board meeting on an emergency basis.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.525.020.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 7, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 91-12-058, filed 6/5/91, effective 7/6/91)

WAC 180-33-015 Eligibility for state financial assistance. (1) In order to be eligible for state financial assistance, a modernization project shall have as its principal purpose one or more of the following:

(a) Bringing a facility into compliance with current building and health codes when so required by state or local health or safety officials;

(b) Changing the grade span grouping by facility by the addition, deletion, or combination thereof of two or more grades within the affected facility; ((~~or~~))

(c) The reduction of the number of operating school facilities in a district by combining the remaining school facilities through modernization and new capital construction so as to achieve more cost effective and efficient operation in the combined school facility or facilities. In order to be eligible for state financial assistance, such a project shall result in additional space for at least 100 additional pupils and the following enrollment in any combined facility:

(i) Elementary school facility—500 pupils;

(ii) Middle or junior high school facility—700 pupils;

(iii) Senior high school facility—850 pupils:

Provided, That modernization projects in school districts with a high school enrollment of less than 850 pupils need not comply with the enrollment figures set forth above: Provided further, That unless the district ((~~meets an exception provided in WAC 180-33-043 or~~)) demonstrates the existence of unhoused students, state financial assistance for the new construction component of a combined modernization and new construction project shall be limited to the provision of WAC 180-33-040; or

(d) Meeting the educational program of the facility.

(2) School districts shall certify that a proposed modernization project will extend the life of the modernized school facility by at least twenty years.

(3) School districts shall be ineligible for state assistance for modernization of any school facility accepted by the school district board of directors prior to January 1, 1993, where the principal purpose of that modernization project is to:

(a) Restore building systems and subsystems that have deteriorated due to deferred maintenance;

(b) Perform piecemeal work on one section or system of a school facility;

(c) Modernize a facility or any section thereof which has been constructed within the previous twenty years;

(d) Modernize a facility or any section thereof which has received state assistance under the authority of this chapter within the previous twenty years;

(e) To modernize a senior high school facility in a district with a senior high school where there is existing space available to serve the students involved or affected in a neighboring senior high school without, in the judgment of the state board of education, an undue increase in the cost of transporting the students to and from school, decrease in educational opportunity, or proportional increase in the cost of instruction pursuant to chapter 180-25 WAC.

(4) School facilities accepted by the school district board of directors after January 1, 1993, shall be ineligible for state assistance for modernization of the facility or any section thereof where:

(a) The facility was constructed and occupied within the previous thirty years;

(b) The facility received state assistance under the authority of this chapter within the previous thirty years.

WSR 05-19-113
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed September 20, 2005, 3:51 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 246-889-070, 246-889-075, 246-889-080, 246-889-085, 246-889-090, 246-889-095, 246-889-100, 246-889-105, and 246-889-110, retail transaction logs for ephedrine, pseudoephedrine, and phenylpropanolamine products. Precursor substance control. The proposed rule sets the standards for recording retail transactions (sales) of ephedrine, pseudoephedrine, and phenylpropanolamine products.

Hearing Location(s): Department of Health, Point Plaza East, Room 152, 310 Israel Road S.E., Tumwater, WA 98501, on November 2, 2005, at 9:00 a.m.

Date of Intended Adoption: November 2, 2005.

Submit Written Comments to: Lisa Salmi, Department of Health, P.O. Box 47863, Olympia, WA 98504-7863, e-mail www3.doh.wa.gov/policyreview/default.asp, fax (360) 586-4359, by October 20, 2005.

Assistance for Persons with Disabilities: Contact Lisa Salmi by October 15, 2005, TTY (800) 833-6388 or (711) for relay.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule will add new sections to chapter 246-889 WAC, Precursor substance control. The proposed rule is intended to protect the health and welfare of persons in Washington state by eliminating or reducing methamphetamine labs in Washington state. The proposed rule requires retailers to record the transaction or sale of ephedrine, pseudoephedrine, and phenylpropanolamine products. It is expected that the recording of the sale of these products in transaction log will deter the illegal purchases of products used to manufacture methamphetamine.

Reasons Supporting Proposal: ESHB 2266 directs the Board of Pharmacy to adopt rules to set standards for the collection and maintenance of logs to record the retail transactions of ephedrine, pseudoephedrine, and phenylpropanolamine products.

Statutory Authority for Adoption: Chapter 69.43 RCW, RCW 18.64.005.

Statute Being Implemented: Chapter 69.43 RCW, chapter 388, Laws of 2005.

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

Name of Proponent: Washington State Department of Health, Board of Pharmacy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steven M. Saxe, 310 Israel Road S.E., P.O. Box 47863, Olympia, WA 98504-7863, (360) 236-4825.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 the agency is not required to complete an analysis if the rule is adopted under RCW 34.05.310(4). Consistent with RCW 34.05.310 (4)(c), this rule adopts, without material change, Washington state statute.

A cost-benefit analysis is not required under RCW 34.05.328. A cost benefit analysis is not required under RCW 34.05.328 (5)(b)(iii), because the rule adopts without material change, Washington state statute.

September 7, 2005
Steven Saxe
Executive Director

NEW SECTION

WAC 246-889-070 Retail sales logs for ephedrine, pseudoephedrine, and phenylpropanolamine products. Purpose.

The legislature has recognized that restricting access to ephedrine, pseudoephedrine, and phenylpropanolamine products, or their salts or isomers, is a valid method to reduce the availability of these products for the illegal manufacture of methamphetamine. To reduce the illegal use of these products in the manufacture of methamphetamine, while continuing access for legitimate medical purposes, the legislature directed the board to adopt rules for the recording of retail sales involving ephedrine, pseudoephedrine or phenylpropanolamine products. The record of sales must be collected and maintained in a written or electronic log or other alternative means. Data from this log will be used to determine if the log is an effective law enforcement tool and if the information received is an effective deterrent to criminal activity. The following rules describe the requirements for the transaction logs.

NEW SECTION

WAC 246-889-075 Definitions. (1) "Ephedrine, pseudoephedrine, and phenylpropanolamine products" means any product containing any detectable quantity of ephedrine, pseudoephedrine or phenylpropanolamine.

(2) "Retailer" means a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in chapter 69.43 RCW.

(3) "Sale" means the sale, transfer, or otherwise furnishing of any ephedrine, pseudoephedrine, or phenylpropanolamine product to any person.

(4) "Law enforcement" means any general or limited authority Washington peace officer.

NEW SECTION

WAC 246-889-080 Records of sale. You must keep a record of a sale except when:

(1) The sale of any product containing ephedrine, pseudoephedrine or phenylpropanolamine that is in liquid, liquid capsule, or in a gel capsule form and is combined with another active ingredient.

(2) The sale of any ephedrine, pseudoephedrine or phenylpropanolamine product that is sold via a prescription written by an authorized practitioner.

(3) The sale of any ephedrine, pseudoephedrine, or phenylpropanolamine product is recorded in a pharmacy profile and the profile is maintained by the pharmacy. The profile must be the individualized record for the purchaser, containing identifying information, including, but not limited to, name, address, date of purchase, purchaser's date of birth, and product description.

NEW SECTION

WAC 246-889-085 Requirements for the sale of an ephedrine, pseudoephedrine, or phenylpropanolamine product. A retailer must:

(1) Review the purchaser's photo identification. The photo identification must include the date of birth of the purchaser. The purchaser must be eighteen years of age or older.

(2) Record the information detailed in WAC 246-889-095 for the record of transaction.

NEW SECTION

WAC 246-889-090 Acceptable forms of photo identification. To be an acceptable form of identification, the identification must be issued by a government agency and include the person's photograph, date of birth, and signature. The following are acceptable forms of identification:

(1) A driver's license or instruction permit issued by any U.S. state or province of Canada. If the customer's driver's license has expired, he/she must also show a valid temporary driver's license with the expired card.

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

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

(4) A state liquor control identification card. An official age identification card issued by the liquor control authority of any U.S. state or Canadian province.

(5) A state identification card issued by any U.S. state or province of Canada.

(6) An official passport issued by any nation.

NEW SECTION

WAC 246-889-095 Record of sale. Information required. The retailer must record:

(1) Date of purchase;

(2) Name of the purchaser;

(3) Date of birth of the purchaser;

(4) Address of purchaser;

(5) Signature of the purchaser;

(6) Type of identification, agency issuing the identification, and the identification number if applicable; and

(7) Number of packages and the number of tablets per package.

NEW SECTION

WAC 246-889-100 Methods for collecting, recording, and storing records of sales data. Sales records must be maintained on a written or electronic log and must be readily retrievable and contain all information required in WAC 246-889-095. Methods other than electronic or written must be approved in advance by the board of pharmacy and must contain all the information required for a written or electronic log and be retained for the same period of time as a written or electronic log.

NEW SECTION

WAC 246-889-105 Record retention and destruction. The retailer must maintain transaction records for two years. Sales records may be destroyed after the retention period of two years. When records are destroyed, the records must be destroyed in a manner that leaves the record unidentifiable and nonretrievable.

NEW SECTION

WAC 246-889-110 Access to retail records of sales. Records of sales are confidential and are only open to inspection by the board of pharmacy and law enforcement agencies. The retailer does not have to transmit records to law enforcement or the board of pharmacy. Law enforcement and/or the board of pharmacy will request and obtain records if they are needed. Retailers shall also produce the records in a court whenever lawfully required to do so.

WSR 05-19-126
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Health and Recovery Administration)

[Filed September 20, 2005, 4:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-23-101.

Title of Rule and Other Identifying Information: WAC 388-475-0550 SSI-related medical—All other excluded resources, 388-475-0700 SSI-related medical—Income eligibility, 388-475-0800 SSI-related medical—General income exclusions, 388-475-0820 SSI-related medical—Child-related income, and 388-475-0860 SSI-related medical—Income exclusions under federal statue or other state laws.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on October 25, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 26, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. October 25, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by October 21,

2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing these revisions to increase the exemption period for certain payments and resources from six months to nine months; increase the amount of income that cannot be reasonably anticipated and therefore is exempt; and delete several maximum amounts for child related income exclusions due to a change in federal law.

Reasons Supporting Proposal: The state must adopt rules to comply with federal Medicaid law (Public Law 108-203, Subtitle D, Sections 430, 431, and 435) in order to continue receiving federal funding. Amending these rules will enable the department to continue receiving federal funding for Washington's Medicaid programs.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Statute Being Implemented: Public Law 108-203, Subtitle D, Sections 430, 431, and 435.

Rule is necessary because of federal law, Public Law 108-203, Subtitle D, Sections 430, 431, and 435.

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1343.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not affect small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. This revision is exempt from the provisions of RCW 34.05.328 per RCW 34.05.328 (5)(b)(vii) regarding rules related to DSHS financial or medical eligibility.

September 15, 2005
Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-09-004, filed 4/7/04, effective 6/1/04)

WAC 388-475-0550 SSI-related medical—All other excluded resources. All resources described in this section are excluded resources for SSI-related medical programs. Unless otherwise stated, interest earned on the resource amount is counted as unearned income.

(1) Resources necessary for a client who is blind or disabled to fulfill a department approved self-sufficiency plan.

(2) Retroactive payments from SSI or RSDI, including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, are excluded for ((~~six~~)) nine months following the month of receipt. This exclusion applies to:

(a) Payments received by the client, spouse, or any other person financially responsible for the client;

(b) SSI payments for benefits due for the month(s) before the month of continuing payment;

(c) RSDI payments for benefits due for a month that is two or more months before the month of continuing payment; and

(d) Proceeds from these payments as long as they are held as cash, or in a checking or savings account. The funds may be commingled with other funds, but must remain identifiable from the other funds for this exclusion to apply. This exclusion does not apply once the payments have been converted to any other type of resource.

(3) All resources specifically excluded by federal law, such as those described in subsections (4) through (11) as long as such funds are identifiable.

(4) Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(5) Payments made to Native Americans as listed in 20 CFR 416.1182, Appendix to subpart K, section IV, paragraphs (b) and (c), and in 20 CFR 416.1236.

(6) The following Native American/Alaska Native funds are excluded resources:

(a) Resources received from a Native Corporation under the Alaska Native Claims Settlement Act, including:

(i) Shares of stock held in a regional or village corporation;

(ii) Cash or dividends on stock received from the Native Corporation up to two thousand dollars per person per year;

(iii) Stock issued by a native corporation as a dividend or distribution on stock;

(iv) A partnership interest;

(v) Land or an interest in land; and

(vi) An interest in a settlement trust.

(b) All funds contained in a restricted Individual Indian Money (IIM) account.

(7) Restitution payment and any interest earned from this payment to persons of Japanese or Aleut ancestry who were relocated and interned during war time under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act.

(8) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims.

(9) Payments or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(10) Payments from:

(a) The Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV).

(b) The Victims of Nazi Persecution Act of 1994 to survivors of the Holocaust.

(c) Susan Walker vs. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds.

(d) Ricky Rey Hemophilia Relief Fund Act of 1998 P.L. 105-369.

(11) The unspent social insurance payments received due to wage credits granted under sections 500 through 506 of the Austrian General Social Insurance Act.

(12) Earned income tax credit refunds and payments are excluded as resources ((~~during the month of receipt and the following month~~)) for nine months after the month of receipt.

(13) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt.

(14) Cash or in-kind items received as a settlement for the purpose of repairing or replacing a specific excluded resource are excluded:

(a) For nine months. This includes relocation assistance provided by state or local government.

(b) Up to a maximum of thirty months, when:

(i) The client intends to repair or replace the excluded resource; and

(ii) Circumstances beyond the control of the settlement recipient prevented the repair or replacement of the excluded resource within the first or second nine months of receipt of the settlement.

(c) For an indefinite period, if the settlement is from federal relocation assistance.

(d) Permanently, if the settlement is assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States, or is comparable assistance received from a State or local government or from a disaster assistance organization. Interest earned on this assistance is also excluded from resources. Any cash or in-kind items received as a settlement and excluded under this subsection are considered as available resources when not used within the allowable time periods.

(15) Insurance proceeds or other assets recovered by a Holocaust survivor as defined in WAC 388-470-0026(4).

(16) Pension funds owned by an ineligible spouse. Pension funds are defined as funds held in a(n):

(a) Individual retirement account (IRA) as described by the IRS code; or

(b) Work-related pension plan (including plans for self-employed individuals, known as Keogh plans).

(17) Cash payments received from a medical or social service agency to pay for medical or social services are excluded for one calendar month following the month of receipt.

(18) SSA- or DVR-approved plans for achieving self-support (PASS) accounts, allowing blind or disabled individuals to set aside resources necessary for the achievement of the plan's goals, are excluded.

(19) Food and nutrition programs with federal involvement. This includes Washington Basic Food, school reduced and free meals and milk programs and WIC.

(20) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that Code, as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

((~~(22)~~)) (21) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children.

((~~(23)~~)) (22) The following are among assets that are not considered resources and as such are neither excluded nor counted:

(a) Home energy assistance/support and maintenance assistance;

(b) Retroactive in-home supportive services payments to ineligible spouses and parents; and

(c) Gifts of domestic travel tickets. For a more complete list please see POMS@http://policy.ssa.gov/poms.nsf/lnx/0501130050.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 04-09-004, filed 4/7/04, effective 6/1/04)

WAC 388-475-0700 SSI-related medical—Income eligibility. (1) In order to be eligible, a client is required do everything necessary to obtain any income to which they are entitled including (but not limited to):

(a) Annuities,

(b) Pensions,

(c) Unemployment compensation,

(d) Retirement, and

(e) Disability benefits; even if their receipt makes the client ineligible for department services, unless the client can provide evidence showing good reason for not obtaining the benefits.

The department does not count this income until the client begins to receive it.

(2) Income is budgeted prospectively for all medical programs.

(3) Anticipated nonrecurring lump sum payments other than retroactive SSI/SSDI payments are considered income in the month received, subject to reporting requirements in WAC 388-418-0007(4). Any unspent portion is considered a resource the first of the following month.

(4) The department follows income and resource methodologies of the Supplemental Security Income (SSI) program defined in federal law when determining eligibility for SSI-related medical or Medicare Savings programs unless the department adopts rules that are less restrictive than those of the SSI program.

(5) Exceptions to the SSI income methodology:

(a) Lump sum payments from a retroactive SSDI benefit, when reduced by the amount of SSI received during the period covered by the payment, are not counted as income;

(b) Unspent retroactive lump sum money from SSI or SSDI is excluded as a resource for ((~~six~~)) nine months following receipt of the lump sum; and

(c) Both the principal and interest portions of payments from a sales contract, that meet the definition in WAC 388-475-0350(10), are unearned income.

(6) To be eligible for categorically needy (CN) SSI-related medical coverage, a client's countable income cannot exceed the CN program standard described in:

(a) WAC 388-478-0065 through 388-478-0085 for noninstitutional medical unless living in an alternate living facility; or

(b) WAC 388-513-1305(2) for noninstitutional CN benefits while living in an alternate living facility; or

(c) WAC 388-513-1315 for institutional and waiver services medical benefits.

(7) To be eligible for SSI-related medical coverage provided under the medically needy (MN) program, a client must:

(a) Have countable income at or below the MN program standard as described in WAC 388-478-0070; or

(b) Satisfy spenddown requirements described in WAC 388-519-0110((~~, or~~)); or

(c) Meet the requirements for noninstitutional MN benefits while living in an alternate living facility (ALF). See WAC 388-513-1305(3) ((~~and 388-515-1540~~)) ; or

(d) Meet eligibility for the MN residential waiver program. See WAC 388-515-1540.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 04-09-005, filed 4/7/04, effective 6/1/04)

WAC 388-475-0800 SSI-related medical—General income exclusions. The department excludes, or does not consider, the following when determining a client's eligibility for SSI-related medical programs:

(1) The first twenty dollars per month of unearned income. If there is less than twenty dollars of unearned income in a month, the remainder is excluded from earned income in that month.

(a) The twenty-dollar limit is the same, whether applying it for a couple or for a single person.

(b) The disregard does not apply to income paid totally or partially by the federal government or a nongovernmental agency on the basis of an eligible person's needs.

(c) The twenty dollars disregard is applied after all exclusions have been taken from income.

(2) Income that is not reasonably anticipated or is received infrequently or irregularly, whether for a single person or each person in a couple when it is:

(a) Earned and does not exceed a total of ((~~ten~~)) thirty dollars per ((~~month~~)) calendar quarter; or

(b) Unearned and does not exceed a total of ((~~twenty~~)) sixty dollars per ((~~month~~)) calendar quarter;

(c) Increases in a client's burial funds that were established on or after November 1, 1982 if the increases are the result of:

(i) Interest earned on excluded burial funds; or

(ii) Appreciation in the value of an excluded burial arrangement that was left to accumulate and become part of separately identified burial funds.

(3) Essential expenses necessary for a client to receive compensation (e.g., necessary legal fees in order to get a settlement);

(4) Receipts, which are not considered income, when they are for:

(a) Replacement or repair of an exempt resource;

(b) Prepayment or repayment of medical care paid by a health insurance policy or medical service program; or

(c) Payments made under a credit life or credit disability policy.

(5) The fee a guardian or representative payee charges as reimbursement for providing services, when such services are a requirement for the client to receive payment of the income.

(6) Funds representing shared household costs.

(7) Crime victim's compensation.

(8) The value of a common transportation ticket, given as a gift, that is used for transportation and not converted to cash.

(9) Gifts that are not for food, clothing or shelter, and gifts of home produce used for personal consumption.

(10) The department does not consider in-kind income received from someone other than a person legally responsible for the individual unless it is earned. Therefore, the following in-kind payments are not counted when determining eligibility for SSI-related medical programs.

(a) In-kind payments for services paid by a client's employer if:

(i) The service is not provided in the course of an employer's trade or business; or

(ii) It is in the form of food and/or shelter that is:

(A) On the employer's business premises;

(B) For the employer's convenience; and

(C) If shelter, acceptance by the employee is a condition of employment.

(b) In-kind payments made to people in the following categories:

(i) Agricultural employees;

(ii) Domestic employees;

(iii) Members of the Uniformed Services;

(iv) Persons who work from home to produce specific products for the employer from materials supplied by the employer.

AMENDATORY SECTION (Amending WSR 04-09-005, filed 4/7/04, effective 6/1/04)

WAC 388-475-0820 SSI-related medical—Child-related income exclusions. (1) The department excludes an allowance from a person's earned and/or unearned income for a child living in the home when:

(a) The minor child lives with an SSI-related parent; and

(b) The minor child is not receiving a needs-based cash payment such as TANF or SSI; and

(c) The SSI-related parent is single; or

(d) The SSI-related parent lives with a spouse who has no income; and

(e) The individual applying for or receiving SSI-related medical benefits is the adult parent. The maximum allowance is one-half the Federal Benefit Rate (FBR) for each child. The child's countable income, if any, is subtracted from the maximum child's allowance((~~. One third of the child support received for the child is excluded from the child's income~~)) before determining this allowance.

(2) Foster care payments received for a child who is not SSI-eligible and who is living in the household, placed there by a licensed, nonprofit or public child placement or child-care agency are excluded from income regardless of whether the person requesting or receiving SSI-related medical is the adult foster parent or the child who was placed.

(3) Adoption support payments, received by an adult for a child in the household that are designated for the child's

needs, are excluded as income. Adoption support payments that are not specifically designated for the child's needs are not excluded and are considered unearned income to the adult.

(4) ((~~Up to one thousand three hundred seventy dollars per month of a child's~~)) Earned income((~~, but not more than five thousand five hundred twenty dollars per year,~~)) of a person under age twenty-two is excluded if ((~~the child~~)) that person is a student.

(5) Child support payments received from an absent parent for a child living in the home are considered the income of the child.

(6) One-third of child support payments received for a child are excluded from the child's income.

(7) Any portion of a grant, scholarship, ((~~or~~)) fellowship, or gift used ((~~to pay~~)) for tuition, fees and/or other necessary educational expenses at any educational institution is excluded from income for nine months after the month of receipt.

(((~~(7)~~))) (8) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that Code, is excluded as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

(((~~(8)~~))) (9) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children are excluded from income.

(((~~(9)~~))) (10) Unless it is specifically contributed to the client, all earned income of an ineligible or nonapplying person under the age of twenty-one who is a student:

(a) Attending a school, college, or university; or

(b) Pursuing a vocational or technical training program designed to prepare the student for gainful employment.

AMENDATORY SECTION (Amending 04-09-005, filed 4/7/04, effective 6/1/04)

WAC 388-475-0860 SSI-related medical—Income exclusions under federal statute or other state laws. The Social Security Act and other federal statutes or state laws list income that the department excludes when determining eligibility for SSI-related medical programs. These exclusions include, but are not limited to:

(1) Income tax refunds;

(2) Federal earned income tax credit (EITC) payments for nine months after the month of receipt;

(3) Compensation provided to volunteers in the Corporation for National and Community Service (CNCS), formerly known as ACTION programs established by the Domestic Volunteer Service Act of 1973. P.L. 93-113;

(4) Assistance to a person (other than wages or salaries) under the Older Americans Act of 1965, as amended by section 102 (h)(1) of Pub. L. 95-478 (92 Stat. 1515, 42 U.S.C. 3020a);

(5) Federal, state and local government payments including assistance provided in cash or in-kind under any government program that provides medical or social services;

(6) Certain cash or in-kind payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(7) Value of food provided through a federal or nonprofit food program such as WIC, donated food program, school lunch program;

(8) Assistance based on need, including:

(a) Any federal SSI income or state supplement payment (SSP) based on financial need;

(b) Food stamps;

(c) GA-U;

(d) CEAP;

(e) TANF; and

(f) Bureau of Indian Affairs (BIA) general assistance.

(9) Housing assistance from a federal program such as HUD if paid under:

(a) United States Housing Act of 1937 (section 1437 et seq. of 42 U.S.C.);

(b) National Housing Act (section 1701 et seq. of 12 U.S.C.);

(c) Section 101 of the Housing and Urban Development Act of 1965 (section 1701s of 12 U.S.C., section 1451 of 42 U.S.C.);

(d) Title V of the Housing Act of 1949 (section 1471 et seq. of 42 U.S.C.); or

(e) Section 202(h) of the Housing Act of 1959;

(f) Weatherization provided to low-income homeowners by programs that consider income in the eligibility determinations;

(10) Energy assistance payments including:

(a) Those to prevent fuel cutoffs, and

(b) To promote energy efficiency.

(11) Income from employment and training programs as specified in WAC 388-450-0045.

(12) Foster Grandparents program;

(13) Title IV-E and state foster care maintenance payments if the foster child is not included in the assistance unit;

(14) The value of any childcare provided or arranged (or any payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act, as amended by section 8(b) of P.L. 102-586 (106 Stat. 5035).

(15) Educational assistance as specified in WAC 388-450-0035.

(16) Up to two thousand dollars per year derived from an individual's interest in Indian trust or restricted land.

(17) Native American benefits and payments as specified in WAC 388-450-0040 and other Native American payments excluded by federal statute. For a complete list of these payments, see 20 CFR 416, Subpart K, Appendix, IV.

(18) Payments from Susan Walker v. Bayer Corporation, et al., 96-c-5024 (N.D. Ill) (May 8, 1997) settlement funds;

(19) Payments from Ricky Ray Hemophilia Relief Fund Act of 1998, P.L. 105-369;

(20) Disaster assistance paid under Federal Disaster Relief P.L. 100-387 and Emergency Assistance Act, P.L. 93-288 amended by P.L. 100-707 and for farmers P.L. 100-387;

(21) Payments to certain survivors of the Holocaust as victims of Nazi persecution; payments excluded pursuant to section 1(a) of the Victims of Nazi Persecution Act of 1994, P.L. 103-286 (108 Stat. 1450);

(22) Payments made under section 500 through 506 of the Austrian General Social Insurance Act;

(23) Payments made under the Netherlands' Act on Benefits for Victims of Persecution (WUV);

(24) Restitution payments and interest earned to Japanese Americans or their survivors, and Aleuts interned during World War II, established by P.L. 100-383;

(25) Payments made from the Agent Orange Settlement Funds or any other funds to settle Agent Orange liability claims established by P.L. 101-201;

(26) Payments made under section six of the Radiation Exposure Compensation Act established by P.L. 101-426;

(27) Any interest earned from payments described in subsections (1) through (26) is counted as unearned income, unless otherwise excluded by law.

WSR 05-19-127
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed September 20, 2005, 4:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-073.

Title of Rule and Other Identifying Information: Adopting new WAC 388-106-1000 through 388-106-1055, private duty nursing; and repealing WAC 388-71-0900 through 388-71-0965, private duty nursing.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at http://www1.dshs.wa.gov/msa/rpau/docket.html or by calling (360) 664-6097), on October 25, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 26, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. October 25, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by October 21, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rules are necessary to clarify the definitions for nursing services, to define the scope of services to be authorized, and to describe the necessity for documentation to support the required services.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.520, 42 C.F.R. 440.80.

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

Name of Proponent: Department of Social and Health Services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Doris Barret, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2553.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and determined that no new costs will be imposed on small businesses or nonprofit organizations.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tiffany Sevruk, Home and Community Services Division, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, e-mail sevruta@dshs.wa.gov.

September 15, 2005
Andy Fernando, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-106-1000 What is the intent of WAC 388-106-1000 through WAC 388-106-1055? The intent of WAC 388-106-1000 through WAC 388-106-1055 is to:

(1) Describe the eligibility requirements under which an adult age eighteen or older may receive Private Duty Nursing (PDN) services through the Department's Aging and Disability Services Administration (ADSA);

(2) Provide assistance to clients and enable families to support clients in their own homes; and

(3) Describe the requirements clients and their families, home health agencies, and privately contracted registered nurses (RNs) and licensed practical nurses (LPNs) must meet in order for services to be authorized for PDN.

NEW SECTION

WAC 388-106-1005 What services may I receive under private duty nursing (PDN)? PDN is a program that provides skilled nursing care if you have complex medical needs that cannot be met through other services. PDN is an alternative to institutional care and is the program of last resorts. If you are eligible, you may receive at least four continuous hours of skilled nursing care on a daily basis through the Private Duty Nursing (PDN) program.

NEW SECTION

WAC 388-106-1010 Am I eligible for Medicaid-funded private duty nursing services? In order to be eligible for Medicaid-funded PDN, you must:

(1) Be financially eligible, which means you:

(a) Meet Medicaid requirements under the Categorically Needy program or the Medically Needy Program (MNP).

(b) Use private insurance as first payer, as required by Medicaid rules. Private insurance benefits, which cover hospitalization and in-home services, must be ruled out as the first payment source to PDN.

(2) Be medically eligible, which means an ADSA Department's Community Nurse Consultant (CNC) or DSHS's Division of Disabilities Services' (DDS) Nursing Care Consultant (NCC) must assess you using the CARE assessment and the PDN skilled nursing task log for initial eligibility determination and thereafter every six months, and determine that you:

(a) Require care in a hospital or meet nursing facility level of care, as defined in WAC 388-106-0310; and

(b) Have unmet skilled nursing needs that cannot be met in a less costly program or less restrictive environment; and

(c) Are not able to have your care tasks provided through nurse delegation, WAC 388-101-2400 COPES skilled nursing, WAC 388-515-1505 or self-directed care RCW 74.39.-050; and

(d) Have a complex medical need that requires four or more hours of continuous skilled nursing care which can be safely provided outside a hospital or nursing facility; and

(e) Require skilled nursing care that is medically necessary, per WAC 388-500-0005; and

(f) Be able to supervise your care (provider) or have a guardian who is authorized to supervise your care; and

(g) Have family or other appropriate informal support who is responsible for assuming a portion of your care; and

(h) Have your primary care physician document your medical stability and appropriateness for PDN and:

(i) Provide orders for medical services; and

(ii) Document approval of the service provider's PDN plan of care.

(i) Do not have other resources or means for obtaining this service; and

(j) Are dependant upon technology every day, with at least one of the following skilled care needs:

(i) You need mechanical ventilation, and the use of a mechanical device to fill the lungs with oxygenated air and then allow time for passive exhalation; and

(ii) You need complex respiratory support, which means that:

(A) You require two of the following treatment needs at least one time in a four continuous hour period:

(I) Postural drainage and chest percussion; or

(II) Application of respiratory vests; or

(III) Nebulizer treatments with or without medications; or

(IV) Intermittent Positive Pressure Breathing; or

(V) O2 saturation measurement with treatment decisions dependent on the results; and

(B) Your treatment needs be assessed and provided by an RN or LPN; and

(C) Your treatment needs cannot be nurse delegated or self-directed;

(iii) You need tracheostomy care, and care requires sterile suctioning at least one time in a four continuous hour period;

(iv) You need intravenous/parenteral administration of multiple medications, and care is occuring on a continuing or frequent basis such that skilled nursing care is required for a four hour period or more; or

(v) You need intravenous administration of nutritional substances, and care is occuring on a continuing or frequent basis such that skilled nursing care is required for a four hour period or more.

NEW SECTION

WAC 388-106-1020 How do I pay for my PDN services? You are not required to pay participation for PDN services, but the cost of services is subject to estate recovery, under chapter 388-527 WAC. If you are also receiving other services (e.g. COPES), you may be responsible for paying participation as required under WAC 388-515-1505, WAC 388-515-1540, or WAC 388-515-1550. Your financial worker will inform you about your participation requirements for those services.

NEW SECTION

WAC 388-106-1025 Who can provide my PDN services? In addition to a family member(s) or an Individual Provider providing self-directed care under RCW 74.39.050 or an Individual Provider or Home Care Agency caregiver providing Nurse Delegation per WAC 388-101-2400:

(1) A home health agency licensed by the Washington State Department of Health can provide your PDN services as long as it also has a PDN contract with DSHS's Aging and Disability Services Administration.

(2) If a home health agency described in subsection (1) is not willing to provide your PDN services, or is not available due to your geographic location, an ADSA private registered nurse (RN) or licensed practical nurse (LPN) who meets the requirements of WAC 388-106-1040 may be able to provide your PDN services.

NEW SECTION

WAC 388-106-1030 Are there limitations or other requirements for PDN? The limits to PDN services are:

(1) Your PDN services can be authorized for four to sixteen hours per day, except as noted in WAC 388-106-1045(4). This authorization is based on a combination of skilled nursing tasks identified in CARE, the department designated PDN Skilled Nursing Task Log, and detailed information provided to CNC or NCC. The CNC or NCC determines initial eligibility for PDN, up to a maximum of sixteen hours per day. After the initial determination of eligibility is made by the CNC or NCC, the PDN Skilled Nursing Task Log will be initiated and completed by the agency or private nurse(s) for fourteen days and submitted to the CNC or NCC for review. At the end of the fourteen-day review period, a final determination will be made on the number of PDN hours required to meet your care needs. PDN skilled task logs will also be completed for fourteen days prior to the six-month reassessment for review by the CNC or NCC to determine ongoing eligibility and required PDN hours.

(2) Trained family members must provide for any hours above your assessment determination, or you or your family must pay for these additional hours.

(3) In instances where your family is temporarily absent due to vacations, additional PDN hours must be:

(a) Paid for by you or your family; or

(b) Provided by other trained family members. If this is not possible, you may need placement in a long-term care facility during their absence.

(4) You may use respite care if you and your unpaid family caregiver meet the eligibility criteria defined in WAC 388-106-1210.

(5) You may receive additional hours, up to thirty days only when:

(a) Your family is being trained in care and procedures;

(b) You have an acute episode that would otherwise require hospitalization;

(c) Your caregiver is ill or temporarily unable to provide care; or

(d) There is a family emergency.

NEW SECTION

WAC 388-106-1035 What requirements must a home health agency meet in order to provide and get paid for my PDN? A home health agency must:

(1) Be licensed by the Washington State Department of Health and have a contract to provide Private Duty Nursing Services with Aging and Disability Services Administration;

(2) Operate under physician orders;

(3) Develop and follow a detailed service plan that is reviewed and signed at least every six months by the client's physician;

(4) Initiate and complete the PDN skilled Nursing Task Log for fourteen days and submitted to the CNC or NCC for review for initial eligibility determination and fourteen days prior to the six-month reassessments;

(5) Meet all documentation requirement required by DOH In-home licensing, WAC 246-335-055, WAC 246-335-080, and WAC 246-335-110; and

(6) Submit timely and accurate invoices to the Social Services Payment System (SSPS).

NEW SECTION

WAC 388-106-1040 What requirements must a private duty RN, or LPN under the supervision of an RN, meet in order to provide and get paid for my PDN services? In order to be paid by the department, a private RN under the supervision of a physician, or LPN under the supervision of an RN, must:

(1) Have a license in good standing, per RCW 18.79.030 (1)(3);

(2) Complete a PDN contract with ADSA;

(3) Provide services according to the plan of care under the supervision/direction of a physician;

(4) Complete a background inquiry application. This will require fingerprinting if the RN or LPN has lived in the state of Washington less than three years;

(5) Have no conviction for a disqualifying crime, as stated in RCW 43.43.830 and 43.43.842 and WAC 388-71-0500 through WAC 388-71-05640 series;

(6) Have no stipulated finding of fact and conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state registry with a finding of abuse, neglect, abandonment or exploitation of a minor or vulnerable adult;

(7) Meet provider requirements under WAC 388-71-0510, WAC 388-71-0515, WAC 388-71-0540, WAC 388-71-0551, and WAC 388-71-0556;

(8) Complete time sheets monthly;

(9) Complete documentation regarding all PDN services provided per the plan of care as required in WAC 388-502-0020 and WAC 246-840-700;

(10) The PDN skilled Nursing Task Log must be initiated and completed by the licensed nurse for fourteen days and submitted to the CNC or NCC for review for initial eligibility determination and fourteen days prior to the six-month reassessment determination. The licensed nurse is responsible to submit these logs to the NCC or CNC when they are completed; and

(11) Submit timely and accurate invoices to SSPS.

NEW SECTION

WAC 388-106-1045 Can I receive PDN services in a licensed adult family home (AFH)? You may be eligible to receive PDN services if you are residing in an Adult Family Home (AFH) if the AFH provider (owner and operator) meets the following requirements:

(1) Possesses current Washington State Registered Nurse license in good standing;

(2) Signs a contract amendment with ADSA in which the provider agrees to ensure provision of twenty-four-hour personal care and nursing care services. Nursing care service will be provided in accordance with chapter 18.79 RCW;

(3) Provides your PDN service through an RN, or LPN under the supervision of an RN. PND services are based on the CARE assessment, the department designated PDN skilled task log, and other documentation which determines eligibility and the number of PDN hours to be authorized;

(4) Provides the PDN services to you. Your service plan may be authorized for four to eight hours per day and cannot exceed a maximum of eight PDN care hours per day based on the CARE assessment, the department designated PDN skilled task log, and other documentation;

(5) Have a nursing service plan prescribed by your primary physician. The physician is responsible for:

(a) Overseeing your plan of care, which must be updated at least every six months;

(b) Monitoring client's medical stability; and

(6) Document the services provided per the plan of care and the department designated PDN Skilled Task Log at initial eligibility determination and fourteen days prior to the six-month re-assessment determination and other documentation; and

(7) Keep records in accordance with AFH licensing and contract requirements.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-106-1050 May I receive other long-term care services in addition to PDN? (1) In addition to PDN services, you may be eligible to receive care through Community Options Program Entry System (COPES), Medically Needy Residential Waiver (MNRW), Medically-Needy In-home Waiver (MNIW), or Medicaid Personal Care (MPC), for unmet personal needs not performed by your family/informal support system.

(2) If you receive personal care services in addition to PDN services, you cannot receive your personal care and household tasks from an individual provider, personal aide, or home care agency provider at the same time that your PDN provider is providing your care. The agency or privately contracted nurse is responsible for providing personal care and/or household tasks that occur during the time that they are providing your PDN services, unless you have an information support that is providing or assisting you at the same time.

NEW SECTION

WAC 388-106-1055 Can I choose to self-direct my care if I receive PDN services? You may choose to self-direct part of your health-related tasks to an individual provider, as outlined in RCW 74.39.050. You may also still receive PDN services, if you meet the PDN eligibility requirements.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-71-0900	What is the intent of WAC 388-71-0900 through 388-71-0960?
WAC 388-71-0905	What is private duty nursing (PDN) for adults?
WAC 388-71-0910	Am I financially eligible for Medicaid-funded private duty nursing services?
WAC 388-71-0915	Am I medically eligible to receive private duty nursing services?
WAC 388-71-0920	How is my eligibility determined?
WAC 388-71-0925	Am I required to pay participation toward PDN services?
WAC 388-71-0930	Are PDN costs subject to estate recovery?
WAC 388-71-0935	Who can provide my PDN services?
WAC 388-71-0940	Are there limitations or other requirements for PDN?
WAC 388-71-0945	What requirements must a home health agency meet in order to provide and get paid for my PDN?
WAC 388-71-0950	What requirements must a private RN or LPN meet in order to provide and get paid for my PDN services?
WAC 388-71-0955	Can I receive PDN in a licensed adult family home (AFH)?
WAC 388-71-0960	Can I receive services in addition to PDN?
WAC 388-71-0965	Can I choose to self-direct my care if I receive PDN?

WSR 05-19-130
PROPOSED RULES
GAMBLING COMMISSION
[Filed September 20, 2005, 4:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-162.

Title of Rule and Other Identifying Information: WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (509) 248-8220, on November 18, 2005, at 9:30 a.m.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2005.

Assistance for Persons with Disabilities: Contact Shirley Corbett by November 1, 2005, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule change was proposed by John Mitchell of the Drift On Inn Casino. Currently, card rooms can collect up to $1 per hand or game for each player-supported jackpot (PSJ) using the rake method of collection. The petitioner is requesting the rake be increased from $1 to $2. This could potentially double PSJ prizes available to players. Mr. Mitchell states the reason for the increase is to be able to develop promotions to ensure strong guest relations and a continued growth of his player base.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule does not impose more than minor, if any, costs to businesses and no disproportionate impact to small businesses has been identified.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Gambling Commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

September 19, 2005
Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 439, filed 11/24/04, effective 1/1/05)

WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval. A player-supported jackpot (PSJ) is a separate contest of chance directly related to the play and/or outcome of authorized nonhouse-banked card games but which is not the card game itself. Card rooms with a Class F or house-banked license may establish a prize fund for the purpose of operating a PSJ for nonhouse-banked card games. Any PSJ must be approved in writing by the director or the director's designee prior to play. A PSJ must meet the following requirements:

Funding a PSJ.

(1) A licensee may provide house funds to establish a PSJ. The licensee shall issue a check from the general business account into the PSJ account to start the prize fund. Recouping of start up funds shall be done by issuing a check from the PSJ account to the business general account. Electronic bank transfers shall satisfy this requirement. Start up funds shall not exceed five thousand dollars per PSJ.

Using a rake to fund a PSJ.

(2) A licensee may assess a portion of players' wagers for a jackpot prize. Such amount shall not exceed ((~~one~~)) two dollars per hand or game for each PSJ. This assessment shall be separately collected using the rake method.

PSJ funds are player funds - exception from administrative fee.

(3) The licensee acts only as the custodian of the PSJ funds, including any interest earned on this money, and maintains no legal right to the funds. All PSJ funds shall be awarded as prizes, based upon a format approved by commission staff. An administrative fee not to exceed ten percent of the amount collected for a PSJ may be imposed by the licensee. This administrative fee includes all expenses incurred by the licensee, including banking fees. No other expenses beyond the ten percent administrative fee shall be deducted from the PSJ account.

Prize fund custodian.

(4) Each licensee shall designate at least one "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer. The custodian shall have signature authority for prize fund bank accounts and ensure accountability of all funds collected for use in a PSJ. The licensee shall meet the deposit requirements of WAC 230-40-608.

Payout of prizes.

(5) Prize amounts paid in cash shall not exceed two thousand five hundred dollars. Prize amounts not awarded in cash shall be paid within twenty-four hours, by check, the type which provides a duplicate copy. A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

(a) For prizes less than one hundred dollars, a system of accounting denoting each individual prize may be utilized.

(b) For prizes one hundred dollars and above, the following information shall be recorded on a prize record:

(i) Full printed name;

(ii) Date of birth;

(iii) Street address;

(iv) Type of identification reviewed;

(v) Amount of the prize awarded;

(vi) Description of the winning hand;

(vii) Time and date awarded; and

(viii) The supervisor's and dealer's initials.

(c) When awarding a prize of five hundred dollars or more, the dealer must, in view of the surveillance camera, display the value and suit of each card in the winning hand, and the remaining cards in the deck must be counted and put in numerical order by suit to confirm a complete deck. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of seven days, unless released by a commission agent.

Owners and employees competing for a PSJ.

(6) Owners, custodians and on-duty card room employees may participate in card games that offer a PSJ, but may not share in the winnings of any prize awarded. Any prize winnings an owner or on-duty employee may be entitled to under game rules, must be divided equally among the other players at the table: Provided, That off-duty employees may participate in card games that offer a PSJ and share in the prize winnings.

Owners and employees showing cards.

(7) Owners and on-duty card room employees must turn their cards face up at the end of each game so they may be observed by other players at the table and surveillance if:

(a) Playing in a game with a PSJ;

(b) The prize is not based upon a predetermined hand; and

(c) There is a qualifying hand at the end of a game (such as a "bad beat" hand).

House dealer required.

(8) All card games offering a PSJ must utilize a house dealer.

Security requirements.

(9) Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-625: Provided, That licensees operating any house-banked card games shall follow the security requirements set forth in WAC 230-40-825 for all tables in the card room, including those offering a PSJ.

Removing a PSJ from play.

(10) The following procedures shall be followed for all discontinued player-supported jackpots:

Discontinued.

(a) In the event a licensee elects to discontinue a PSJ, the balance, less any nonrecouped seed money, shall be distributed to players within sixty days of discontinuance by offering an approved promotion or card tournament of the same game under which the PSJ was originally accrued.

Closure of business.

(b) In the event a licensee ceases to operate a card room, or fails to maintain a valid card room license, all funds associated with the PSJ shall be distributed to the Washington state council on problem gambling.

Posting rules.

(c) The licensee shall conspicuously post a sign stating how PSJ money will be distributed in the event the PSJ is discontinued or the business closes. The sign must be posted at the inception of the PSJ.

House rules.

(11) House rules, to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

Dispute resolution.

(12) If a dispute arises involving the outcome of a PSJ, the licensee shall preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred and shall notify commission staff within twenty-four hours. The licensee shall document all information pertaining to the dispute including:

(a) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved;

(b) Amount of the advertised PSJ; and

(c) A full description of the circumstances surrounding the dispute.

(13) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or the director's designee, and such decision shall be final.

(14) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.

WSR 05-19-135
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed September 21, 2005, 8:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-159.

Title of Rule and Other Identifying Information: WAC 180-51-110 Equivalency credit for alternative learning experiences, nonhigh school courses, electronically mediated courses, work experience and challenges and 180-51-120 Washington National Guard youth challenge program—Course content—Credits.

Hearing Location(s): Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502-5080, on October 27, 2005, at 8:30 a.m.

Date of Intended Adoption: October 28, 2005.

Submit Written Comments to: Larry Davis, Executive Director, P.O. Box 47206, Olympia, WA 98504-7206, e-mail ldavis@ospi.wednet.edu, fax (360) 586-2357, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Laura Moore, Executive Assistant, by October 13, 2005, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments clarify credits for the Washington National Guard youth challenge program and adding a new section specifically for dealing with credits for the National Guard youth challenge program.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28A.230.090.

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

Name of Proponent: State Board of Education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, Washington, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 19, 2005
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 00-19-108, filed 9/20/00, effective 10/21/00)

WAC 180-51-110 Equivalency credit for alternative learning experiences, nonhigh school courses, electroni-

cally mediated courses, work experience, and challenges. The board of directors of a district offering a high school diploma shall adopt written policies providing for the granting of high school graduation credit for alternative learning experiences, nonhigh school courses, work experience, and challenges. High school credits may be given for, but not limited to, the following:

(1) Planned learning experiences conducted away from the school under the supervision or with the approval of the school and linked to one or more of the state learning goals and related essential academic learning requirements;

(2) Work experience on the basis that four hundred five hours of work experience equals one credit;

(3) National Guard high school career training and National Guard youth challenge;

(4) Postsecondary courses in accredited colleges and universities. In the case of courses taken under the statutory running start option under RCW 28A.600.300 through 28A.600.400, the district shall award high school credit pursuant to RCW 28A.230.090(6);

(5) Courses in accredited or approved technical colleges;

(6) Correspondence courses from accredited colleges and universities or schools approved by the National University Education Association or the Distance Education and Training Council;

(7) Electronically mediated courses meeting standards which shall be adopted by written policy by the school district, or standards adopted by the Northwest Association of Schools and Colleges, or the Distance Education and Training Council, or the Commission for International and Transregional Accreditation;

(8) Other courses offered by any school or institution if specifically approved for credit by the district; and

(9) Credit based on competency testing, in lieu of enrollment or taking specific courses, may be granted by the district.

NEW SECTION

WAC 180-51-120 Washington National Guard youth challenge program—Course content—Credits. In order to assure that an appropriate number of high school credits are awarded to students who complete a National Guard youth challenge program, whether the program involves a contract with a school district or is operated independently, the following provisions shall apply:

(1) High school credit may be awarded only if the course content is of high school level rigor as determined by and to the district's satisfaction - ninth grade or above, or meets or exceeds the state essential academic learning requirements or grade level expectations at ninth grade or above for the particular subject.

(2) In the case of a contract between a school district and a National Guard youth challenge program, the contract, pursuant to WAC 180-50-320 (2)(b), shall identify the credits the student will be awarded upon satisfactory achievement of the specific learning standards identified in the contract. Determination of satisfactory achievement rests with the school district and may include consideration of recommendations of the program instructor or representative and review of the student's performance while enrolled in the program.

(3)(a) If a student enrolls in a National Guard youth challenge program that is conducted independently, then, when a student reenrolls in a school district, the district's policy on awarding credit under WAC 180-51-050(6) shall apply.

(b) Credits may be awarded on a Carnegie unit basis as provided under WAC 180-51-050 (1)(a).

(c) Credits may be awarded on a competency basis as provided under WAC 180-51-050 (1)(b).

WSR 05-19-141
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION

[Filed September 21, 2005, 8:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-076.

Title of Rule and Other Identifying Information: Adoption of the 2003 Edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).

Hearing Location(s): Large Commission Board Room, Washington State Department of Transportation, 310 Maple Park Avenue S.E., Olympia, WA, on October 31, 2005, at 9:00 a.m.

Date of Intended Adoption: October 31, 2005.

Submit Written Comments to: Mike Dornfeld, P.O. Box 47344, Olympia, WA 98504-7344, e-mail dornfem@wsdot.wa.gov, fax (360) 705-6826, by October 21, 2005.

Assistance for Persons with Disabilities: Contact Mike Dornfeld by January [October] 21, 2005, TTY (800) 833-6388 or (360) 705-7288.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To adopt the 2003 Edition of the Manual on Uniform Traffic Control Devices (MUTCD). The proposed rule adopts and modifies the MUTCD for use in Washington state by modifying chapter 468-95 WAC.

Reasons Supporting Proposal: Federal regulations require the states to adopt the Manual on Uniform Traffic Control Devices. Adoption of the 2003 Edition of the MUTCD will also bring Washington into compliance with the latest national standards for traffic control devices.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 47.36.030.

Rule is necessary because of federal law, 23 C.F.R. 655.603.

Name of Proponent: Washington State Department of Transportation, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Dornfeld, Olympia, Washington 98504-7344, (360) 705-7288.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The adoption of this rule is to meet federal requirements. States are required to adopt the Manual on Uniform Traffic Control Devices.

A cost-benefit analysis is not required under RCW 34.05.328. The adoption of this rule is to meet federal

requirements. States are required to adopt the Manual on Uniform Traffic Control Devices.

September 20, 2005
John Conrad
Assistant Secretary
of Transportation

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-010 General. The ((~~June 2001 Millennium~~)) 2003 Edition of the *Manual on Uniform ((~~Streets and Highway~~)) Traffic Control Devices for Streets and Highways (MUTCD)*, published by the Federal Highway Administration and approved by the Federal Highway Administrator as the national standard for all highways open to public travel, was duly adopted by the Washington state secretary of transportation. Revisions are incorporated into the November 2003 Edition of the MUTCD, except as may be modified herein, when published by the Federal Highway Administration. The manual includes in part many illustrations, some of which depend on color for proper interpretation. The code reviser has deemed it inexpedient to convert these regulations and illustrations to the prescribed form and style of WAC and therefore excludes them from publication. The document is available for public inspection at the headquarters office and all region offices of the Washington state department of transportation. Further, each city, town, and county engineering office in the state will have a copy of the MUTCD, with revisions and modifications for Washington, in its possession.

NEW SECTION

WAC 468-95-015 Compliance dates. On page I-5 of the introduction, the reference to Section 3B.19 is revised to read:

Pavement word and symbol markings - The Department of Transportation's Standard Plans illustrate the typical size and spacing of lane-use arrows for two-way left-turn lanes. Compliance with the Standard Plans shall be achieved when lane-use arrows, in existence in two-way left-turn lanes on December 31, 2004, have completed their life cycle and require replacement.

NEW SECTION

WAC 468-95-027 Stop sign placement. Amend the first paragraph of the first standard of MUTCD Section 2B.06 to read:

The STOP sign shall be installed on the right side of the approach to which it applies. When the STOP AHEAD sign is installed at this required location, see Section 2C.29 and Table 2C-4 to determine if a STOP AHEAD sign is required in advance of the STOP sign.

NEW SECTION

WAC 468-95-033 In-street pedestrian crossing sign (R1-6a). Delete sign R1-6 from MUTCD Figure 2B-2, and amend MUTCD Section 2B.12 to read:

Option:

The In-Street Pedestrian Crossing (R1-6a) sign (see Figure 2B-2) may be used to remind road users of laws regarding right of way at an unsignalized pedestrian crossing. The legend STATE LAW may be shown at the top of the sign if applicable. The legend STOP FOR may be used in conjunction with the appropriate symbol.

Guidance:

If an island (see Chapter 3G) is available, the In-Street Pedestrian Crossing sign, if used, should be placed on the island.

Standard:

The In-Street Pedestrian Crossing sign shall not be used at signalized locations.

The STOP FOR legend shall only be used in States where the State law specifically requires that a driver stop for a pedestrian in a crosswalk.

If used, the In-Street Pedestrian Crossing sign shall have a black legend (except for the red STOP sign symbol) and border on either a white and/or fluorescent yellow-green background.

If the In-Street Pedestrian Crossing sign is placed in the roadway, the sign support shall comply with the breakaway requirements of the latest edition of AASHTO's "Specification for Structural Supports for Highway Signs, Luminaries, and Traffic Signals" (see Page i).

Support:

The provisions of Section 2A.18 concerning mounting height are not applicable for the In-Street Pedestrian Crossing sign.

Option:

The In-Street Pedestrian Crossing sign may be used seasonally to prevent damage in winter because of plowing operations, and may be removed at night where pedestrian activity is minimal.

NEW SECTION

WAC 468-95-045 Speed limit sign (R2-1). Revise MUTCD Section 2B.13 to read:

Standard:

Speed Limits (R2-1) signs (see Figure 2B-1) shall display the speed limit established by statute; or, by an ordinance or regulation adopted by the authorized agency, based on the engineering study or traffic investigation required by RCW 46.61.405, 46.61.410, and 46.61.415. The speed limit shall be set in multiples of 10 km/h or 5 mph.

Guidance:

Authorized agencies should reevaluate speed limits on segments of their roadways that have undergone a significant change in roadway characteristics or surrounding land use since the last review.

No more than three speed limits should be posted on any one Speed Limit sign or assembly.

When evaluating speed limits, the following factors should be considered:

A. The 85th percentile speed of vehicles traveling on the road;

B. Road characteristics, shoulder condition, grade, alignment, and sight distance;

C. The pace speed;

D. Roadside development and environment;

E. Parking practices and pedestrian activity;

F. Reported crash experience for at least a 12 month period; and

G. Other factors such as route development or comprehensive plans.

Option:

Two types of Speed Limit signs may be used: One to designate passenger car speeds, including any nighttime information or minimum speed that may apply; and, the other to show any special speed limits for trucks and other vehicles.

A changeable message sign that changes the speed limit for traffic and ambient conditions may be installed provided that the appropriate speed limit is shown at the proper times.

A changeable message sign that displays to drivers the speed at which they are traveling may be installed in conjunction with a Speed Limit sign.

Guidance:

If a changeable message sign displaying approach speeds is installed, the legend YOUR SPEED XX km/h (mph) or such similar legend should be shown. The color of the changeable message legend should be a yellow legend on a black background or the reverse of these colors.

Support:

Advisory Speed signs are discussed in Sections 2C.36 and 2C.46. Temporary Traffic Control Zone Speed signs are discussed in Part 6.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-120 Traffic signal signs. Pursuant to RCW 46.61.055, amend the second Standard of MUTCD Section ((~~2B.40~~)) 2B.45 to read:

The NO TURN ON RED sign (R10-11a, R10-11b) shall be used to prohibit any right turn on red; or a left turn on red from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn.

NEW SECTION

WAC 468-95-125 Hill blocks view sign. Delete Section 2C.14 and sign W7-6 from the MUTCD.

NEW SECTION

WAC 468-95-131 Bridge ices before road sign. Delete Section 2C.28 and sign W8-13 from the MUTCD.

NEW SECTION

WAC 468-95-132 Advisory exit, ramp, and curve speed signs (W13-2, W13-3, and W13-5). Delete the fourth paragraph of the Option statement and the Support statement from MUTCD Section 2C.36.

NEW SECTION

WAC 468-95-133 Intersection warning signs (W2-1 through W2-6). Revise the Option in MUTCD Section 2C.37 to read:

A Cross Road (W2-1) symbol sign, Side Road (W2-2 or W2-3) symbol sign, T (W2-4) symbol sign, or Y (W2-5) symbol sign (see Figure 2C-8) may be installed in advance of an intersection to indicate the intersection's presence and the possibility of turning traffic.

The Circular Intersection (W2-6) symbol sign may be installed in advance of a circular intersection. The Circular Intersection symbol sign may be accompanied by a ROUNDABOUT or a TRAFFIC CIRCLE educational plaque, as applicable.

The relative importance of the intersecting roadways may be shown by different widths of lines in the symbol.

The advance street name plaque (see Section 2C.49) may be installed above or below an Intersection Warning sign.

Add the alternate message ROUNDABOUT to the TRAFFIC CIRCLE plaque (W16-12p) in MUTCD Figure 2C-8.

NEW SECTION

WAC 468-95-134 Advisory speed plaques (W13-1). Delete the second Option statement and the Support statement from MUTCD Section 2C.46.

NEW SECTION

WAC 468-95-135 Cross traffic does not stop plaque (W4-4p). Revise the Standard in MUTCD Section 2C.50 to read:

If the W4-4p plaque is used with a STOP sign, it shall be installed below the STOP sign.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-140 Signing to regional shopping centers. Pursuant to RCW 47.36.270, a regional shopping center may be signed as a supplemental guide sign destination from state highways in accordance with the applicable sections of MUTCD Part II-D, Guide Signs - Conventional Roads, and MUTCD Part II-E Guide Signs - Freeways and Expressways, and in accordance with subsections (1) through (8) of this section.

(1) There shall be at least 500,000 square feet of leasable retail floor space;

(2) There shall be at least three major department stores owned by national or regional retail chain organizations;

(3) The center shall be located within one highway mile of the state highway;

(4) The center shall generate at least 9,000 daily one-way vehicle trips to the center;

(5) Sufficient sign space as specified in the MUTCD shall be available for installation;

(6) Supplemental follow-through directional signing is required on county roads or city streets at key motorist decision points, if the center is not clearly visible from the point of exit from the state highway. The required supplemental

follow-through directional signs shall be installed by the city or county prior to the installation of signs on the state highway;

(7) Signing on the state highway to a county road or city street that bears the name of the regional shopping center fulfills the statutory requirements for signing to those centers;

(8) The costs of materials and labor for fabricating, installing, and maintaining regional shopping center signs shall be borne by the center.

NEW SECTION

WAC 468-95-143 Street name sign (D3-1). Amend the fourth guidance of MUTCD Section 2D.38 to read:

In urban or suburban areas, especially where Advanced Street name signs are not used, the use of overhead Street Name signs should be considered. If overhead Street Name signs are used, the lettering should be at least 300 mm (12 in) high in capital letters, or 300 mm (12 in) upper-case with 225 mm (9 in) lower case letters where posted speeds are 40 mph or greater. For roads with posted speeds less than 40 mph, lettering should be 8 inch capital letters or greater. New construction should include the larger size letters for overhead signs. Internally illuminated signs may use smaller letter size.

NEW SECTION

WAC 468-95-147 General design requirements for recreational and cultural interest area symbol signs. Amend MUTCD Section 2H.04, Table 2H-1 and Figure 2H-5, to include the wildlife viewing (binocular symbol) sign and to read:

A wildlife viewing sign shall be square shaped with a white binocular symbol and border on a brown background.

NEW SECTION

WAC 468-95-148 Event signs, banners, and decorations. Add a new MUTCD Chapter 2J to read:

Chapter 2J, Event Signs, Banners, and Decorations

Pursuant to RCW 47.36.030(3) and 47.42.020(8), the department may permit signs, banners, or decorations visible to state highways that promote a local agency sponsored event in accordance with the applicable following criteria:

Standard:

A. Signs, banners, and decorations shall not interfere or obstruct the view of any traffic control device or impair the operation of transportation management systems or street illumination.

B. The sign, banner, or decoration shall not include commercial advertising as determined by the department.

C. Signs, banners, or decorations shall be mounted not less than 20 vertical feet above the roadway surface measured at any point.

D. Signs, banners, or decorations shall not be visible from Interstate highways, or other state highways having a posted speed limit of 50 miles per hour or greater.

E. Signs, banners, or decorations shall be installed no more than 30 days before and removed no more than 3 days after the local agency sponsored event.

Option:

Along multi-lane state highways a sign, banner, or decoration may be mounted vertically on luminaire posts subject to meeting wind load requirements specified by the department.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-150 No passing zone markings. Amend the third Standard of MUTCD Section 3B.02, to read:

On two-way, two- or three-lane roadways where centerline markings are installed, no-passing zones shall be established at vertical curves and other locations where an engineering study indicates that passing must be prohibited because of inadequate sight distances or other special conditions.

On two-way, two- and three-lane roadways where centerline markings are installed, no-passing zones shall be established at horizontal curves where an engineering study indicates passing must be prohibited because of inadequate sight distances or other special conditions. A January 17, 2007, compliance date is established.

On three-lane roadways where the direction of travel in the center lane transitions from one direction to the other, a no-passing buffer zone shall be provided in the center lane as shown in Figure 3B-4. A lane transition shall be provided at each end of the buffer zone.

The buffer zone shall be a median island ((~~consisting of a lane transition in each direction and a minimum of a~~)) that is at least 15 m (50 ft) ((~~buffer zone~~)) in length. ((~~In areas where no-passing zones are required because of limited passing sight distances, the buffer zone shall be the distances between the beginnings of the no-passing zones in each direction.~~))

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-160 Other yellow longitudinal markings. Pursuant to RCW 46.61.150, amend the second Standard of MUTCD Section 3B.03 to read:

If a continuous median island formed by pavement markings separating travel in opposite directions is used, the island may be formed by two single normal solid yellow lines, a combination of two single normal solid yellow lines with yellow crosshatching between the lines with a total width not less than eighteen inches, two sets of double solid yellow lines, or a solid yellow line not less than eighteen inches in width. All other markings in the median island area shall be yellow, except crosswalk markings, which shall be white (see ((~~MUTCD~~)) Section 3B.17).

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-190 Pavement edge lines and raised pavement markers supplementing other markings. Pursuant to RCW 47.36.280, the Standard in MUTCD Section 3B.07, is revised ((~~as follows~~)) to read:

Edge lines shall be used on all interstate highways, ((~~on~~)) rural multilane divided highways, ((~~on~~)) all principal arterials and minor arterials within urbanized areas, except when curb or sidewalk exists, and may be used on other classes of roads. A jurisdiction((~~s~~)) shall conform to these requirements at such time that it undertakes to renew or install permanent markings on new or existing roadways. The edge lines shall be white, except that the edge lines shall be yellow on the left edge of each roadway of divided streets and highways and one-way roadway in the direction of travel((~~, the lines shall be yellow~~)).

Edge line markings shall also be placed on paved rural arterials with a traveled way of 6.1 m (20 ft) or more in width and an ADT of 6,000 or greater vehicles per day.

These standards shall be in effect, as provided in this section, unless the legislative authority of the local governmental body finds that special circumstances exist affecting vehicle and pedestrian safety that warrant a site-specific variance.

((~~Pursuant to RCW 47.36.280, the first paragraph under Option of MUTCD Section 3B.13 is revised to read as follows:~~

~~Raised pavement markers may also be used to supplement other markings for channelizing islands or approaches to other objects. The general use of raised pavement markers along right edge lines is strongly discouraged because they can cause steering difficulties and make bicyclists lose control of their vehicles. Raised or recessed pavement markers may be used along right edge lines on the taper in lane transition sections, on approaches to objects and within channelization at intersections. Raised or recessed pavement markers can only be used along right edge lines at other locations where an engineering study has determined the markers are essential to preserving pedestrian, bicycle, and motor vehicle safety. At the initiation of the engineering study, local bicycling organizations, the regional member of the state bicycling advisory committee, or the WSDOT bicycle and pedestrian program manager shall be notified of the study for review and comment. Positioning and spacing of the markers in such cases must be determined by engineering judgment taking into consideration their effect on bicycle, pedestrian, and motor vehicle safety. Other applications of raised or recessed pavement markers along right edge lines of arterials are considered to be nonconforming with this section. Cities and counties shall remove nonconforming raised pavement markings at the time that they prepare to resurface roadways, or earlier at their option.~~

~~These standards shall be in effect, as provided in this section, unless the legislative authority of the local governmental body finds that special circumstances exist affecting vehicle and pedestrian safety that warrant a site-specific variance.~~))

NEW SECTION

WAC 468-95-205 Raised pavement markers supplementing other markings. Pursuant to RCW 47.36.280, amend the first paragraph of the Option in MUTCD Section 3B.13 to read:

Raised pavement markers may also be used to supplement other markings for channelizing islands or approaches to other objects. The general use of raised pavement markers along right edge lines is strongly discouraged because the markers can cause steering difficulties and make bicyclists lose control of their vehicles. Raised or recessed pavement markers may be used along right edge lines on the taper in lane transition sections, on approaches to objects, and within channelization at intersections. Raised or recessed pavement markers can only be used along right edge lines at other locations where an engineering study has determined that the markers are essential to preserving pedestrian, bicycle, and motor vehicle safety. At the initiation of the engineering study, local bicycling organizations, the regional member of the state bicycle advisory committee, or the WSDOT bicycle and pedestrian program manager shall be notified of the study for review and comment. Positioning and spacing of the markers in such cases must be determined by engineering judgment taking into consideration their effect on bicycle, pedestrian, and motor vehicle safety; and, where used, are spaced closely enough (no greater than 3 m (10 ft) apart) to approximate the appearance of a solid line. Other applications of raised or recessed pavement markers along right edge lines of arterials are considered to be nonconforming with this section. Cities and counties shall remove their nonconforming raised or recessed pavement markers at the time that they prepare to resurface roadways, or earlier at their option.

These standards shall be in effect, as provided in this section, unless the legislative authority of the local governmental body finds that special circumstances exist affecting vehicle and pedestrian safety that warrant a site-specific variance.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-210 Raised pavement markers substituting for pavement markings. Amend the first sentence in the first Standard of MUTCD Section 3B.14 to read:

If raised pavement markers are substituted for broken line markings, a group of 3 to 5 markers equally spaced at no greater than N/8 (see Section ((~~3A.06~~)) 3B-11), or at the one-third points of the line segment if N is other than 12 m (40 ft), with a least one retroreflective or internally illuminated marker used per group.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-220 Stop and yield lines ((~~locations~~)). Amend the second Guidance of MUTCD Section 3B.16 to read:

((~~Stop or yield lines, where used, should ordinarily be placed four feet in advance of and parallel to the nearest crosswalk line. In the absence of a marked crosswalk, the stop or yield line should be placed at the desired stopping point, in no case less than 4 feet from the nearest edge of intersecting roadway.~~

~~Stop lines at midblock signalized locations should be placed at least 40 feet in advance of the nearest signal indication (see MUTCD Section 4D.15).~~)) If used, stop and yield lines should be placed a minimum of 1.2 m (4 ft) in advance of the nearest crosswalk line at controlled intersections, except for yield lines at roundabout intersections as provided for in Section 3B.24 and at midblock crosswalks. In the

absence of a marked crosswalk, the stop line or yield line should be placed at the desired stopping or yielding point, in no case less than 4 feet from the nearest edge of the intersecting roadway. Stop lines should be placed to allow sufficient sight distance to all other approaches to an intersection.

If used at an unsignalized midblock crosswalk, yield lines should be placed adjacent to the Yield Here to Pedestrians sign located 6.1 to 15 m (20 to 50 ft) in advance of the nearest crosswalk line, and parking should be prohibited in the area between the yield line and the crosswalk (see Figure 3B-15). Stop lines at midblock signalized locations should be placed at least 12 m (40 ft) in advance of the nearest signal indication (see Section 4D.15).

NEW SECTION

WAC 468-95-235 Preferential lane word and symbol markings. Add a guidance statement following the first Standard of MUTCD Section 3B.22 to read:

Guidance:

Preferential lane word and symbol markings may be offset up to a maximum of 1'0" from the center of the preferred-use lane to avoid vehicle wheel paths.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-250 Meaning of signal indications. Pursuant to RCW 46.61.055, amend the second paragraph of the Standard of MUTCD Section 4D.04, item C.1, to read:

Vehicle operators facing a steady circular red signal may, after stopping, proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by a competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area.

Pursuant to RCW 46.61.055, amend the Standard of MUTCD Section 4D.04, item C.2, to read:

Vehicle operators facing a steady red arrow indication may, after stopping, proceed to make a right turn from a one-way or two-way street or into a one-way street carrying traffic in the direction of the right turn, or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn, unless a sign posted by a competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who are lawfully within the intersection control area.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-260 Application of steady signal indications. Pursuant to RCW 46.61.055, amend the Standard of MUTCD Section 4D.05, item D, to read:

A steady RED ARROW signal indication shall be displayed when it is intended to prohibit vehicular traffic from entering the intersection or other controlled area to make the indicated turn when regulatory signing is in place prohibiting such movement. Pedestrians directed by a pedestrian signal head may enter the intersection or other controlled area.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-270 Meaning of lane-use control indications. Pursuant to RCW 46.61.072, amend the Standard of MUTCD Section 4J.02, paragraph B, to read:

A steady YELLOW X or a flashing RED X means that a driver should prepare to vacate, in a safe manner, the lane over which the signal is located because a lane control change is being made, and to avoid occupying that lane when a steady RED X is displayed.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-280 Operation of lane-use control signals. Pursuant to RCW 46.61.072, in MUTCD Section 4J.04, amend the first sentence of the first paragraph after item G in the first Standard to read:

A moving condition in one direction shall be terminated either by the immediate display of a RED X signal indication or by a YELLOW X signal indication followed by a RED X signal indication or a flashing RED X indication followed by a RED X indication.

NEW SECTION

WAC 468-95-29001 Traffic control devices for low-volume roads—Application. Change the Guidance of MUTCD Section 5A.02, Application, to become an Option and amend to read:

Additional traffic control devices and criteria contained in other Parts of the Manual may be considered for use on low-volume roads.

NEW SECTION

WAC 468-95-29003 Traffic control devices for low-volume roads—Design. Change the Guidance of MUTCD Section 5A.03, Design, to become an Option and amend to read:

Oversized sign sizes may be used where engineering judgment indicates a need based on high vehicle operating speeds, driver expectancy, traffic operations, or roadway conditions.

NEW SECTION

WAC 468-95-29005 Traffic control devices for low-volume roads—Stop and yield signs. Change the Guidance of MUTCD Section 5B.02, Stop and Yield Signs, to become an Option and amend to read:

STOP (R1-1) and YIELD (R1-2) signs (see Figure 5B-1) may be considered for use on low-volume roads where engineering judgment or study, consistent with the provisions of Sections 2B.04 to 2B.10, indicates that either of the following conditions applies:

A. An intersection of a less-important road with a main road where application of the normal right-of-way rule might not be readily apparent.

B. An intersection that has restricted sight distance for the prevailing vehicle speeds.

NEW SECTION

WAC 468-95-29007 Traffic control devices for low-volume roads—One lane bridges. Change the Guidance of MUTCD Section 5C.06, One Lane Bridges, to become an Option and amend to read:

A ONE LANE BRIDGE (W5-3) sign (see Figure 5C-2) may be used on low-volume two-way roadways in advance of any bridge or culvert:

A. Having a clear roadway width of less than 4.9 m (16 ft); or

B. Having a clear roadway width of less than 5.5 m (18 ft) when commercial vehicles constitute a high proportion of the traffic; or

C. Having a clear roadway width of 5.5 m (18 ft) or less where the approach sight distance is limited on the approach to the structure.

Additional warning may be provided on the approach to a one lane bridge or culvert by the use of object markers and/or delineators.

NEW SECTION

WAC 468-95-29009 Traffic control devices for low-volume roads—Vehicular traffic and nonvehicular signs. Change the first Guidance of MUTCD Section 5C.09, Vehicular Traffic and Nonvehicular Signs (W11 Series and W8-6), to become an Option and amend to read:

Vehicular Traffic signs (see Figure 5C-2) may be used to alert road users to frequent unexpected entries into the roadway by trucks, bicyclists, farm vehicles, fire trucks, and other vehicles. Such signs may be used only at locations where the road user's sight distance is restricted or the activity would be unexpected.

NEW SECTION

WAC 468-95-29011 Traffic control devices for low-volume roads—Centerline markings. Change the Guidance of MUTCD Section 5E.02, Centerline Markings, to become an Option and amend to read:

Centerline markings may be used on paved low-volume roads where engineering judgment or an engineering study indicates a need for them.

NEW SECTION

WAC 468-95-29013 Traffic control devices for low-volume roads—Edgeline markings. Change the Guidance of MUTCD Section 5E.03, Edgeline Markings, to become an Option and amend to read:

Edgeline Markings may be considered for use on paved low-volume roads based on engineering judgment or an engineering study.

NEW SECTION

WAC 468-95-29015 Traffic control devices for low-volume roads—Delineators. Change the Option of MUTCD Section 5E.04, Delineators, to read:

Delineators may be used on low-volume roads based on engineering judgment, such as for curves, T-intersections, and abrupt changes in the roadway width. In addition, they may be used to mark other minor roads entering the low-volume road.

NEW SECTION

WAC 468-95-29017 Traffic control devices for low-volume roads—Object markers. Change the Guidance of MUTCD Section 5E.05, Object Markers, to become an Option and amend to read:

The end of a low-volume road may be marked with an end-of-roadway marker in conformance with Section 3C.04.

NEW SECTION

WAC 468-95-29019 Traffic control devices for low-volume roads—Pavement markings. Change the Guidance of MUTCD Section 5F.05, Pavement Markings, to become an Option and amend to read:

Pavement markings at highway-rail grade crossings may be used on paved low-volume roads, if they are already deployed at most other highway-rail grade crossings within the immediate vicinity, or when the roadway has centerline markings.

NEW SECTION

WAC 468-95-29021 Traffic control devices for low-volume roads—Markings. Change the Guidance of MUTCD Section 5G.04, Markings, to become an Option and amend to read:

Pavement markings may be considered for temporary traffic control zones on paved low-volume roads, especially roads that had existing pavement markings or that have a surfaced detour or temporary roadway.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-300 Temporary traffic control. Amend MUTCD ((~~Section 6C.04,~~)) Table 6C-1 ((~~and MUTCD Section 6H.01, Table 6H-3~~)) to read:

Sign Spacing (1)

Freeways & Expressways	55/70 MPH	1500' ± or per MUTCD
Rural Highways	60/65 MPH	((~~1000~~)) 800' ±
Rural Roads	45/55 MPH	500' ±
Rural Roads & Urban Arterials	35/40 MPH	350' ±
Rural Roads, Urban ((~~Streets~~)) Arterials, Residential, Business Districts	25/30 MPH	200' ± (2)
Urban Streets	25 MPH or less	100' ± (2)

(1) All spacing may be adjusted to accommodate interchange ramps, at-grade intersections, and driveways.

(2) This spacing may be reduced in urban areas to fit roadway conditions.

NEW SECTION

WAC 468-95-303 Sign placement. Amend the second paragraph of the first Standard of MUTCD Section 6F.03 to read:

Signs mounted on barricades and barricade/sign combinations shall be crashworthy, in accordance with NCHRP 350, by December 31, 2007.

NEW SECTION

WAC 468-95-305 Motorcycle construction warning sign. Pursuant to RCW 47.36.200, a warning sign displaying the word message MOTORCYCLES USE EXTREME CAUTION is added to MUTCD Figure 6F-4. The sign shall be diamond shaped with black letters on an orange background.

NEW SECTION

WAC 468-95-306 Motorcycles use extreme caution supplemental plaque. A supplemental plaque displaying the message MOTORCYCLES USE EXTREME CAUTION is added to MUTCD Figure 6F-4.

The plaque may supplement primary condition warning signs.

NEW SECTION

WAC 468-95-307 Abrupt lane edge warning sign. A warning sign displaying the word message ABRUPT LANE EDGE is added to MUTCD Figure 6F-4. The sign shall be diamond shaped with black letters on an orange background.

The sign shall be used where Section 1-07.23(1) of the Washington state department of transportation's standard specifications require warning signs to alert drivers about an elevation differential between lanes or between the outside lane and the shoulder.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-310 Temporary pavement markings. Amend ((~~the first Support of~~)) MUTCD Section 6F.66 to read:

((~~Temporary pavement markings are those that may be used until it is practical and possible to install permanent pavement markings that meet MUTCD standards. Normally, it should not be necessary to leave temporary pavement markings in place for more than 2 weeks, except on roadways being paved with bituminous surface treatment (BST) and having traffic volumes under 2,000 ADT. All temporary pavement markings, including pavement markings for no-passing zones, shall conform to the requirements of Sections 3A and 3B.~~

~~Amend the first Guidance of MUTCD Section 6F.66 to read:~~

~~For temporary situations of 14 calendar days or less, for a two-lane or three-lane road, no-passing zones may be identified by using W 14-3 No Passing Zone signs (see Section 2C.32) rather than pavement markings (see Section 3B.02). Signs may also be used in lieu of pavement markings on low-volume roads for longer periods, when this practice is in keeping with the state's or other highway agency's policy. These signs should be placed in accordance with Sections 2B.24 and 2B.25.~~)) Standard:

All temporary pavement markings shall conform to the requirements of Chapters 3A and 3B. All temporary broken-line pavement markings shall use the same cycle length as permanent markings and be at least 0.6 m (2 ft) long.

Support:

Temporary pavement markings are those that may be used until it is practical and possible to install permanent markings.

Option:

Half-cycle lengths with a minimum of 0.6 m (2 ft) stripes may be used on roadways with severed curvature (see Section 3A.05) for center lines in passing zones and for lane lines.

For temporary situations, for a two-lane or three-lane road, no-passing zones may be identified by using DO NOT PASS (R4-1), PASS WITH CARE (R4-2), and NO PASSING ZONE (W14-3) signs rather than pavement markings.

Guidance:

When used, the DO NOT PASS, PASS WITH CARE, and NO PASSING ZONE signs should be placed in accordance with Sections 2B.29, 2B.30, and 2C.35.

NEW SECTION

WAC 468-95-317 Temporary traffic control. Amend MUTCD Table 6H-3 to read:

Sign Spacing(1)

Freeways & Expressways	55/70 MPH	1500' ± or per MUTCD
Rural Highways	60/65 MPH	800' ±
Rural Roads	45/55 MPH	500' ±
Rural Roads & Urban Arterials	35/40 MPH	350' ±
Rural Roads, Urban Arterials, Residential, Business Districts	25/30 MPH	200' ± (2)
Urban Streets	25 MPH or less	100' ± (2)

(1) All spacing may be adjusted to accommodate interchange ramps, at-grade intersections, and driveways.

(2) This spacing may be reduced in urban areas to fit roadway conditions.

NEW SECTION

WAC 468-95-325 In-street signs in school areas. Delete sign R1-6 from MUTCD Figure 7B-4 and amend the first Option of MUTCD Section 7B.08 to read:

A 300 mm (12 in) reduced size in-street School Advance Warning (S1-1) sign (see Figure 7B-4), installed in compliance with the mounting height and breakaway requirements for In-Street Pedestrian Crossing (R1-6a) signs (see Section 2B.12), may be used in advance of a school crossing to supplement the ground-mounted school warning signs. A 300 mm x 150 mm (12 in x 6 in) reduced size AHEAD (W16-9p) plaque may be mounted below the reduced size in-street School Advance Warning (S1-1) sign.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-330 School speed limit assembly (S4-1, S4-2, S4-3, S4-4, S5-1). Pursuant to RCW 46.61.440 ((~~delete~~)), the first Guidance ((~~paragraph and add the following paragraph to the first Standard of~~)) in MUTCD Section 7B.11 is replaced with a Standard to read:

((~~The reduced school speed zone shall begin at a point 90 m (300 ft) in advance of the crosswalk and end at a point 90 m (300 ft) after the crosswalk. These distances may be modified to fit the field conditions by regulation.~~)) Applicable to state highways, county roads, or city streets, the reduced school or playground speed zone shall extend for 300 feet in either direction from the marked crosswalk when the marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs.

Applicable to county roads or city streets, the school or playground speed zone may extend up to 300 feet from the border of the school or playground property when fully posted with standard school speed limit signs or standard playground speed limit signs. However, the speed zone may only include the area consistent with active school or playground use.

No school or playground speed zone may extend less than 300 feet from a marked school or playground crosswalk, but may extend by traffic regulation beyond 300 feet based on a traffic and engineering investigation.

Pursuant to RCW 46.61.440, the speed limit sign distance note in Figure 7B-3 is replaced with:

See WAC 468-95-330 for school or playground speed limit placement distances.

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-340 School speed limit assembly (S4-1, S4-2, S4-3, S4-4, S5-1). Amend the ((~~Option to the~~)) second Standard of MUTCD Section 7B.11 to read:

The School Speed Limit assembly shall be either a fixed-message sign assembly or a changeable message sign. The fixed-message School Speed Limit assembly shall consist of a top plaque (S4-3) with the legend SCHOOL, a Speed Limit (R2-1) sign, and a bottom plaque (S4-1, S4-2, S4-4, S4-6, or S4-501) indicating the specific periods of the day and/or days of the week that the special school speed limit is in effect (see Figure 7B-1).

AMENDATORY SECTION (Amending WSR 03-06-053, filed 2/28/03, effective 3/31/03)

WAC 468-95-370 Pavement markings for obstructions. Amend MUTCD ((~~Section 9C.07,~~)) Figure ((~~9C.07~~)) 9C-8, to show a normal solid white line instead of a wide solid white line.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 468-95-110	Parking for the disabled in urban areas.
WAC 468-95-130	High occupancy vehicle signs.
WAC 468-95-170	White lane line markings.
WAC 468-95-240	Preferential lane longitudinal markings for motorized vehicles.
WAC 468-95-315	Motorcycle construction warning signs.
WAC 468-95-320	School advance warning sign (S-1).
WAC 468-95-400	Sign borders.

WSR 05-19-143
PROPOSED RULES
SECRETARY OF STATE
(Elections Division)
[Filed September 21, 2005, 9:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-166.

Title of Rule and Other Identifying Information: Voter verified paper audit trail—Paper records for direct recording electronic devices.

Hearing Location(s): Conference Room, 520 Union Avenue S.E., Olympia, WA 98501, on October 26, 2005, at 9:00 a.m.

Date of Intended Adoption: November 15, 2005.

Submit Written Comments to: Paul Miller, P.O. Box 40232, Olympia, WA 98504-0232, e-mail pmiller@secstate.wa.gov, fax (360) 664-6419 by October 25, 2005.

Assistance for Persons with Disabilities: Contact TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Direct recording electronic (DRE) devices must produce a paper record for each ballot prior to the casting of a ballot. The rules outline specific procedures for printing, maintaining, transferring, and auditing paper records. Additional rules are provided for recounts utilizing data from DREs and for a situation where a voter has left the direct recording electronic device without casting a ballot.

Reasons Supporting Proposal: Chapter 242, Laws of 2005 requires all DREs to produce paper records.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: Chapter 242, Laws of 2005.

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

Name of Proponent: Office of Secretary of State, governmental.

Name of Agency Personnel Responsible for Drafting: Tami Neilson, Legislative Building, (360) 902-4182; Implementation and Enforcement: Paul Miller, 520 Union Avenue S.E., (360) 725-5783.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not appear to have significant impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 21, 2005

Sam Reed

Secretary of State

NEW SECTION

WAC 434-253-023 Voter verified paper audit trail—Duties prior to opening of the polls. If a direct recording electronic device is used at a poll site, before a device may be used by a voter, an inspector and at least one judge must verify:

(1) The paper printer is secured so that the paper record may not be removed from the device by anyone other than the election officer;

(2) Only a blank portion of the paper record is visible to the voter as he or she approaches the device; and

(3) The paper printer is sealed with a numbered seal to ensure the interior of the machine cannot be accessed.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-080 Voter leaving polling place without voting. Whenever it is noted by a precinct election officer that a voter has been issued a ballot and leaves a polling place without returning the ballot, a notation shall be made in the poll book or list along with the ballot stub number of the ballot issued. If a ballot on a direct recording electronic device has not been cast, the precinct election officer must cancel the ballot to ensure the ballot is not counted.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-253-110 Examination of voting devices. At least once every hour while the poll booths are open, precinct election officers shall examine the voting devices or poll booths, printed materials within the poll booths, and paper printers attached to direct recording electronic devices to ensure that they have not been tampered with ((~~at least once every hour while the polls are open~~)) and are in proper working condition.

(1) If any seal or lock on a direct recording electronic device or paper printer has been broken or tampered with, it must be removed from service for the remainder of the election. A written report regarding the circumstances of the removal from service must be sent to the county canvassing board.

(2) Precinct election officers must replace any printed materials that were to remain in the poll booth if they have been defaced, removed, or destroyed.

(3) If a paper printer for a direct recording electronic device has malfunctioned or run out of paper, it must be handled pursuant to WAC 434-253-115.

NEW SECTION

WAC 434-253-115 Direct recording electronic device paper printer malfunction. (1) The following must occur if a paper printer for a direct recording electronic device has malfunctioned or run out of paper at any time:

(a) If the precinct election officer has confirmed that no ballots have been cast after the printer ran out of paper or malfunctioned, he or she must remove the direct recording electronic device from service, document the problem, and correct the problem. The device may be returned to service once the problem has been corrected.

(b) If the precinct election officer cannot confirm that no ballots were cast after the printer ran out of paper or malfunctioned, or if the problem cannot be corrected, the device must be removed from service for the remainder of the election. A written report regarding the circumstances of the removal from service must be sent to the county canvassing board.

(2) In any case where an electronic ballot has been cast without a corresponding paper record, the county may print the ballot image stored on the device for use as a paper record for that device.

NEW SECTION

WAC 434-253-225 Preparation for transfer of direct recording electronic device paper records. (1) In preparation for transfer to a counting center, paper records from direct recording electronic devices must be either:

(a) Placed in transfer containers; or

(b) Transferred in the paper printer if the paper printer is sealed so the paper record cannot be removed without breaking the seal.

(2) Paper records must be accompanied by a transmittal sheet which must include at a minimum:

(a) Name or other identifier of the polling place in which the digital recording electronic device was utilized;

(b) The seal number from the paper printer; and

(c) The serial number or other identifier of the digital recording electronic device if distinctly unique from the seal number on the paper record printer.

(3) The inspector and one judge from each political party must sign the transmittal sheet attesting to the number of paper record tapes included in the container and the seal number. If paper records are transferred in a container, the container must be locked. The seal must also be applied, if available.

NEW SECTION

WAC 434-262-105 Audit of results of votes cast on direct recording electronic device. (1) Whenever possible, audits required by RCW 29A.60.185 must use the same three races or issues, randomly selected by lot, for every direct recording electronic device subject to the audit. If there are not three countywide races or issues on the ballot, the county must select the maximum number of contests available but no more than three contests from each of the devices randomly selected for the audit.

(2) Written procedures to perform audits of direct recording electronic devices as outlined in RCW 29A.60.185 must be promulgated by the appropriate county auditor.

(a) The procedures must provide for a process of randomly selecting by lot the direct recording electronic devices that will be audited.

(b) The procedures for manually tabulating results must be conducted using a process that includes the following elements:

(i) A continuous paper record must be utilized in the audit; the paper record must not be cut into separate individual records; and

(ii) Paper records that indicate that a ballot has been canceled must be exempt from the audit;

(3) The county auditor must compare the paper records with the electronic records. The county auditor may take any necessary actions to investigate and resolve discrepancies.

(4) Prior to certification, and in time to resolve any discrepancies, the county auditor must alert the county canvassing board of discrepancies identified during the audit.

NEW SECTION

WAC 434-262-106 Machine recount of votes cast on direct recording electronic devices. Machine recounts must be conducted by reloading individual ballot data packs or cartridges. The county auditor must verify all data packs or cartridges have been loaded.

NEW SECTION

WAC 434-262-108 Manual recount of votes cast on direct recording electronic devices. (1) Written procedures to perform manual recounts of direct recording electronic devices must be promulgated by the county auditor. The procedures for manually tabulating results must be conducted using a process that includes the following elements:

(a) A continuous paper record must be utilized in the audit; the paper record must not be cut into separate individual records; and

(b) Paper records that indicate that a ballot has been canceled must be exempt from the recount.

(2) The county auditor must compare the hand recount results with the original results. The county auditor may take any necessary actions to investigate and resolve discrepancies.

WSR 05-19-144
PROPOSED RULES
DEPARTMENT OF PERSONNEL

[Filed September 21, 2005, 9:36 a.m.]

Continuance of WSR 05-18-077.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-28-255 What constitutes overtime for an overtime-eligible employee?

Hearing Location(s): Department of Personnel, Classroom #4, 600 South Franklin, Olympia, WA, on November 10, 2005, at 10:00 a.m.

Date of Intended Adoption: November 10, 2005.

Submit Written Comments to: Sandi Stewart, Department of Personnel, P.O. Box 47500, e-mail sandis@dop.wa.gov, fax (360) 586-4694 (FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT"), by November 3, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by November 1, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This modification states that compensatory time off is considered time worked for the purpose of calculating overtime.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sandi Stewart, 521 Capitol Way South, Olympia, WA, (360) 664-6324; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

September 20, 2005
Eva N. Santos
Director