

WSR 16-10-015
PROPOSED RULES
BIG BEND
COMMUNITY COLLEGE

[Filed April 22, 2016, 12:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-16-059.

Title of Rule and Other Identifying Information: Chapter 132R-04 WAC, Community colleges—Big Bend Community College.

Hearing Location(s): Big Bend Community College, 7662 Chanute Street N.E., Hardin Community Room, Moses Lake, WA 98837, on June 10, 2016, at 1:30 p.m.

Date of Intended Adoption: July 1, 2016.

Submit Written Comments to: Bob Mohrbacher, 7662 Chanute Street N.E., Moses Lake, WA 98837, e-mail bobm@bigbend.edu, fax (509) 762-6329, by May 25, 2016.

Assistance for Persons with Disabilities: Contact Lora-lyn Allen by May 25, 2016, TTY (509) 762-6335 or (509) 793-2027.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to the current Title 132R WAC are necessary to comply with the Violence Against Women Reauthorization Act (VAWA) of 2013, to clarify processes for compliance with United States Department of Education Title IX as described in Dear Colleague Letter: Harassment and Bullying (October 26, 2010), and to clarify campus marijuana use rules in light of I-502.

Reasons Supporting Proposal: Needed to comply with VAWA 2013 as well as the SAVE Act and I-502.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Rule is necessary because of federal law, VAWA 2013.

Name of Proponent: Big Bend Community College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Bob Mohrbacher, 7662 Chanute Street N.E., Moses Lake, WA 98837, (509) 793-2055.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes impact only internal college processes dealing with students. There is no financial impact on any small business or school district.

A cost-benefit analysis is not required under RCW 34.05.328. Changes impact only internal college processes dealing with students. There is no direct financial impact.

April 21, 2016

Bob Mohrbacher

Vice-President of Instruction
and Student Services

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-010 Statement of student rights ((and responsibilities)). ((Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will

comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges, and property of other members of the college community, and will not interfere with legitimate college affairs.

~~The rights and responsibilities of students are further defined and listed in the "student rights and responsibilities" policy adopted by the board of trustees of Big Bend Community College. Policies and procedures are fully explained in the student handbook which is on file in the office of the vice-president of student services.)~~ As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to maintain and to respect the general conditions necessary for a free and effective learning environment is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-015 Definitions. ((1) "ASB" means the representative governing body for students at Big Bend Community College recognized by the board of trustees.

(2) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity,

advocate a view, petition for a cause or disseminate information to any person, persons or group of persons:

(3) "Board" means the board of trustees of Community College District 18, state of Washington.

(4) "College president" or "president" means the duly appointed chief executive officer of Big Bend Community College, Community College District 18, state of Washington, or in his/her absence, the acting chief executive officer.

(5) "College" means Big Bend Community College located within Community College District 18, state of Washington.

(6) "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(7) "College personnel" refers to any person employed by Community College District 18 on a full-time or part-time basis, except those who are faculty members.

(8) "Disciplinary action" means and includes suspension or any lesser sanction of any student by the vice president of student services, student disciplinary council, college president, or the board of trustees for the violation of any of the provisions of the code of student conduct or any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

(9) "District" means Community College 18, state of Washington.

(10) "Faculty member(s)" means any employee of Big Bend Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibility are comparable as determined by the appointing authority, except administrative appointments.

(11) "Hazing" means any method of initiation into a student organization, association, or living group or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution.

(12) "Recognized student organization" means and includes any group or organization composed of students, which is affirmed by the student government of the college.

(13) "A sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by college faculty members or personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college faculty member(s) or personnel, shall be deemed to be a nonsponsored activity.

(14) "Student" means a person who is enrolled for courses at the college.

(15) "Working days" means Monday through Friday, excluding holidays.) For the purposes of this chapter, terms are defined as follows:

(1) "Student conduct officer" is a college administrator responsible for implementing and enforcing the student conduct code. The student conduct officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The vice-president of instruction and student services will serve as the student conduct officer or may appoint a designee.

(2) "Conduct review officer" is a college administrator responsible for receiving and facilitating appeals from student disciplinary actions and for reviewing initial orders issued in a brief adjudicative proceeding. The conduct review officer shall be designated by the president and shall be authorized to grant appropriate relief upon review. The conduct review officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The director of student programs will serve as the conduct review officer, unless otherwise designated by the president.

(3) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which discipline is imposed by the student conduct officer against a student for a violation of the student conduct code.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion are heard by the disciplinary committee. Appeals of all other appealable disciplinary action may be reviewed through brief adjudicative proceedings.

(6) "Respondent" is the student against whom disciplinary action is being taken.

(7) "Service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by e-mail and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited into the mail.

(8) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disciplinary review or a presiding officer. Unless expressly specified otherwise, filing shall be accomplished by:

(a) Hand delivery of the document to the school official or school official's assistant; or

(b) By sending the document by e-mail and first class mail to the recipient's college e-mail and office address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified official or presiding officer.

(9) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(10) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis.

and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(11) "Business day" means a weekday, excluding weekends and college holidays. If a time period is not specifically stated in business days, then calendar days apply.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-017 Statement of jurisdiction. ((All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college sponsored activity or function whether occurring on or off college facilities/premises.)) The conduct code adopted herein applies to student conduct that occurs on college premises, at college-sponsored activities, and to off-campus student conduct that adversely affects the well-being of the college community and/or the pursuit of its objectives. Jurisdiction includes, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the code of student conduct will be applied to conduct occurring off campus.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-057 Student code of conduct violations. ((Any student shall be subject to immediate disciplinary action provided for in code procedures and summary suspension rules who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college.

(2) Violates any provisions of the code of student rights and responsibilities.

(3) Commits any of the following acts which are hereby prohibited:

(a) All forms of academic misconduct and dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) Failure to comply with lawful directions of faculty, administrators and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, disciplinary proceedings or other lawful activities on the college campus. Said conduct may be defined as:

(i) Behavior that involves an expressed or an implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in college activities and causes the person to have a reasonable apprehension that such interference is about to occur;

(ii) Threat to cause bodily harm at present or in the future to any person, or to cause physical damage to another's property, or to maliciously do any act which is intended to substantially harm another person's physical or mental health or safety;

(iii) Intentional and repeated following or contacting another person in a manner that intimidates, harasses or places another in fear for his or her personal safety or the safety of his or her property.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the physical or mental health and safety of any person on college owned or controlled property or at college-sponsored or supervised functions.

(e) All forms of sexual misconduct which includes sexual harassment, sexual intimidation, sexual coercion, sexual assault, and rape.

(f) All forms of hazing which endangers, or is likely to endanger, the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or college organization.

(g) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(h) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(i) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the vice president of student services, or any other person designated by the college president.

(j) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steers it to the conduct prohibited herein.)

(k) Possessing, consuming, being demonstrably under the influence of, or furnishing any form of alcoholic beverages on college owned or controlled property or at college-sponsored or supervised functions where prohibited by the college's current alcohol policy.

(l) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(m) Engaging in lewd, indecent or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(n) Using, possessing, furnishing or selling any narcotic or dangerous drug as defined in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(o) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(p) Theft or conversion of college property or private property.

(q) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(r) Possession, making or causing to be made, any key to operate locks or locking mechanisms on campus without proper authorization or using or giving to another, a key for which there has been no proper authorization.

(s) Interfering with college computing or communication functions or with the work of another student, faculty member, or college official; gaining unauthorized access, altering data, misusing computing facilities to send harassing messages, or misuse of the campus network and/or computing facilities as defined by the current college technology use policy and procedures.

(t) Disruptive classroom conduct including abusive language toward a classroom instructor and/or student and other acts of misconduct.

(4) Single or repeated violation of the above code is relevant in determining an applicant's or a student's membership in the college.) **Student misconduct.** Misconduct for which the college may impose sanctions includes, but is not limited to, any of the following:

(1) Any act of academic dishonesty including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, presenting or submitting another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty includes, but is not limited to, presenting or submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(2) Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(3) Obstruction or disruption of:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this subsection:

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated harassment or repeated following of another person, which places that person in reasonable fear that the stalker intends to injure the person, another person, or the property of the person or another person, and the stalker either intends to frighten, intimidate, or harass the person, or knows or reasonably should know that the person is frightened, intimidated or harassed, even if the stalker lacks such an intent. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances.

(5) Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third-parties using another's e-mail identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) Attempted or actual damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state;

(b) Any student or college officer, employee, or organization; or

(c) Any other person or organization, or possession of such property or money after it has been stolen.

(7) Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) Participation in any activity which unreasonably disrupts the operations of the college or infringes on the rights of

another member of the college community, or leads or incites another person to engage in such an activity.

(9) Weapons: Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice-president of instruction and student services. See board policy 7800 for additional details.

(10) Hazing. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(11) Tobacco, electronic cigarettes, and related products: The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, or in any location other than the parking lots, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(12) Alcohol: The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(13) Marijuana: The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(14) Being observably under the influence of any legend drug, narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, or otherwise using, possessing, delivering, or selling any such drug or substance, except in accordance with a lawful prescription for that student by a licensed health care professional.

(15) Obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity.

(16) Conduct which is disorderly, lewd, or obscene.

(17) Breach of the peace.

(18) Discriminatory conduct: Discriminatory conduct which harms or adversely affects any member of the college community because of her or his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(19) Sexual violence: The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence and dating violence.

(a) Domestic violence: Includes (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (ii) sexual assault of one family or household member by another; or (iii) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member. Pursuant to chapter 10.99 RCW, domestic violence also includes, but is not limited to, the following crimes when committed by one family or household member against another: Assault; drive-by shooting; reckless endangerment; coercion; burglary; criminal trespass; malicious mischief; kidnapping; unlawful imprisonment; and violation of a restraining order, no-contact order or protection order.

(b) Dating violence: Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(c) Stalking: Intentional and repeatedly harassing or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the perpetrator lacks such intent. In addition to any other form of communication or conduct, the sending of an electronic communication may constitute stalking.

(d) Consent: At the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(20) Sexual harassment: Conduct includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other sexual conduct, including verbal, nonverbal, electronic or social media communication, or physical touching that would substantially interfere with a reasonable person's work or educational performance, or to create an intimidating, hostile, or offensive educational environment.

(21) Harassment: Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic media.

(22) Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

(23) Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(24) Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(25) Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(26) Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(27) Ethical violation: The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

(28) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with

student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-063 Disciplinary sanctions. ((If any student is found to have violated any of the offenses enumerated at WAC 132-04-057, one or more of the following sanctions may be imposed against the student or student organization. Failure to comply with any imposed sanctions may result in additional sanctions:

(1) Minor disciplinary sanction:

(a) "Disciplinary warning." Formal action censoring a student for unacceptable conduct or violation of college rules or regulations. The student is notified in writing of this action. Warnings imply that further unacceptable conduct or violation of rules will result in one of the more serious actions described below.

(b) "Disciplinary probation." Formal action placing condition on the student's continued attendance for violation of specified regulations. The disciplinary probation shall specify, in writing, the period of probation and the conditions which may include conditions such as limiting the student's participation in college-related privileges or extracurricular activities or enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups. Disciplinary probation further shall give the student notice that any further misconduct will automatically raise the question of suspension from the college. Disciplinary probation shall be for a specified period of time.

(c) "Educational activities." Activities designed to foster student development may include, but are not limited to, community service, attendance at educational programs, or written assignments.

(d) "Restitution." Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) "Assessment." Referral for drugs/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(2) Major disciplinary sanction:

(a) "Disciplinary suspension." Formal action taken by authorized personnel (the president or anyone authorized to act in the absence of the president) dismissing a student temporarily from the college for unacceptable conduct or violation of college rules or regulations. Suspension may be for a stated or for an indefinite period, but the implication of the action is that the student may eventually return if evidence or other assurance is presented that the unacceptable conduct will not be repeated. The notification suspending the student must state the conditions to be met and whether the action is to be noted permanently on the student's record. The student and vice-president of student services are notified in writing of the action taken, the terms of the suspension and any conditions involved, and the dean of enrollment services is requested to enter the action on the student's academic record.

No fees will be refunded for the quarter in which the action is taken.

(b) "Disciplinary expulsion." Discretionary action by authorized personnel dismissing a student permanently for flagrantly unacceptable conduct or violation of college rules or regulations. Unlike suspension, no term is involved, the action always becomes effective on notice. Expulsion must have the prior approval of the president. The student is notified in writing of the action taken, and the dean of enrollment services is requested to enter the action permanently on the student's academic record.

(c) "Hold" (administrative). Attachment of a student's record to assure compliance with college rules, procedures, or obligations. The "hold" may be placed on the student's record by the authorized college office responsible for enforcement of the rule, procedure, or obligation involved. The authorized office must request the dean of enrollment services in writing to place a "hold" on the student's record. The student will not be permitted to register for any subsequent quarter nor to obtain a transcript of his/her record except on the written release of the office which placed the "hold."

(d) "Registration canceled" (administrative). Privileges of attendance withdrawn, effective immediately on notice.

(i) By order of the business office for financial delinquencies. (Handled as a withdrawal for recording purposes.)

(ii) By order of the vice president of student services for failure to comply with rules, regulations or instructions.

The order canceling a registration must be addressed to the student involved in writing. The registration office automatically will place a "hold" on the student's record to prevent registration for future quarters and the issuance of transcripts.)) **Sanctions.** Disciplinary actions include, but are not limited to, the following sanctions that may be imposed upon students according to the procedure outlined in WAC 132R-04-057.

(1) Warning: A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Reprimand: Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) Disciplinary probation: Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college. Other conditions and restrictions may include, but not be limited to, restrictions from being present on certain parts of the campus or in certain college buildings; restriction from attending certain college activities; orders of no contact between the student under

probation and other students, college employees, or other persons.

A student who is on disciplinary probation may be deemed "not in good standing" with the college. If so the student shall be subject to the following restrictions:

(a) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(b) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(4) Restitution: Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(5) Suspension: Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(6) Professional evaluation: Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(7) Dismissal: The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-064 ((Interim discipline.)) Summary suspension. (((1) Disciplinary actions of the college will be implemented by the president, except as such implementation may be delegated by the president or the board of trustees. Ordinarily, the disciplinary authority of the college will be invoked only after completion of the procedures established for the review of disciplinary cases and after the student, if he/she so wishes, has availed himself/herself of the appeal procedures. However, in situations where there is cause to believe that the student or the student organization poses an immediate threat to himself or herself, to others or to property, or is incapable of continuing as a student for medical or psychological reasons, or where it is believed that the student's continued attendance or presence may cause disorder or substantially interfere with or impede the lawful activities

of others or imperil the physical or mental health and safety of members of the college community, interim actions may be taken immediately without prior notice or hearing. These actions, taken by the president or the president's designee, may include:

(a) Interim restrictions, including, but not limited to, assignment to alternate college housing or removal from college housing, limitation of access to college facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the college or restriction of access to campus;

(c) Mandatory medical/psychological assessment, including referral to outside, medical professionals and/or to the mental health advisory board for assessment of the student's capability to remain in the college.

(2) Each instructor is authorized to implement interim suspension when necessary to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. An instructor imposing an interim suspension shall report such action, in writing, to the division chair, vice-president of student services, and vice-president of instruction.

(3) In all cases of interim discipline, the student or student organization is entitled to personally appeal before the vice-president of student services or designee as soon as is reasonably possible. The student disciplinary review request must be submitted in writing no later than ten working days from the date of said disciplinary action.

(4) The vice-president of student services shall conduct a meeting with the student within five working days after receipt of the disciplinary review request. As a result of the meeting between the vice-president of student services and the student, the vice-president may recommend to the president or the president's designee either continuation or termination of the interim discipline and/or initiate disciplinary procedures in accordance with WAC 132R-04-112 through 132R-04-160.) (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The vice-president of instruction and student services (or designee) may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with written notice or oral notice of the summary suspension at the time of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension Proceedings" and shall include:

(a) The reasons for imposing the summary suspension, including reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the chair of the student disciplinary committee for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or designee, or to attend a disciplinary hearing.

(5)(a) The conduct review officer or designee shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(b) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(d) If the notice of summary suspension proceedings has been served upon the respondent in accordance with these rules and the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief statement of findings of fact and conclusions of law, the policy reasons justifying imposition of the summary suspension. If summary suspension is upheld and/or other discipline imposed, the order shall inform the respondent of the duration of the summary suspension or the nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the order may be appealed.

(f) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

(g) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices whom may be bound or protected by it.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-067 ((Readmission after major discipline)) Appeal from disciplinary action. ((Any petition for readmission by a student suspended or expelled for disci-

iplinary reasons other than poor scholarship must be addressed to the office of the vice-president of student services. Such a petition must be in writing and must state in detail the reasons why the penalty should be reconsidered. Since the president of the college or his/her designee participates in disciplinary decisions suspending/expelling students from the college, decisions on such petitions for readmission must be reviewed and approved by the president before being announced to the petitioner.)) (1) The respondent may appeal the results of a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty days of service of the discipline order. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's order shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student disciplinary committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) The Administrative Procedure Act, chapter 34.05 RCW, governs committee proceedings and controls in the event of any conflict with these rules.

(6) The college hereby adopts the Model rules of procedure, chapter 10-08 WAC, by reference. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(7) Imposition of discipline for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(8) The student disciplinary committee shall hear appeals from:

(a) Suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer.

(9) Student conduct appeals involving the following disciplinary actions shall be heard as brief adjudicative proceedings:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Reprimands; and any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-100 ((Delegation of disciplinary)) Authority. ((The board, acting pursuant to RCW 28B.50.140(14), do by written order delegate to the president of the college authority to administer the disciplinary action prescribed in WAC 132R-04-150. All disciplinary actions in which there is a recommendation that a student be suspended or expelled, shall be acted upon by the president or his/her designee as listed in the Big Bend Community College board of trustees policy book, section BP 1004.5.)) The Big Bend Community College (BBCC) board of trustees, acting according to RCW 28B.50.140(14), delegates to the presi-

dent of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president of instruction and student services. The vice-president of instruction and student services will serve as the student conduct officer, or appoint a designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-112 ((Discipline statement.)) Initiation of disciplinary action. ((1) The vice-president of student services is the primary agent for the administration of discipline for unacceptable conduct or infraction of college rules except those which are the responsibility of divisions and instructors as hereafter described.

(a) The division chair and faculty of each division are responsible for the administration of discipline for infraction of rules and regulations of the college or for unacceptable conduct by students in matters relating to their academic progress.

(b) The instructor is responsible for the maintenance of order and proper conduct in the classroom. He/she is authorized to impose interim suspension as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(2) The instructor of each course shall be responsible for the maintenance of order and proper student conduct in a classroom. Each instructor is authorized to impose interim suspension in order to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. In the event of disruptive classroom conduct, academic misconduct, and/or dishonesty, the instructor may take any and all reasonable action against any student. A course of action might include, but not be limited to:

(a) Issuing a failing grade on a particular test, paper, assignment, or course.

(b) Dismissing the student(s) from class pending a hearing with the vice-president of student services.

(c) Dropping the student from the course.

(d) Referring the case to local authorities for civil action.

(3) An instructor taking action against any student for an act of disruptive classroom conduct, academic misconduct, and/or dishonesty, shall report such action in writing to the division chair, appropriate dean, vice-president of student services, and vice-president of instructional services as soon as possible. Any student subject to action of an instructor for a code of conduct violation may seek review of that action by the vice-president of student services. The student disciplinary review request must be submitted in writing to the vice-president of student services within ten working days from the date of said disciplinary action.)) (1) Disciplinary proceedings will be initiated by the vice-president of instruction and student services or a designee. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) A student accused of violating any provision of the conduct code (the respondent) shall be notified of an initial meeting with the vice-president of instruction and student services. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is charged with violating, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to appear after proper notification, the student conduct officer may take disciplinary action based upon the available information.

(3) Within ten days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the vice-president of instruction and student services shall serve the respondent with a written order setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(4) The vice-president of instruction and student services, acting in the role of student conduct officer, may take any of the following actions:

(a) Terminate the proceeding, exonerating the respondent;

(b) Dismiss the case after providing appropriate counseling and advice to the respondent. Such action is final and is not subject to review on appeal;

(c) Issue a verbal warning to the respondent directly. Such action is final and is not subject to review on appeal;

(d) Impose additional sanctions of reprimand, disciplinary probation, suspension or dismissal. Such actions are subject to review on appeal as provided in this chapter; refer the matter directly to the student disciplinary committee for such action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the disciplinary committee, with a copy served on the respondent.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-115 ((Disciplinary action)) Brief adjudicative proceedings. ~~((1) A student charged with unacceptable conduct is entitled to a fair hearing. The procedures set forth below shall be interpreted and administered in such a way as to accomplish this objective. Disciplinary proceedings are not to be construed as judicial trials; care will be taken to comply as fully as possible with the spirit and intent of procedural safeguards relative to the rights of the individual concerned.~~

~~(a) When disciplinary action is initiated by a faculty member for disruptive classroom conduct, academic misconduct, and/or dishonesty, a written report of the occurrence shall be filed with the division chair, appropriate dean, vice-president of student services, and vice-president of instruction.~~

~~(b) All other instances of misconduct shall be reported to the vice-president of student services.~~

~~(c) Any student accused of violating any provisions of the rules of student conduct shall be called for an initial conference with the vice-president of student services or his/her designated representative, and shall be informed of what provision of the rules of student conduct have been violated, and the maximum penalties, if any, which might result from initiation of a disciplinary proceeding.~~

~~(2) After considering the evidence in the case and interviewing the student or students accused of violating the rules of student conduct, the vice-president of student services or his/her designated representative may take any of the following actions:~~

~~(a) Terminate the proceedings, exonerating the student or students;~~

~~(b) Dismiss the case after whatever counseling and advice may be appropriate;~~

~~(c) Impose minor sanctions directly (warning or reprimand);~~

~~(d) Refer the case to the disciplinary committee.~~

~~(3) Should a disciplinary committee hearing be necessary, the student shall be notified **in writing** as to the date, time, place of the hearing, and charge(s), including reference to the particular sections of the rules of student conduct involved. He/she shall be permitted to examine the evidence against him/her and where pertinent shall be given the names of those who will be witnesses against him/her. In the hearing he/she may present evidence, testimonial or documentary, in his/her behalf.~~

~~(4) The president or vice-president of student services shall notify the student in writing of the final determination on any charge of unacceptable conduct. In the case of a student under eighteen years of age who is expelled, suspended or placed on disciplinary probation, the parents or guardian of the student shall also be notified in writing. (This does not apply to emancipated minors.))~~

(1) **Brief Adjudicative Proceedings.** This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the president, or a designee, in regard to:

(a) Parking violations.

(b) Outstanding debts owed by students or employees.

(c) Use of college facilities.

(d) Residency determinations.

(e) Use of library - Fines.

(f) Challenges to contents of education records.

(g) Loss of eligibility for participation in institution sponsored athletic events.

(h) Student conduct appeals involving the following disciplinary actions:

(i) Suspensions of ten instructional days or less;

(ii) Disciplinary probation;

(iii) Written reprimands; and

(iv) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(i) Appeals of decisions regarding mandatory tuition and fee waivers.

Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

(2) Brief Adjudicative Proceedings - Initial Hearing. The initial hearing (also known as a brief adjudicative proceeding) is an initial and less formal process designed to resolve disputes and address concerns on the part of students, faculty, or other college personnel.

(a) Brief adjudicative proceedings shall be conducted by the appropriate dean or the associate vice-president of student services, acting as the presiding officer. The presiding officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(b) Before taking action, the presiding officer shall conduct an informal hearing and provide each party (i) an opportunity to be informed of the college's view of the matter and (ii) an opportunity to explain the party's view of the matter.

(c) The presiding officer shall serve an initial order upon both the parties within ten days of consideration of the initial hearing. The initial order shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial order. If no request for review is filed within twenty-one days of service of the initial order, the initial order shall be deemed the final order.

(d) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The conduct review officer may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-117 Student disciplinary committee. ~~((1) The committee shall be a standing committee composed of one administrator appointed by the president, two faculty members selected by the college faculty association and two students selected by the student government.~~

~~(2) If any member of the committee is unable to consider a particular disciplinary proceeding for any reason including a conflict of interest, such member shall be temporarily replaced by a student or faculty member as appropriate pursuant to the procedure established in this section.~~

~~(3) The disciplinary committee shall conduct such hearing within twenty working days after disciplinary action has been referred to such committee and shall give the student charged with violation of the rules of student conduct a minimum notice of five working days of said hearing as specified within the following section. With the mutual agreement of the parties, the hearing date may be continued beyond the~~

~~twenty working day limit.)) (1) The student disciplinary committee shall consist of five members:~~

~~(a) Two full-time students appointed by the student government;~~

~~(b) Two faculty members recommended by the faculty association and appointed by the president;~~

~~(c) One member of the administration appointed by the president at the beginning of the academic year. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.~~

~~(2) The member of the administration shall serve as the chair of the committee and may take action on preliminary hearing matters prior to the appointment of the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.~~

~~(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.~~

~~(4) Members of the student disciplinary committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).~~

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-130 Student disciplinary committee ((procedures)) process. ~~((1) The hearing panel will hear, de novo, and make recommendations to the president of the college on all disciplinary cases referred to it by the vice president of student services.~~

~~(2) The student has a right to a fair and impartial hearing before the disciplinary committee on any charge of violating the rules of student conduct. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the disciplinary committee from making its findings of fact, conclusions and recommendations as provided herein.~~

~~(3) The student shall be given written notice of the time and place of the hearing before the disciplinary committee by personal service or registered mail and be afforded not less than five working days notice thereof. Said notice shall contain:~~

~~(a) A statement of the time, place and nature of the disciplinary proceeding;~~

~~(b) A statement of the charges against him/her including reference to the particular sections of the rules of student conduct involved.~~

~~(4) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; he/she shall be entitled to present evidence in his/her own behalf and cross-examine witnesses testifying against him as to factual matters.~~

(5) The student has the right to be assisted by any (one) advisor he/she may choose, at his/her own expense. The advisor may be an attorney. The student is responsible for presenting his/her own case and, therefore, advisors are not permitted to speak or to participate directly in a hearing. The accused student can, however, speak with his/her advisor during the hearing. If the student utilizes an attorney as an advisor, the student shall give the vice-president of student services three days' notice of intent to do so.

(6) In all disciplinary proceedings, the college may be represented by a designee appointed by the vice-president of student services; said designee may then present the college's case against the student accused of violating the rules of student conduct, provided that in those cases in which the student elects to have a licensed attorney act as his/her advisor, the vice-president of student services may elect to have the college represented by an assistant attorney general.

(7) If, at the conclusion of the hearing, the committee finds that the student has committed one or more violations, and that such violations are in fact violations of a rule or rules of student conduct, the committee shall make such a finding and recommend such disciplinary action as they shall deem appropriate against the student. Prior acts of misconduct may be considered in making the recommendation for disciplinary action.

(8) During the course of the proceeding an adequate summary of all the evidence and facts will be taken. A copy shall be available at the office of the vice-president of student services.) (1) **Student Disciplinary Committee Process.**

(a) The committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

(b) The committee chair is authorized to conduct pre-hearing conferences and/or to make prehearing decisions concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(c) Upon request filed at least five days before the hearing by either party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present in their respective cases. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, unless the party can show good cause for such failure.

(d) The committee chair may provide to the committee members in advance of the hearing copies of (i) the conduct officer's notification of imposition of discipline (or referral to the committee) and (ii) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(e) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of

these admissible exhibits to the committee members before the hearing.

(f) The vice-president of instruction and student services (or designee) shall provide reasonable assistance to the respondent, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(g) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate; any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(h) Each party may be accompanied at the hearing by a nonattorney assistant of his or her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

(2) Student Disciplinary Committee Hearings - Presentation of Evidence.

(a) Upon the failure of any party to attend or participate in a hearing, the committee may either (i) proceed with the hearing and issuance of its order or (ii) serve an order of default in accordance with RCW 34.05.440.

(b) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings should be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(c) The chair shall cause the hearing to be recorded by a method that he or she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to the respondent upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by the respondent. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(d) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(e) The vice-president of instruction and student services or a designee (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(f) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(3) Supplemental Sexual Misconduct Procedures. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters.

including the right to participate in the initial discipline action and to appeal the student conduct officer's disciplinary order.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct. In such cases, these procedures shall supplement the student disciplinary procedures. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

(4) Supplemental Definitions. For purposes of student conduct code proceedings involving sexual misconduct, the following definitions apply:

(a) The "complainant" is the alleged victim of sexual misconduct. Complainant also refers to the college when the college files the complaint.

(b) "Sexual misconduct" is a sexual or gender-based violation of the student conduct code including, but not limited to:

(i) Sexual activity for which clear and voluntary consent has not been given in advance;

(ii) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping or otherwise incapacitated due to alcohol or drugs;

(iii) Sexual harassment;

(iv) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking;

(v) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

(5) Supplemental Complaint Process. The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(a) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(b) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(c) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(d) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions (if any) that

may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(e) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-140 Student disciplinary committee ((~~decision~~))—Initial order. ((Upon conclusion of the disciplinary hearing, the disciplinary committee shall consider all the evidence therein presented and decide by majority vote as to the specific findings and conclusions required pursuant to WAC 132R-04-130, and whether to recommend to the president any of the following actions:

(1) That the college terminate the proceedings and exonerate the student or students;

(2) That the president or his/her designee impose any of the disciplinary action as provided in WAC 132R-04-150.))

(1) At the conclusion of the hearing, the committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or an order for its consideration.

(2) Within twenty days following the conclusion of the hearing or the committee's receipt of closing arguments (whichever is later), the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial decision shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall determine any disciplinary sanction or conditions authorized herein. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the student conduct officer and/or impose any other disciplinary sanction or conditions authorized herein.

(4) The committee chair shall provide copies of the initial order to the parties and any legal counsel who have appeared. The committee chair shall also promptly transmit a copy of the order and the record of the committee's proceedings to the college president and the vice-president of instruction and student services.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-150 (~~Imposition of discipline.~~)
Appeal from student disciplinary committee initial order.

~~((1) The college president or his/her designee shall review all hearings for which the disciplinary committee has recommended disciplinary action and determine whether or not disciplinary action shall be imposed against the said student. With the exception of interim discipline as authorized by WAC 132R-04-064, the college president or his/her designee shall have no authority to impose any disciplinary action on a student unless disciplinary action has been recommended by the disciplinary committee against such student or unless such student has waived his/her right to a hearing before such disciplinary committee.~~

~~(2) In determining whether or not to impose disciplinary action against a student, the president shall review the summary of the evidence and facts presented to the disciplinary committee and the recommendation of the disciplinary committee, the college president shall then determine whether or not to impose disciplinary action in any form. Prior acts of misconduct may be considered in making a decision.~~

~~(3) Discipline may be imposed by the college president or his/her designee for violations of the rules of conduct, not only in those instances where the disciplinary committee has made recommendations after a hearing, but also in cases where the student has waived his/her right to such a hearing. Sanctions available to the president are described in WAC 132R-04-056 and 132R-04-063.)~~ **(1) Appeal From Student Disciplinary Committee Initial Order.**

(a) A respondent who is aggrieved by the findings or conclusions issued by the student disciplinary committee may appeal the committee's initial order to the president by filing a notice of appeal with the president's office within twenty days of service of the committee's initial order.

(b) The notice of appeal must assign error to specific findings of fact and/or conclusions of law in the initial order and must contain argument regarding why the appeal should be granted. The president's review on appeal shall be limited to a review of those issues and arguments raised in the notice of appeal. Review shall be restricted to the record created below.

(c) The president shall provide a written order to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final.

(d) The president may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

(e) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

(2) Supplemental Appeal Rights.

(a) The following actions by the student conduct officer may be appealed by the complainant:

(i) The dismissal of a sexual misconduct complaint; or

(ii) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(b) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty days of service of the notice of the discipline

decision provided for in WAC 132R-04-140. The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(c) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal, and provide the complainant an opportunity to intervene as a party to the appeal.

(d) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(e) Respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(f) During the proceedings, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the chair, who will act as an intermediary and pose questions on the parties' behalf.

(g) Hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(h) The student conduct committee will serve complainant a written notice indicating that an initial order has issued on the same date that the initial order is served on respondent. This notice shall inform the complainant whether the sexual misconduct allegations were found to have merit and describe any sanctions and/or conditions imposed upon the respondent for complainant's protection. The notice shall also provide directions on how the complainant can appeal the decision to the president.

(i) Complainant may appeal the student conduct committee's initial order to the president subject to the same procedures and deadlines applicable to other parties.

(j) The president will serve complainant a written notice indicating that the appeal has been resolved on the same date that the final order is served upon the respondent. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-160 ((Student appeal)) Brief adjudication proceedings—Review of an initial order. ((Any student feeling aggrieved by the recommendations of the disciplinary committee or the order of the college president or his/her designee imposing disciplinary action may appeal the same in writing by directing an appeal to the college president or his/her designee within fifteen days following receipt of the order of the president or his/her designee imposing disciplinary action. The college president or his/her designee may, at his/her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary action imposed.)) (1) An initial order is subject to review by the president or his or her designee, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial order.

(2) The president or designee shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president or designee shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the proceedings must be referred to the student disciplinary committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty business days of the initial order or of the request for review, whichever is later. The order on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the reviewing officer does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The president or designee may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

WAC 132R-04-165 ((Maintenance of disciplinary records.)) Brief adjudication proceedings—Agency record. ((1) ~~The vice president of student services shall keep records of all disciplinary cases. The division chair shall report to the vice president of student services and appropriate dean, in writing, all cases in which disciplinary action is taken.~~

~~(2) The vice president of student services shall notify the chair and the dean of the division in which the student is enrolled and the dean of enrollment services of any disciplinary action taken, which is to be recorded on the student's official record, and shall keep accurate records of all disciplinary cases handled by, or reported to, his/her office.~~

~~(3) The vice president of student services shall receive and maintain certain records of all disciplinary action taken by any college employee. These records should be consulted by disciplinary authorities for records of previous misconduct before taking disciplinary action in any case.)) The agency record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceedings.~~

WSR 16-10-017
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed April 22, 2016, 4:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-17-026.

Title of Rule and Other Identifying Information: Amends WAC 181-82A-202 to change the designation of the endorsement for "English language learners" to "English for speakers of other languages."

Hearing Location(s): Radisson Hotel, SeaTac Airport, 18118 International Boulevard, Seattle, WA 98188, on July 20, 2016, at 8:30.

Date of Intended Adoption: July 20, 2016.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by July 13, 2016.

Assistance for Persons with Disabilities: Contact David Brenna by July 13, 2016, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes the name of an existing endorsement (ELL) to a new term now used by vendors for teacher assessments (ESOL).

Reasons Supporting Proposal: Not applicable.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 47256 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

April 22, 2016
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 08-08-027, filed 3/24/08, effective 4/24/08)

WAC 181-82A-202 Certificate endorsements.
Teacher certificates shall be endorsed as follows:

- (1) **All levels:**
 - (a) Bilingual education.
 - (b) Designated arts: Dance.
 - (c) Designated arts: Theatre arts.
 - (d) Designated arts: Music: Choral, instrumental or general.
 - (e) Designated arts, visual arts.
 - (f) Designated world languages.
 - (g) English (~~(language learner)~~) for speakers of other languages.
 - (h) Health/fitness.
 - (i) Library media.
 - (j) Reading.
 - (k) Special education.
- (2) **Early childhood:**
 - (a) Early childhood education.
 - (b) Early childhood special education.
- (3) **Elementary education.**
- (4) **Middle level:**
 - (a) Middle level—Humanities.
 - (b) Middle level—Mathematics.
 - (c) Middle level—Science.
- (5) **Secondary level:**
 - (a) Designated science: Biology.
 - (b) Designated science: Chemistry.
 - (c) Designated science: Earth and space science.
 - (d) Designated science: Physics.
 - (e) Designated career and technical education: Agriculture education, business and marketing education, family and consumer sciences education, and technology education.
 - (f) English language arts.
 - (g) History.
 - (h) Mathematics.
 - (i) Science.
 - (j) Social studies.
 - (k) Traffic safety.

WSR 16-10-020

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed April 25, 2016, 9:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-06-112.

Title of Rule and Other Identifying Information: The department is proposing new language to chapters 388-145, 388-147, and 388-148 WAC to provide further licensing instructions for child safety and well-being and additional clarification to the minimum licensing requirements. The division of licensed resources (DLR) minimum licensing requirements were amended on January 11, 2015. Following the release of these amended WAC chapters, DSHS staff, private agency staff, group care staff, and foster parents requested additional changes to be made to the minimum licensing requirements.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on July 5, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 6, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., July 5, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by June 21, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend chapters 388-145, 388-147, and 388-148 WAC. The intent of this revision to chapters 388-145, 388-147, and 388-148 WAC is to modify the minimum licensing requirements or provide additional clarification or house-keeping edits to the current language. It will also create new requirements for the safety and well-being of children. The anticipated effects will be that foster parents, DSHS staff, child placing agency staff and group care staff will better understand the WAC requirements.

Reasons Supporting Proposal: The requested revisions for chapters 388-145, 388-147, and 388-148 WAC will provide foster parents, DSHS staff, private agency and group care staff additional clarification on the minimum licensing requirements.

Statutory Authority for Adoption: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031.

Rule is necessary because of federal law, WAC 388-145-1540, 388-147-1545, and 388-148-1425 must be changed per Public Law 113-183 the Preventing Sex Trafficking and Strengthening Families Act.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristina Wright, OB2, Olympia, Washington, (360) 902-8349.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The department of social and health services' children's administration (CA) is proposing amendments to chapters 388-145, 388-147, and 388-148 WAC, licensing requirement for group care facilities, child placing agencies and adoption services, and child foster homes.

DLR licensing requirements were amended on January 11, 2015. Since the release[,] foster parents, DSHS agency staff, group care facilities, and child placing agencies have requested additional changes. The intent of the proposed WAC revisions are to provide foster parents, department staff, group care facilities, and child placing agencies additional clarification on the licensing process and requirements.

The proposed amendments to this chapter include, but are not limited to:

- The definition of "child," "children," or "youth" will be revised to no longer include up to twenty-one years of age and pursuing a high school or equivalency course of study (GED/HSEC), or vocational program.
- An exception to the group care and child placing agency staff qualifications is being implemented.
- New requirement for reporting incidents involving children.
- Additional clarification regarding bedroom sharing requirements.
- The National Center for Missing and Exploited Children contact number has been added for foster parents and agencies to call when there is a child missing from care. This change is due to the new federal legislation requirement; Public Law 113-183 The Preventing Sex Trafficking and Strengthening Families Act that goes into effect on September 29, 2016.
- New requirements for infant safe sleep procedures.
- Home schooling is being prohibited in licensed foster homes.
- Additional clarification on weapon storage in foster homes.
- Other language or housekeeping edits have been made.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS)—DETERMINATION OF NEED: Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those business entities that employ fifty or fewer people and are independently owned and operated.

These proposed rules impact child placing agencies and adoption services and group care facilities. These businesses fall under the child group foster homes designation by the North American Industry Classification System (NAICS) codes (#623990).

Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic

impact on small businesses. The statute outlines information that must be included in an SBEIS.

CA has analyzed the proposed rule amendments and has determined that small businesses will not be disproportionately impacted by these changes. There are no additional costs to child placing agencies or group care facilities with the implementation of the WAC revisions noted above.

INDUSTRY ANALYSIS: DLR, CA, is responsible for the development and regulatory oversight of all licensing requirements for child placing agencies and group residential facilities per chapter 74.15 RCW. As part of their monitoring, DLR keeps a current internal data base that identifies all affected small businesses.

Most of the child placing agencies and facilities with whom CA contracts are considered to be small businesses employing fewer than fifty staff. These proposed rules impact the licensing of child placing agencies and adoption services and group care facilities.

INVOLVEMENT OF SMALL BUSINESSES: DLR involved child placing agencies licensing staff, tribes, and group residential care stakeholders. An e-mail survey was sent out to the two hundred thirty-one child placing agencies or group care facilities licensed by DLR statewide. These small businesses were asked whether or not the implementation of the proposed WAC revision would cause additional costs to either the child placing agency or group care facility. All of the agencies that responded indicated that there would not be additional costs.

COST OF COMPLIANCE: Under RCW 19.85.020, CA has considered annual costs to small businesses that are fifty dollars or more per child served annually.

General Costs: DLR's analysis revealed that there are no costs imposed by the proposed amendments. An e-mail survey was sent out to the two hundred thirty-one child placing agencies or group care facilities that DLR licenses statewide. Out of two hundred thirty-one e-mails sent, twenty-three responses were received and one hundred percent reported that the implementation of the proposed WAC revision would not cause any additional cost to the group care facilities.

Benefits for Proposed Rules: The proposed WAC revisions for chapters 388-145, 388-147, and 388-148 WAC will provide foster parents, DSHS staff, child placing agency staff, and group care staff further clarification on the licensing process and the minimum licensing requirements. It will also create some new additional requirements for the safety and well-being of children.

JOBS CREATED OR LOST: We do not anticipate that jobs will be lost or created as a result of these rules.

CONCLUSION: DLR, CA has given careful consideration to the impact proposed rules in chapters 388-145, 388-147, and 388-148 WAC would have on small businesses. To comply with the Regulatory Fairness Act, chapter 19.85 RCW, DLR has analyzed impacts on small businesses and there is no cost to child placing agencies or group care facilities with the proposed WAC amendments.

Please contact Kristina Wright if you have questions.

A copy of the statement may be obtained by contacting Kristina Wright, 1115 Washington Street, Olympia, WA

98504-5710, phone (360) 902-8349, fax (360) 902-7903, e-mail wrihks@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kristina Wright, 1115 Washington Street, Olympia, WA 98504-5710, phone (360) 902-8349, fax (360) 902-7903, e-mail wrihks@dshs.wa.gov.

April 19, 2016
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 16-12 issue of the Register.

WSR 16-10-021
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed April 25, 2016, 11:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-20-015.

Title of Rule and Other Identifying Information: The department is proposing to create a new WAC chapter including new WAC sections as chapter 388-829R WAC, Overnight planned respite services. The department also proposes to amend two existing sections in chapter 388-845 WAC, DDA home and community-based services waivers.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., June 21, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by June 8, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2015-2017 biennium budgets provided funding to develop eight community respite beds for adults with developmental disabilities for the provision of short-term community-based planned respite services across the state as an alternative to using respite services in an institutional setting. Additionally, the budget funded eight enhanced respite beds across the state for children for the purpose of providing families and caregivers a break and an opportunity for behavioral stabilization for children. Without these services some families may be unable to continue to care for their children in their own homes and

out-of-home placements could be necessary. These provisions may be found on pages 63 and 64 of ESSB 6052 S.L.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: ESSB 6052 S.L.

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: Sandra Miller, Developmental Disabilities Administration, P.O. Box 45310, Olympia, 98504-5310, (360) 725-3429.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not impact small business or nonprofits, they only impact DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules do not meet the definition of a "significant legislative rule" under RCW 34.05.328 (5)(c)(iii) because they do not impose penalties or sanctions, affect a license or permit, or create or amend a policy or regulatory program.

April 21, 2016
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 16-11 issue of the Register.

WSR 16-10-022
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed April 25, 2016, 11:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-06-057.

Title of Rule and Other Identifying Information: WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Hearing Location(s): Capital Plaza Building, 4th Floor Executive Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 7, 2016, at 10:00 a.m. *Call-in option can be provided upon request no later than three days before the hearing date.*

Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Date of Intended Adoption: June 14, 2016.

Submit Written Comments to: Mark E. Bohe, Department of Revenue, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, by June 7, 2016.

Assistance for Persons with Disabilities: Contact Mary Carol LaPalm, (360) 725-7499, or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The values in the proposed rule will apply beginning July 1, 2016, through December 31, 2016.

Reasons Supporting Proposal: This proposal provides the revised stumpage value tables for the second half of 2016.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

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: Mark Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1574; Implementation and Enforcement: Marcus Glasper, 1025 Union Avenue S.E., Suite #500, Olympia, WA, (360) 534-1615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose any new performance requirements or administrative burden on any small business not required by statute or the state and/or federal constitution.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Mark E. Bohe, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1574, e-mail markbohe@dor.wa.gov. The proposed rule is a significant legislative rule as defined by RCW 34.05.328.

April 25, 2016
Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-01-069, filed 12/14/15, effective 1/1/16)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ~~((January))~~ July 1 through ~~((June 30))~~ December 31, 2016:

Washington State Department of Revenue
STUMPAGE VALUE TABLE
~~((January))~~ July 1 through ~~((June 30))~~ December 31, 2016
Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
Starting July 1, 2012, there are no separate
Quality Codes per Species Code.

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
((Douglas-fir⁽²⁾))	DF	1	\$423	\$416	\$409	\$402	\$395
		2	459	452	445	438	431
		3	482	475	468	461	454
		4	506	499	492	485	478
		5	429	422	415	408	401
		6	307	300	293	286	279
Western Hemlock and Other Conifer ⁽³⁾	WH	1	266	259	252	245	238
		2	323	316	309	302	295
		3	310	303	296	289	282
		4	289	282	275	268	261
		5	280	273	266	259	252
		6	260	253	246	239	232
Western Red-cedar ⁽⁴⁾	RC	1-5	958	951	944	937	930
		6	783	776	769	762	755
Ponderosa Pine ⁽⁵⁾	PP	1-6	240	233	226	219	212
Red Alder	RA	1-5	476	469	462	455	448
Black Cottonwood	BC	1-5	86	79	72	65	58
Other Hardwood	OH	1-5	328	321	314	307	300
		6	32	25	18	11	4
Douglas-fir Poles & Piles	DFL	1-5	817	810	803	796	789
Western Red-cedar Poles	RCL	1-5	1544	1537	1530	1523	1516
		6	1026	1019	1012	1005	998
Chipwood ⁽⁶⁾	CHW	1-5	12	11	10	9	8
		6	4	3	2	1	1))
Douglas-fir ⁽²⁾	DF	1	\$369	\$362	\$355	\$348	\$341
		2	388	381	374	367	360
		3	444	437	430	423	416
		4	474	467	460	453	446
		5	373	366	359	352	345
		6	299	292	285	278	271
Western Hemlock and Other Conifer ⁽³⁾	WH	1	243	236	229	222	215
		2	262	255	248	241	234
		3	260	253	246	239	232
		4	248	241	234	227	220
		5	243	236	229	222	215
		6	243	236	229	222	215
Western Red-cedar ⁽⁴⁾	RC	1-5	1048	1041	1034	1027	1020
		6	887	880	873	866	859
Ponderosa Pine ⁽⁵⁾	PP	1-6	215	208	201	194	187
Red Alder	RA	1-5	468	461	454	447	440
Black Cottonwood	BC	1-5	86	79	72	65	58

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
Other Hardwood	OH	1-5	301	294	287	280	273
		6	23	16	9	2	1
Douglas-fir Poles & Piles	DFL	1-5	787	780	773	766	759
Western Redcedar Poles	RCL	1-5	1576	1569	1562	1555	1548
		6	1104	1097	1090	1083	1076
Chipwood ⁽⁶⁾	CHW	1-5	13	12	11	10	9
		6	3	2	1	1	1
Small Logs ⁽⁶⁾	SML	6	25	24	23	22	21
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	1-6	289	282	275	268	261
Posts ⁽⁸⁾	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF Christmas Trees ⁽⁹⁾	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1-6	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes all Hemlock, Spruce and true Fir species, Lodgepole Pine in SVA 6, or any other conifer not listed on this page.
- (4) Includes Alaska-Cedar.
- (5) Includes Western White Pine in SVA 6, and all Pines in SVA 1-5.
- (6) Stumpage value per ton.
- (7) Stumpage value per cord.
- (8) Includes Lodgepole posts and other posts, Stumpage Value per 8 lineal feet or portion thereof.
- (9) Stumpage Value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((January)) July 1 through ((June 30)) December 31, 2016:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5
 ((January)) July 1 through ((June 30)) December 31, 2016

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table
Stumpage Value Area 6**
(January) July 1 through (June 30) December 31, 2016

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	

III. Remote island adjustment:

For timber harvested from a remote island - \$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
	SVAs 1 through 5 only:	\$0.00

Note: This adjustment only applies to published MBF sawlog values.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.
(b) Causes that do not qualify for adjustment include:
(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a \$0/ton stumpage value.

**WSR 16-10-023
PROPOSED RULES
DEPARTMENT OF REVENUE**
[Filed April 25, 2016, 2:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-05-015.

Title of Rule and Other Identifying Information: WAC 458-20-190 (Rule 190) Sales to and by the United States—Doing business on federal reservations—Sales to foreign governments, explains the tax reporting responsibilities of persons making sales to the United States and to foreign governments. This rule also explains the tax reporting responsibilities of persons engaging in business activities within federal reservations and cleaning up radioactive waste and other by-products of weapons production for the United States.

Hearing Location(s): Capital Plaza Building, 4th Floor Executive Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 14, 2016, at 10:00 a.m. *Call-in option can be provided upon request no later than three days before the hearing date.*

Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Date of Intended Adoption: June 21, 2016.

Submit Written Comments to: Leslie Mullin, Department of Revenue, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, e-mail LeslieMu@dor.wa.gov, by June 14, 2016.

Assistance for Persons with Disabilities: Contact Mary Carol LaPalm, (360) 725-7499, or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to revise Rule 190 to include information on whether purchases made with Red Cross funds or FEMA funds are subject to retail sales tax. This information is currently available in ETA 3156. The rule title will also change

to include "and certain entities created by the United States"....

Subsection (5)(a) is also being expanded to include additional information on documenting United States government credit card purchases.

Reasons Supporting Proposal: To provide general updates and clarification.

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

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1589; Implementation and Enforcement: Marcus Glasper, 1025 Union Avenue S.E., Suite #500, Olympia, WA, (360) 534-1615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose any new performance requirements or administrative burdens on any small business not required by statute or the state and/or federal constitution.

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.

April 25, 2016
Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-10-030, filed 4/26/10, effective 5/27/10)

WAC 458-20-190 Sales to and by the United States and certain entities created by the United States—Doing business on federal reservations—Sales to foreign governments. (1) **Introduction.** Federal law prohibits ((Washington)) states from directly imposing taxes ((upon)) on the United States. Persons doing business with the United States, however, are ((nonetheless)) subject to the taxes imposed by the state of Washington, unless specifically exempt. This rule explains the tax reporting responsibilities of persons making sales to the United States and to foreign governments. The rule also explains the tax reporting responsibilities of persons engaging in business activities within federal reservations and cleaning up radioactive waste and other by-products of weapons production for the United States.

~~((Persons engaged in construction, installation, or improvement to real property of or for the United States should also refer to))~~ (a) **Other rules that may be relevant.**

~~((i) WAC 458-20-17001 ((f))Government contracting((; etc.)) Persons building, repairing, or improving streets, roads, and other transportation facilities, which are owned by the United States should also refer to))~~—Construction, installations, or improvements to government real property.

~~((ii) WAC 458-20-171 ((f))Building, repairing or improving streets, roads, etc.((; Persons selling cigarettes to the United States or any other federal entity should also refer to)), which are owned by a municipal corporation or political~~

subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic.

((iii) WAC 458-20-178 Use tax and the use of tangible personal property.

((iv) WAC 458-20-186 ((f))Tax on cigarettes((;)).

((b) Examples. This rule provides examples that 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 the facts and circumstances.

(2) **"United States" defined.**

(a) For the purposes of this rule, the term "United States" means the federal government, including the executive, legislative, and judicial branches, its departments, and federal entities exempt from state or local taxation by ((reason of)) specific federal statutory exemption.

The mere fact that an entity is a federal entity, such as an instrumentality or a federal corporation, does not mean that the entity is immune from tax. The taxability of a federal entity and whether ((or not)) the entity is required to collect and remit retail sales/use tax depends on the benefits and immunities conferred ((upon)) on it by Congress. Thus, to determine the current taxable status of federal entities, the relevant portion of the federal law should be examined.

(b) "United States" does not include entities associated with but not a part of the United States, such as the National Guard (an instrumentality of the state of Washington). Nor does it include entities contracting with the United States government to administer its programs.

(3) **Prohibition against taxing the United States.** The state of Washington is prohibited from imposing taxes directly ((upon)) on the United States.

(a) This prohibition applies to taxes imposed for the privilege of engaging in business such as ((the)) business and occupation (B&O) (chapter 82.04 RCW) and ((the)) public utility (chapter 82.16 RCW) taxes.

It also applies to taxes imposed on a buyer or user of goods or services((;)) including, but not limited to, the:

(i) State and local retail sales and car rental taxes (chapters 82.08 and 82.14 RCW);

(ii) State and local use tax (chapters 82.12 and 82.14 RCW);

(iii) Solid waste collection tax (chapter 82.18 RCW); and

(iv) Local government taxes such as the special hotel/motel (chapter 67.28 RCW) and convention and trade center (chapter 67.40 RCW) taxes.

(b) The state is also prohibited from requiring the United States to collect taxes imposed on the buyer (e.g., the retail sales tax) as an agent for the state. However, buyers must pay use tax on retail purchases from the United States, unless specifically exempt by law.

(c) In addition, federal law exempts certain nongovernmental entities from state taxes (for which Congress has given specific federal statutory tax exemptions). These specific federal statutory exemptions ((given by Congress)) may not be absolute and may be limited to specific activities of an entity.

(d) The American Red Cross is an instrumentality of the United States. As a federal corporation providing aid and relief, it is exempt from retail sales, use, and ((business and

occupation)) B&O taxes under state law. RCW 82.08.0258, 82.12.0259, and 82.04.380.

The Red Cross provides some victims of natural disasters assistance by check, voucher, and/or direct deposits to the individuals' personal bank accounts. Assistance may also be provided with "client assistance cards" that may be used by the recipients at locations where bankcards are accepted or at automated teller machines (ATM). The retail sales tax treatment of purchases made using these payment methods is:

(i) Electronic funds transfers and checks. Purchases made by an individual using funds that have been transferred into the individual's bank account or received in the form of a check are subject to retail sales tax in the same manner as any other purchase made by that individual, unless specifically exempt by law.

(ii) Vouchers. A voucher is a certificate issued by the Red Cross to an individual that may be exchanged for a specific good or service. As the goods and services will be paid for directly by the Red Cross, the sales are not subject to retail sales tax. A vendor who accepts a voucher will send it and/or other proof of sale to the Red Cross, which will then send a check to the vendor to pay for the purchase.

(iii) Client assistance cards. Sales to individuals who use client assistance cards issued by the Red Cross, or who pay with cash withdrawn from an ATM using the card, are subject to retail sales tax, unless otherwise exempt from tax. These sales are not direct sales to the federal government or one of its instrumentalities.

(e) The Federal Emergency Management Administration (FEMA) is an agency of the federal government. As a federal corporation providing aid and relief, it is exempt from retail sales, use, and B&O taxes under state law. RCW 82.08.0258, 82.12.0259, and 82.04.380.

FEMA provides some victims of natural disasters assistance by check, voucher, and/or direct deposits to the individuals' personal bank accounts. Assistance may also be provided with emergency debit cards that can be used by the recipients at locations where bankcards are accepted or at ATMs. The retail sales tax treatment of purchases made using these payment methods is:

(i) Electronic funds transfer and checks. Sales are subject to retail sales tax as described in (d)(i) of this subsection.

(ii) Vouchers. Sales are not subject to retail sales tax. As with the Red Cross, the goods and services will be paid for directly by FEMA. See (d)(ii) of this subsection.

(iii) Emergency debit cards. As with the Red Cross, "client assistance cards" purchases made with these cards, or with cash withdrawn from an ATM using these cards, are subject to retail sales tax. See (d)(iii) of this subsection.

(4) Persons doing business with the United States. Persons selling goods or services to the United States are subject to taxes imposed on the seller, such as the ~~((business and occupation-))~~B&O~~((s))~~ and public utility taxes, unless a specific tax exemption applies. Persons receiving income from contracting with the United States government to administer its programs, either in whole or in part, are also subject to tax, unless a specific tax exemption applies.

(a) Certain invoiced amounts not included in gross income. Persons who contract with the United States may, for federal accounting purposes, be contractually required to

invoice goods or services provided to the United States by third parties. The purpose of the invoices is to match the expenditures with the appropriate category of congressional funding. ~~((These))~~ Amounts received under such invoices should be excluded from the person's gross income when reporting on the ~~((combined))~~ excise tax return if all of the following conditions ~~((exist))~~ are met with respect to the goods or services:

(i) The third party directly invoices the United States;

(ii) The United States directly pays the third party; and

(iii) The person has no liability, either primarily or secondarily, for making payment to the third party or for remitting payment to the third party.

(b) Tax obligation with respect to the use of tangible personal property. Persons performing services for the United States are also subject to the retail sales or use tax on property they use or consume when performing services for the United States, unless specifically exempt.

(i) Manufacturing articles for commercial or industrial use. In the case of products manufactured or produced by the person using the products as a consumer, the measure of the use tax is generally the value of the products as explained in WAC 458-20-112 ~~((Value of products). However,))~~. If the articles manufactured or produced by the user are used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of articles used is the value of the ingredients of such articles. The manufacturing B&O tax also applies to the value of articles manufactured for commercial or industrial use.

(ii) Use of government provided property. When articles or goods used are acquired by bailment, the measure of the use tax to the bailee is the reasonable rental with the value to be determined as nearly as possible according to the rental price at the place of use of similar products of like quality and character. For more information on leases or rentals of tangible personal property see WAC 458-20-211 ~~((Leases or rental of tangible personal property, bailments)))~~. Thus, if a person has a contract to provide services for the United States and uses government supplied tangible personal property to perform the services, ~~((then))~~ the person must pay use tax on the fair market rental value of the government supplied tangible personal property.

Persons who incorporate government provided articles into construction projects or improvements made to real property of or for the United States should refer to WAC 458-20-17001 ~~((Government contracting, etc.))~~ for more specific tax-reporting information.

(c) Exemption for certain machinery and equipment. Manufacturers or processors for hire may be eligible for the retail sales or use tax exemption provided by RCW 82.08-02565 and 82.12.02565 on machinery and equipment used directly in a manufacturing or research and development operation. For information on the sales and use tax exemptions see WAC 458-20-13601 ~~((Manufacturers and processor for hire—Sales and use tax exemption for machinery and equipment)))~~.

(5) Documenting exempt sales to the United States. Only ~~((those))~~ sales made directly to the United States are exempt from retail sales tax or other tax imposed on the

buyer. To be entitled to the exemption, the purchase must be paid for using a qualified U.S. government credit card, a check from the United States payable to the seller, a United States voucher, or with cash accompanied by the federal SF (Standard Form) 1165.

Sales to employees or representatives of the United States are subject to tax, even though the United States may reimburse the employee or representative for all or a part of the expense. Purchases by any other person, whether with federal funds or through a reimbursement arrangement, are subject to tax unless specifically exempt by law.

(a) **Documenting tax-exempt sales.** Sellers must document the tax-exempt nature of sales made to the United States by keeping a copy of the United States credit card receipt, a copy of the check from the United States, a copy of the federal government voucher, or a signed copy of federal SF 1165. To determine whether purchases made with a U.S. Government credit card are exempt from retail sales tax, the department will look at the prefix of the card, which consists of the first four digits and the sixth digit. As amended in 2009, RCW 19.200.010 now prohibits sellers from retaining credit and debit card receipts containing more than the last five digits of the card number. Sellers, in addition to a receipt, should retain the remaining credit card numbers by other means, such as on a log, for example, that contains the following information:

(i) The first four digits and the sixth digit of the eligible card;

(ii) Federal employee's name;

(iii) Federal government agency's name;

(iv) Type of agency card (e.g., purchase card, fleet card, travel card, integrated card);

(v) Expiration date of credit card; and

(vi) Name of the credit card company.

(b) **Payment (~~(occurring via)~~) made by government contracted credit card.** Various United States government contracted credit cards are used to make payment for purchases of goods and services by or for the United States government. Sole responsibility for payment of these purchases may rest with the United States government or with the employee. The United States government's system of issuing government contracted credit cards is subject to change. For specific information about determining when payment is the direct responsibility of the United States government or the employee, contact the department's taxpayer services division at:

~~((Department of Revenue))~~

Taxpayer Services

Department of Revenue

P.O. Box 47478

Olympia, WA 98504-7478

or call the department's telephone information center at 1-800-647-7706 or visit the department's web site at (~~(http://dor.wa.gov))~~ dor.wa.gov.

(6) **Doing business on federal reservations.** The state of Washington has jurisdiction and authority to levy and collect taxes (~~(upon))~~ from persons residing within, or with respect to business transactions conducted (~~(upon))~~ on, federal reservations. 4 U.S.C. §§ 105-110. The term "federal res-

ervation," as used in this rule, means any land or premises within the exterior boundaries of the state of Washington that are held or acquired by and for the use of the United States, its departments, institutions or entities. This means that a concessionaire operating within a federal reservation under a grant or permit issued by the United States or by a department or entity of the United States is taxable to the same extent as any private operator engaging in a similar business outside a federal reservation and without specific authority from the United States.

(a) **Sales tax collection requirements.** Persons making retail sales to members of the armed forces or others residing within or conducting business (~~(upon))~~ on federal reservations are required to collect and remit retail sales tax from the buyer.

(b) **Cigarette tax stamps.** Washington cigarette tax stamps must generally be affixed to all cigarettes sold to persons residing within or conducting business (~~(upon))~~ on federal reservations. However, such stamps need not be affixed to cigarettes sold to the United States or any of its entities including voluntary organizations of military personnel authorized by the Secretary of Defense or the Secretary of the Navy or by the United States or any of its entities to authorized purchasers, for use on such reservation. For additional information on cigarette stamps, rates, and refunds see WAC 458-20-186 (~~(Tax on cigarettes))~~.

(7) **Sales made to authorized purchasers of the United States.** As explained in subsection (3)(b) of this rule, while sales by the United States are exempt of retail sales tax the purchaser is generally responsible for remitting use tax directly to the department (~~(of revenue)~~). Federal law prohibits the imposition of use tax on tangible personal property sold to authorized purchasers by the United States, its entities, or voluntary unincorporated organization of armed forces personnel. 4 U.S.C. § 107(a).

(a) **Who is an "authorized purchaser"?** A person is an "authorized purchaser" only with respect to purchases he or she is permitted to make from commissaries, ships' stores, or voluntary unincorporated organizations of personnel of any branch of the armed forces of the United States, under regulations promulgated by the departmental secretary having jurisdiction over such branch. 4 U.S.C. § 107(b).

(b) **What is a "voluntary unincorporated organization"?** "Voluntary unincorporated organizations" are those organizations comprised of armed forces personnel operated under regulations promulgated by the departmental secretary having jurisdiction over such branch. Examples of voluntary unincorporated organizations are post flying clubs, officers or noncommissioned officers open messes, and recreation associations.

(8) **Purchases by persons using federal funds.** Retail sales or use tax (~~(is applicable))~~ applies to retail purchases made by any buyer, other than the United States, including the state of Washington and all of its political subdivisions, irrespective of whether or not the buyer uses or is reimbursed with federal funds, unless the purchase is specifically exempt by law.

(9) **Cleaning up radioactive waste and other by-products of weapons production and nuclear research and development.** RCW 82.04.263 provides a preferential tax

rate for the gross income derived from cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development. This tax rate applies whether the person performing these activities is a general contractor or subcontractor.

(a) **What activities are entitled to the preferential tax rate?** Only those activities that meet the definition of "cleaning up radioactive waste and other by-products of weapons production and nuclear research and development" are entitled to the preferential tax rate. The statute defines "cleaning up radioactive waste and other by-products of weapons production and nuclear research and development" to mean:

(i) The handling, storing, treating, immobilizing, stabilizing, or disposing of radioactive waste, radioactive tank waste and capsules, nonradioactive hazardous solid and liquid wastes, or spent nuclear fuel;

(ii) Conditioning of spent nuclear fuel;

(iii) Removing contamination in soils and groundwater;

(iv) Decontaminating and decommissioning of facilities; and

(v) Services supporting the performance of cleanup. A service supports the performance of cleanup if it:

(A) Is within the scope of work under a clean-up contract with the United States Department of Energy; or

(B) Assists in the accomplishment of a requirement of a clean-up project undertaken by the United States Department of Energy under a subcontract entered into with the prime contractor or another subcontractor in furtherance of a clean-up contract between the United States Department of Energy and a prime contractor.

(b) **When does a service not assist in the accomplishment of a requirement of a clean-up project?** Subject to specific exceptions provided by law, a service does not assist in the accomplishment of a clean-up project when the same services are routinely provided to businesses not engaged in clean-up activities.

The following exceptions are always deemed to contribute to the accomplishment of a requirement of a clean-up project undertaken by the United States Department of Energy:

- Information technology and computer support services;
- Services rendered in respect to infrastructure; and
- Security, safety, and health services.

(c) **Guideline examples.** The following examples are to be used as a guideline when determining whether a service is "routinely provided to businesses not engaged in clean-up activities."

(i) **Accounting services.** The classification does not apply to general accounting services but does apply to performance audits performed for persons cleaning up radioactive waste.

(ii) **Legal services.** The classification does not apply to general legal services but does apply to those legal services that assist in the accomplishment of a requirement of a clean-up project undertaken by the United States Department of Energy. Thus, legal services provided to contest any local, state, or federal tax liability or to defend a company against worker's compensation claim arising from a worksite injury do not qualify for the classification. However, legal services

related to the resolution of contractual dispute between the parties to a clean-up contract between the United States Department of Energy and a prime contractor do qualify.

(ii) **General office janitorial.** General office janitorial services do not qualify for the radioactive waste clean-up classification, but the specialized cleaning of equipment exposed to radioactive waste does qualify.

(d) **Clean-up examples.** ~~(The examples in this subsection identify a number of facts and then state a conclusion. These examples should only be used as a general guide. Similar determinations for other situations can be made only after a review of all facts and circumstances.)~~

(i) Company C is a land excavation contractor ~~(who)~~ that contracts with Prime Contractor to dig trenches where waste will be reburied after processing. Company C's contract for digging trenches qualifies for the preferential tax rate under RCW 82.04.263 because the activity of digging trenches is one of the physical acts of cleaning up.

(ii) Company D contracts with Company C from the previous example to provide payroll and accounting services. Company D's activity does not qualify for the preferential tax rate under RCW 82.04.263 because the activity of general accounting is not an activity involving the physical act of cleaning up, nor is it a service supporting the performance of cleanup as defined in (a)(v) of this subsection.

(iii) Company E is an environmental engineering company ~~(which)~~ that contracts with Prime Contractor to develop a plan on how best to decontaminate the soil at a tank farm and will monitor the cleanup/decontamination as it progresses. Company E's activities qualify for the preferential tax rate under RCW 82.04.263 because the activities are services supporting the performance of cleanup.

(iv) Company F is a security company that contracts with Prime Contractor to provide overall security to the federal reservation, including providing security at clean-up sites. Security services at clean-up sites are services that support the performance of cleanup.

(e) **Taxability of tangible personal property used or consumed in cleaning up radioactive waste and other by-products of weapons production and nuclear research and development.** Persons cleaning up radioactive waste and other by-products of weapons production and nuclear research and development for the United States, or its instrumentalities, are consumers of any property they use or consume when performing these services. RCW 82.04.190. Therefore, tangible personal property used or consumed in the cleanup is subject to retail sales or use tax. If the seller does not collect retail sales tax on a retail sale, the buyer is required to pay the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department, unless specifically exempt by law. The ~~"(combined)"~~ excise tax return" does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the use tax line of the buyer's ~~"(combined)"~~ excise tax return. ~~(Refer to)~~ For detailed information on the use tax, see WAC 458-20-178 ~~(for detailed information regarding use tax).~~

(10) **Sales to foreign governments or foreign diplomats.** For specific ~~(details)~~ information concerning the taxability of sales of goods and services to foreign missions and

diplomats, contact the department's taxpayer services division at:

((Department of Revenue))
 Taxpayer Services
Department of Revenue
 P.O. Box 47478
 Olympia, WA 98504-7478

or call the department's telephone information center at 1-800-647-7706 or visit the department's web site at (~~http://dor.wa.gov~~) dor.wa.gov.

WSR 16-10-031

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 26, 2016, 2:46 p.m.]

Continuance of WSR 15-24-077.

Title of Rule and Other Identifying Information: Dry pea and lentil commission, chapter 16-536 WAC.

Date of Intended Adoption: July 7, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is continuing the proposed date of intended adoption to allow affected parties sixty days to dispute the results of the referendum in accordance with RCW 15.65.205.

Statutory Authority for Adoption: RCW 15.65.047 and [15.65].050; chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

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

Name of Proponent: Dry pea and lentil commission, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Norman, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2043; Implementation and Enforcement: Tim McGreevy, 2780 West Pullman Road, Moscow, ID 83843, (208) 882-3023.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In accordance with RCW 15.65.570, the adoption of the final amendments to chapter 16-536 WAC will be determined by referendum vote of affected producers.

A cost-benefit analysis is not required under RCW 34.05.328. The department of agriculture and the Washington dry pea and lentil commission are not named agencies in RCW 34.05.328 (5)(a)(i).

April 26, 2016
 Derek I. Sandison
 Director

Chapter 16-536 WAC

~~((DRY PEAS AND LENTILS))~~ WASHINGTON PULSE CROPS COMMISSION

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-005 Marketing order for Washington ~~((dry peas and lentils))~~ pulse crops—Policy statement. (1) The marketing of ~~((dry peas and lentils))~~ pulse crops within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its ~~((dry peas and lentils))~~ pulse crops be properly promoted by:

(a) Enabling producers of ~~((dry peas and lentils))~~ pulse crops to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the ~~((dry peas and lentils))~~ pulse crops they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of ~~((dry peas and lentils))~~ pulse crops within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the ~~((dry peas and lentils))~~ pulse crops industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that ~~((dry peas and lentils))~~ pulse crops be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's ~~((dry peas and lentils))~~ pulse crops.

(b) Increase the sale and use of Washington state's ~~((dry peas and lentils))~~ pulse crops in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's ~~((dry peas and lentils))~~ pulse crops.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's ~~((dry peas and lentils))~~ pulse crops and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of ~~((dry peas and lentils))~~ pulse crops produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state ~~((dry pea and lentil))~~ pulse crops commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to ~~((dry peas and lentils))~~ pulse crops under the provisions of this marketing order.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creat-

ing new or larger local, domestic, and foreign markets; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of (~~dry peas and lentils~~) pulse crops in Washington state. The Washington state (~~dry pea and lentil~~) pulse crops commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To carry out the purposes of the order, the board shall provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for (~~dry peas and/or lentils~~) pulse crops. Such programs shall be directed toward increasing the sale of (~~dry peas and/or lentils~~) pulse crops without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of (~~dry peas and/or lentils~~) pulse crops nor disparage the quality, value, sale or use of any other agricultural commodity.

(b) Provide for research in the production, processing, irrigation, transportation, handling, and/or distribution of (~~dry peas and/or lentils~~) pulse crops and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Provide by rules for:

(i) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and/or label for (~~dry peas and/or lentils~~) pulse crops or any products thereof.

(ii) Requiring producers, handlers and/or other persons to conform to such grades and/or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of (~~dry peas and/or lentils~~) pulse crops and/or in offering, advertising and/or delivering it therefor.

(iii) Providing for inspection and enforcement to ascertain and effectuate compliance.

(iv) Providing that the board shall carry out inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, such standards and grades and such rules and regulations: Provided, That any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing, and shall not be considered an amendment for the purposes of the act and order.

(d) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of (~~dry peas and/or lentils~~) pulse crops for the verification of grades, standards, weights, tests, and sampling of quality and quantity of (~~dry peas and/or lentils~~) pulse crops purchased by handlers from affected producers.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) (~~Dry peas and lentils~~) Pulse crops-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of (~~dry peas and/or lentils~~) pulse crops produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of (~~dry peas and/or lentils~~) pulse crops; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of (~~dry peas and/or lentils~~) pulse crops may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-010 Definitions. Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

~~((1) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.~~

~~(2) "Department" means the department of agriculture of the state of Washington.~~

~~(3) "Act" means the Washington State Agriculture Commodity Boards Act or chapter 15.65 RCW.~~

~~(4) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.~~

~~(5) "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, dry peas and/or lentils in the state of Washington.~~

~~(6) "Commercial quantity" means all the dry peas and/or lentils produced for market in any calendar year by any producer.~~

~~(7) "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing dry peas and/or lentils not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.~~

~~(8) "Dry pea and lentil commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020.~~

~~(9) "Dry peas" means and includes all kinds and varieties of dry peas grown in the state of Washington, including chick peas/garbanzo beans and commercially grown wrinkled peas raised for seed. Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed and personal consumption. Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referen-~~

dum vote of the affected commercial wrinkled pea seed producers:

(10) "Lentils" means and includes all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

(11) "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to dry peas and/or lentils. A producer handler shall be deemed to be a producer with respect to the dry peas and/or lentils which he or she produces, and a handler with respect to the dry peas and/or lentils which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the dry peas and lentils marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(13) "Affected area" means the state of Washington.

(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(15) "Affected unit" means one hundred pounds of dry peas and/or lentils.) "Act" means the Washington State Agricultural Commodity Boards Act, chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing pulse crops not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Affected producer" means any person who produces, or causes to be produced, in commercial quantities, pulse crops in the state of Washington.

"Affected unit" means one hundred pounds of pulse crops.

"Commercial quantity" means all the pulse crops produced for market in any calendar year by any producer.

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

"Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

"Dry peas" means all kinds and varieties of dry peas grown in the state of Washington, including chick peas/garbanzo beans and commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed, and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

"Faba" (Fava) beans means all kinds and varieties of dry faba beans grown in the state of Washington: Provided, That it shall not include faba beans used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lentils" means all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Lupine" (lupin) means all kinds and varieties of dry lupine grown in the state of Washington: Provided, That it shall not include lupine used by the producers thereof on his or her premises for feed, seed, and personal consumption.

"Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to pulse crops. A producer-handler shall be deemed to be a producer with respect to the pulse crops which he or she produces, and a handler with respect to the pulse crops which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the pulse crops marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

"Pulse crops" means the following commodities marketed in their "dry" condition: Dry peas, chick peas/garbanzo beans, lentils, faba beans, and lupine as defined in this marketing order.

"Pulse crops commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020 and renamed the Washington pulse crops commission.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-020 The ((dry pea and lentil)) pulse crops board. (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of ten members. Eight members shall be affected producers appointed as provided in this marketing order. One member shall be an affected handler appointed as provided in this marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington: Provided, That the addition of another member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(3) Board membership qualifications.

(a) The producer members of the board must be practical producers of ~~((dry peas and/or lentils))~~ pulse crops in the district in and for which they are nominated and appointed and each shall be a citizen and resident of the state, over the age of eighteen years. Each producer board member must be and have been actually engaged in producing ~~((dry peas and/or lentils))~~ pulse crops within the state of Washington for a period of five years and has during that time derived a substantial portion of his or her income therefrom and is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The handler member of the board must be a practical handler of ~~((dry peas and/or lentils))~~ pulse crops and shall be a citizen and resident of the state, over the age of eighteen years ~~((and who is and has))~~. The handler board member must be and have been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling ~~((dry peas and/or lentils))~~ pulse crops within the state of Washington for a period of five years and has during that period derived a substantial portion of his or her income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through eight, the affected handler shall have position nine and the member representing the director position ten.

(c) The term of office for the initial board members shall be as follows:

Positions seven, eight, nine, and ten - One year

Positions four, five and six - Two years

Positions one, two, and three - Three years

(d) Except for the director's representative, no appointed member of the board may serve more than two full consecutive three-year terms.

(e) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nomination of director-appointed board members.

(a) For the purpose of nominating candidates for appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call a nomination meeting for director-appointed board members in those districts whose board members term is about to expire. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the advisory vote of board members.

(c) Notice of a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district and handlers according to the list maintained by the board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at a nomination meeting.

(e) Any qualified affected producer or handler may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the meeting by written petition filed with the director signed by not less than five affected producers or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the open board position(s) by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than twenty days after the notice was mailed.

(g) When only one nominee is nominated for a director-appointed position, RCW 15.65.250 shall apply.

(6) Advisory vote of board members.

(a) An advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer and affected handler shall be entitled to one vote.

(b) An advisory vote shall be conducted for board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(c) Notice of every advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of the advisory vote. Not less than ten days prior to every advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers maintained by the board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the advisory vote of any board member.

(7) **Vacancies.** In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed two thousand dollars.

(f) To establish a "~~((dry pea and lentil))~~ pulse crops board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least fifteen days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of ~~((dry peas and lentils))~~ pulse crops.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of ~~((dry peas and lentils))~~

pulse crops including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle (~~((dry peas and lentils))~~) pulse crops within the affected area and data on the amount and value of the dry peas and lentils handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce (~~((dry peas and lentils))~~) pulse crops and the amount, by unit, of (~~((dry peas and lentils))~~) pulse crops produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle (~~((dry peas and lentils))~~) pulse crops and the amount of (~~((dry peas and lentils))~~) pulse crops handled by each person during the past three years pursuant to RCW 15.65.295.

(aa) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) Procedures for board.

(a) The board shall hold regular meetings with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting through regular wire news services and radio-television press.

(c) The board (~~(shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW))~~ may call special meetings as provided under RCW 42.30.080.

AMENDATORY SECTION (Amending WSR 04-17-021, filed 8/9/04, effective 9/9/04)

WAC 16-536-040 Assessments and collections. (1) Assessments.

(a) The assessment on all varieties of (~~((dry peas and dry lentils))~~) pulse crops subject to this marketing order shall be one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commis-

sion board in accordance with procedures adopted by the commission board: Provided, That an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) Assessments shall not be payable on any such (~~((dry peas and/or lentils))~~) pulse crops used by the producer thereof on his or her premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of this marketing order, to all persons from whom moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the unpaid assessment to defray the cost of enforcing the collecting of it. In the event of failure of such person or persons to pay any due and payable assessment or other such sum, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending Order Articles VII and VIII, filed 3/26/65)

WAC 16-536-070 Effective time. (~~((+))~~) This marketing order for pulse crops (~~(formerly titled "dry peas and lentils")~~) shall become effective on and after July 1, 1965, as amended by rule.

(~~((2))~~) This order shall remain in full force and effect until July 1, 1972 unless terminated prior thereto under the provisions of chapter 15.65 RCW as set forth in WAC 16-536-060: ~~Provided, That if it remains in effect until said July 1, 1972 the director shall conduct a referendum election as required for the approval of an order under chapter 15.65 RCW at such time prior to such date so that he may determine if the affected producers and handlers desire that the order be terminated on such date or continued in full force and effect beyond such date. All the costs of conducting such election shall be defrayed from the funds of the board.)~~

WSR 16-10-032
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Securities Division)
 [Filed April 26, 2016, 2:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-01-118.

Title of Rule and Other Identifying Information: The securities division is proposing rules to preserve filing requirements in connection with offerings conducted under newly adopted federal crowdfunding rules so that it may provide oversight of these offerings in the interest of investor protection. The proposed rules would be codified at WAC 460-18A-210.

Hearing Location(s): Department of Financial Institutions (DFI), 150 Israel Road S.W., Tumwater, WA 98501, on June 7, 2016, at 10:00 a.m.

Date of Intended Adoption: June 8, 2016.

Submit Written Comments to: Nathan Quigley, DFI, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, e-mail Nathan.Quigley@dfi.wa.gov, fax (360) 704-6463, by June 7, 2016.

Assistance for Persons with Disabilities: Contact Carolyn Hawkey by May 31, 2016, TTY (360) 664-8126 or (360) 902-8760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Title III of the Jumpstart Our Business Startups (JOBS) Act amended Section 4 of the Securities Act of 1933 to create a new federal exemption for offerings of securities in crowdfunding campaigns. On October 30, 2015, the Securities and Exchange Commission adopted final rules that will implement this new exemption. See Regulation Crowdfunding, Release Nos. 33-9974; 34-76324, available at <http://www.sec.gov/rules/final/2015/33-9974.pdf>. The JOBS Act further amended Securities Act Section 18 (b)(4) to preempt the ability of states to require registration of crowdfunding offerings conducted pursuant to federal law. However, states retain the authority to require notice filings of crowdfunding offerings if a state is the principal place of business of the issuer or if a state is home to purchasers of fifty percent or more of the aggregate value of the securities offered in the crowdfunding campaign. The securities division is now proposing rules to require the filing of a notice filing form, a consent to service of process, and the fees that would otherwise be required in connection with the registration of these securities offerings but for preemption by the Securities and Exchange Commission. The proposed notice filing form is available on the division's web site at <http://www.dfi.wa.gov/rulemaking/notice-filing-requirements-connection-federal-crowdfunding-rules>.

Statutory Authority for Adoption: RCW 21.20.327, 21.20.340, 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

Rule is necessary because of federal law, 15 U.S.C. § 77r.

Name of Proponent: DFI, securities division, governmental.

Name of Agency Personnel Responsible for Drafting: Nathan Quigley, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760; Implementation: Scott Jarvis, Director, DFI, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760; and Enforcement: William Beatty, Director, Securities, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required under RCW 19.85-025(3) as the proposed rules would adopt, amend, or repeal a filing or related process requirement for applying to an agency for a license or permit.

A cost-benefit analysis is not required under RCW 34.05.328. DFI is not one of the agencies listed in RCW 34.05.328.

April 26, 2016
 Scott Jarvis
 Director

NEW SECTION

WAC 460-18A-210 Notice filing requirements for federal crowdfunding offerings. The following provisions apply to offerings made under federal Regulation Crowdfunding and Section 18(b)(4) of the Securities Act of 1933:

(1) **Initial filing.**

(a) An issuer that offers and sells securities in this state in an offering exempt under federal Regulation Crowdfunding shall file the following with the Securities Administrator of the Department of Financial Institutions or his or her designee:

(i) A completed Uniform Notice of Federal Crowdfunding Offering form or copies of all documents filed with the Securities and Exchange Commission;

(ii) A consent to service of process on Form U-2 if not filing on the Uniform Notice of Federal Crowdfunding Offering form; and

(iii) The filing fee prescribed by RCW 21.20.340 (1)(a).

(b) If the issuer has its principal place of business in this state, the filing required under subsection (a) of this section shall be filed with the Securities Administrator when the issuer makes its initial Form C filing concerning the offering with the Securities and Exchange Commission. If the issuer does not have its principal place of business in this state but residents of this state have purchased fifty percent or greater of the aggregate amount of the offering, the filing required under subsection (a) of this section shall be filed when the issuer becomes aware that such purchases have met this threshold and in no event later than fifteen days from the date of completion of the offering.

(c) The initial notice filing is effective for twelve months from the date of the filing with the Securities Administrator.

(2) **Renewal.** For each additional twelve-month period in which the same offering is continued, an issuer conducting an offering under federal Regulation Crowdfunding may renew the unsold portion of its notice filing by filing the following on or before the expiration of the notice filing:

(a) A completed Uniform Notice of Federal Crowdfunding Offering form marked "renewal" and/or a cover letter or other document requesting renewal;

(b) The renewal fee prescribed by RCW 21.20.340 (1)(a) to renew the unsold portion of securities for which a filing fee has previously been paid; and

(c) If the amount of securities subject to the notice filing is being increased, the fee prescribed by RCW 21.20.340 (1)(a) to cover the increase in the amount of securities to be offered.

(3) **Amendment.** An issuer may increase the amount of securities offered in this state by submitting a completed Uniform Notice of Federal Crowdfunding Offering form marked "amendment" or other document describing the transaction and a fee calculated pursuant to RCW 21.20.340 (1)(a) to cover the increase in the amount of securities being offered prior to selling additional securities in this state.

WSR 16-10-034

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed April 27, 2016, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-16-087.

Title of Rule and Other Identifying Information: WAC 182-535-1050 Dental-related services—Definitions, 182-535-1245 Access to baby and child dentistry (ABCD) program, and 182-535-1400 Payment for dental-related services.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on June 7, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 8, 2016.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on June 7, 2016.

Assistance for Persons with Disabilities: Contact Amber Lougheed by June 3, 2016, e-mail amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 182-535-1050 added a definition for "six months." WAC 182-535-1245 updated to align with current policies, and reference the definition of six months in WAC 182-535-1050. WAC 182-535-1400 amended two obsolete references (WAC 182-535-1240 and 182-535-1290), removed references to the thirty minute billing code (which was eliminated by the American Dental Association/Centers for Medicare and Medicaid Services), and added language about dentures to align the WAC with existing WAC and current policies.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Amy Emerson, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1348; Implementation and Enforcement: Dianne Baum, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1590.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

April 27, 2016

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1050 Dental-related services—Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC apply to this chapter. The medicaid agency also uses dental definitions found in the American Dental Association's Current Dental Terminology (CDT) and the American Medical Association's Physician's Current Procedural Terminology (CPT). Where there is any discrepancy between the CDT or CPT and this section, this section prevails. (CPT is a trademark of the American Medical Association.)

"**Access to baby and child dentistry (ABCD)**" is a program to increase access to dental services in targeted areas for medicaid eligible infants, toddlers, and preschoolers up through the age of five. See WAC 182-535-1300 for specific information.

"**American Dental Association (ADA)**" is a national organization for dental professionals and dental societies.

"**Anterior**" refers to teeth (maxillary and mandibular incisors and canines) and tissue in the front of the mouth. Permanent maxillary anterior teeth include teeth six, seven, eight, nine, ten, and eleven. Permanent mandibular anterior teeth include teeth twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven. Primary maxillary anterior teeth include teeth C, D, E, F, G, and H. Primary mandibular anterior teeth include teeth M, N, O, P, Q, and R.

"**Asymptomatic**" means having or producing no symptoms.

"**Base metal**" means dental alloy containing little or no precious metals.

"**Behavior management**" means using the assistance of one additional dental professional staff to manage the behavior of a client to facilitate the delivery of dental treatment.

"By-report" - A method of reimbursement in which the department determines the amount it will pay for a service when the rate for that service is not included in the agency's published fee schedules. Upon request the provider must submit a "report" which describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Caries" means carious lesions or tooth decay through the enamel or decay of the root surface.

"Comprehensive oral evaluation" means a thorough evaluation and documentation of a client's dental and medical history to include extra-oral and intra-oral hard and soft tissues, dental caries, missing or unerupted teeth, restorations, occlusal relationships, periodontal conditions (including periodontal charting), hard and soft tissue anomalies, and oral cancer screening.

"Conscious sedation" is a drug-induced depression of consciousness during which a client responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, spontaneous ventilation is adequate, and cardiovascular function is maintained.

"Core buildup" refers to building up of clinical crowns, including pins.

"Coronal" is the portion of a tooth that is covered by enamel.

"Coronal polishing" is a mechanical procedure limited to the removal of plaque and stain from exposed tooth surfaces.

"Crown" means a restoration covering or replacing part or the whole clinical crown of a tooth.

"Current dental terminology (CDT)" is a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

"Current procedural terminology (CPT)" is a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians and other practitioners who provide physician-related services. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Decay" is a term for caries or carious lesions and means decomposition of tooth structure.

"Deep sedation" is a drug-induced depression of consciousness during which a client cannot be easily aroused, ventilatory function may be impaired, but the client responds to repeated or painful stimulation.

"Dental general anesthesia" see **"general anesthesia."**

"Dentures" means an artificial replacement for natural teeth and adjacent tissues, and includes complete dentures, immediate dentures, overdentures, and partial dentures.

"Denturist" means a person licensed under chapter 18.30 RCW to make, construct, alter, reproduce, or repair a denture.

"Endodontic" means the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

"EPSDT" means the agency's early and periodic screening, diagnosis, and treatment program for clients twenty

years of age and younger as described in chapter 182-534 WAC.

"Extraction" see **"simple extraction"** and **"surgical extraction."**

"Flowable composite" is a diluted resin-based composite dental restorative material that is used in cervical restorations and small, low stress bearing occlusal restorations.

"Fluoride varnish, rinse, foam or gel" is a substance containing dental fluoride which is applied to teeth.

"General anesthesia" is a drug-induced loss of consciousness during which a client is not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Clients may require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"High noble metal" is a dental alloy containing at least sixty percent pure gold.

"Limited oral evaluation" is an evaluation limited to a specific oral health condition or problem. Typically a client receiving this type of evaluation has a dental emergency, such as trauma or acute infection.

"Limited visual oral assessment" is an assessment by a dentist or dental hygienist to determine the need for fluoride treatment and/or when triage services are provided in settings other than dental offices or dental clinics.

"Major bone grafts" is a transplant of solid bone tissue(s).

"Medically necessary" see WAC 182-500-0070.

"Minor bone grafts" is a transplant of nonsolid bone tissue(s), such as powdered bone, buttons, or plugs.

"Noble metal" is a dental alloy containing at least twenty-five percent but less than sixty percent pure gold.

"Oral evaluation" see **"comprehensive oral evaluation."**

"Oral hygiene instruction" means instruction for home oral hygiene care, such as tooth brushing techniques or flossing.

"Oral prophylaxis" is the dental procedure of scaling and polishing which includes removal of calculus, plaque, and stains from teeth.

"Partials" or **"partial dentures"** are a removable prosthetic appliance that replaces missing teeth in one arch.

"Periodic oral evaluation" is an evaluation performed on a patient of record to determine any changes in the client's dental or medical status since a previous comprehensive or periodic evaluation.

"Periodontal maintenance" is a procedure performed for clients who have previously been treated for periodontal disease with surgical or nonsurgical treatment. It includes the removal of supragingival and subgingival microorganisms and deposits with hand and mechanical instrumentation, an evaluation of periodontal conditions, and a complete periodontal charting as appropriate.

"Periodontal scaling and root planing" is a procedure to remove plaque, calculus, microorganisms, and rough cementum and dentin from tooth surfaces. This includes hand and mechanical instrumentation, an evaluation of periodontal

conditions, and a complete periodontal charting as appropriate.

"Posterior" refers to the teeth (maxillary and mandibular premolars and molars) and tissue towards the back of the mouth. Permanent maxillary posterior teeth include teeth one, two, three, four, five, twelve, thirteen, fourteen, fifteen, and sixteen. Permanent mandibular posterior teeth include teeth seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, and thirty-two. Primary maxillary posterior teeth include teeth A, B, I, and J. Primary mandibular posterior teeth include teeth K, L, S, and T.

"Proximal" is the surface of the tooth near or next to the adjacent tooth.

"Radiograph (X ray)" is an image or picture produced on a radiation sensitive film emulsion or digital sensor by exposure to ionizing radiation.

"Reline" means to resurface the tissue side of a denture with new base material or soft tissue conditioner in order to achieve a more accurate fit.

"Root canal" is the chamber within the root of the tooth that contains the pulp.

"Root canal therapy" is the treatment of the pulp and associated periradicular conditions.

"Root planing" is a procedure to remove plaque, calculus, microorganisms, and rough cementum and dentin from tooth surfaces. This includes hand and mechanical instrumentation.

"Scaling" is a procedure to remove plaque, calculus, and stain deposits from tooth surfaces.

"Sealant" is a dental material applied to teeth to prevent dental caries.

"Simple extraction" is the routine removal of a tooth.

"Six months" is equal to one hundred eighty days.

"Standard of care" means what reasonable and prudent practitioners would do in the same or similar circumstances.

"Surgical extraction" is the removal of a tooth by cutting of the gingiva and bone. This includes soft tissue extractions, partial boney extractions, and complete boney extractions.

"Symptomatic" means having symptoms (e.g., pain, swelling, and infection).

"Temporomandibular joint dysfunction (TMJ/TMD)" is an abnormal functioning of the temporomandibular joint or other areas secondary to the dysfunction.

"Therapeutic pulpotomy" is the surgical removal of a portion of the pulp (inner soft tissue of a tooth), to retain the healthy remaining pulp.

"Usual and customary" means the fee that the provider usually charges nonmedicaid customers for the same service or item. This is the maximum amount that the provider may bill the agency.

"Wisdom teeth" are the third molars, teeth one, sixteen, seventeen, and thirty-two.

"Xerostomia" is a dryness of the mouth due to decreased saliva.

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1245 Access to baby and child dentistry (ABCD) program. The access to baby and child dentistry (ABCD) program is a program established to increase access to dental services for medicaid-eligible clients ages five and younger.

(1) Client eligibility for the ABCD program is as follows:

(a) Clients must be age five and younger. Once enrolled in the ABCD program, eligible clients are covered until their sixth birthday.

(b) Clients eligible under one of the following medical assistance programs are eligible for the ABCD program:

(i) Categorically needy program (CNP);

(ii) Limited casualty program-medically needy program (LCP-MNP);

(iii) Children's health program; or

(iv) State children's health insurance program (SCHIP).

(c) ABCD program services for eligible clients enrolled in a managed care organization (MCO) plan are paid through the fee-for-service payment system.

(2) Health care providers and community service programs identify and refer eligible clients to the ABCD program. If enrolled, the client and an adult family member may receive:

(a) Oral health education;

(b) "Anticipatory guidance" (expectations of the client and the client's family members, including the importance of keeping appointments); and

(c) Assistance with transportation, interpreter services, and other issues related to dental services.

(3) The agency pays enhanced fees only to ABCD-certified dentists and other agency-approved certified providers for furnishing ABCD program services. ABCD program services include, when appropriate:

(a) Family oral health education. An oral health education visit:

(i) Is limited to one visit per day per family, up to two visits per child in a twelve-month period, per provider or clinic; and

(ii) Must include all of the following:

(A) "Lift the lip" training;

(B) Oral hygiene training;

(C) Risk assessment for early childhood caries;

(D) Dietary counseling;

(E) Discussion of fluoride supplements; and

(F) Documentation in the client's file or the client's designated adult member's (family member or other responsible adult) file to record the activities provided and duration of the oral education visit.

(b) Comprehensive oral evaluations as defined in WAC 182-535-1050, once per client, per provider or clinic, as an initial examination. The agency covers an additional comprehensive oral evaluation if the client has not been treated by the same provider or clinic within the past five years;

(c) Periodic oral evaluations (up to two visits per client, per calendar year, per provider or clinic;

~~(e))~~ as defined in WAC 182-535-1050, once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation.

~~(d)~~ Topical application of fluoride varnish;

~~((f))~~ ~~(e)~~ Amalgam, resin, and glass ionomer restorations on primary teeth, as specified in the agency's current published documents;

~~((e))~~ ~~(f)~~ Therapeutic pulpotomy;

~~((f))~~ ~~(g)~~ Prefabricated stainless steel crowns on primary teeth, as specified in the agency's current published documents;

~~((g))~~ ~~(h)~~ Resin-based composite crowns on anterior primary teeth; and

~~((h))~~ ~~(i)~~ Other dental-related services, as specified in the agency's current published documents.

(4) The client's file must show documentation of the ABCD program services provided.

AMENDATORY SECTION (Amending WSR 14-08-032, filed 3/25/14, effective 4/30/14)

WAC 182-535-1400 Payment for dental-related services. (1) The agency considers that a provider who furnishes covered dental services to an eligible client has accepted the agency's rules and fees.

(2) Participating providers must bill the agency their usual and customary fees.

(3) Payment for dental services is based on the agency's schedule of maximum allowances. Fees listed in the agency's fee schedule are the maximum allowable fees.

(4) The agency pays the provider the lesser of the billed charge (usual and customary fee) or the agency's maximum allowable fee.

(5) The agency pays dental general anesthesia services for eligible clients as follows:

(a) ~~((The initial thirty minutes constitutes))~~ Fifteen-minute increments are billed as one unit of time. When a dental procedure ~~((requiring dental general anesthesia results in))~~ requires multiple ~~((time))~~ fifteen-minute units and there is a remainder (less than fifteen minutes), the remainder ~~((or fraction))~~ is considered ~~((as one time))~~ one unit.

(b) When billing for anesthesia, the provider must show the actual beginning and ending times in the client's medical record. Anesthesia time begins when the provider starts to physically prepare the client for the induction of anesthesia in the operating room area (or its equivalent), and ends when the provider is no longer in constant attendance (i.e., when the client can be safely placed under postoperative supervision).

(6) The agency pays "by report" on a case-by-case basis, for a covered service that does not have a set fee.

(7) Participating providers must bill a client according to WAC 182-502-0160, unless otherwise specified in this chapter.

(8) If the client's eligibility for dental services ends before the conclusion of the dental treatment, payment for any remaining treatment is the client's responsibility. The exceptions to this ~~((is))~~ are complete dentures and resin partial dentures as described in WAC ~~((182-535-1240 and 182-535-1290))~~ 182-535-1090.

WSR 16-10-041

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 28, 2016, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-05-042.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-412-0020 When do I get my benefits? and 388-412-0015 General information about your food assistance allotments.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on June 7, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 8, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., June 7, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by May 24, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The changes proposed under this filing will amend WAC 388-412-0020 and 388-412-0015 to extend the time frame in which the department issues ongoing monthly benefits for basic food, the Washington combined application program (WASHCAP), the food assistance program (FAP) for legal immigrants, and transitional food assistance. These changes may also eliminate combined issuance of food benefits for households applying on or after the sixteenth day of the month.

Reasons Supporting Proposal: The department of social and health services (DSHS) is proposing to amend WAC 388-412-0015 and 388-412-0020 to comply with the Washington state legislature's mandated basic food monthly distribution date change. We have also made changes to comply with federal regulations limiting the allowed number of days between basic food distribution days under 7 C.F.R. § 274.2.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. 273.9.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ezra Paskus, 712 Pear Street S.E., Olympia, WA 98501, (360) 725-4611.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses. They only impact DSHS clients.

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, "this 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."

April 25, 2016
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-02-041, filed 1/2/15, effective 2/2/15)

WAC 388-412-0015 General information about your food assistance allotments. (1) Your monthly allotment under the Washington basic food program, food assistance program for legal immigrants (FAP), Washington combined application project (WASHCAP), or the transitional food assistance (TFA) programs is the total dollar value of benefits your assistance unit (AU) receives for a calendar month.

(2) How we determine monthly allotments:

(a) We calculate your monthly allotment for federally funded basic food as described under WAC 388-450-0162; and

(b) We calculate your monthly allotment for state-funded food assistance as described under WAC 388-400-0050.

(3) Maximum allotment:

(a) The maximum allotment for the number of people in your AU eligible for federally funded basic food benefits is described under WAC 388-478-0060(-); and

(b) The maximum allotment for the number of people in your AU eligible for state-funded FAP benefits is set by the legislature in the biennial operating budget as described in WAC 388-400-0050.

(4) Prorated benefits in the first month - If we determine you are eligible for food assistance, your first month's benefits are calculated from the date you applied through the end of the month of your application. This is called proration and is based on a thirty-day month:

(a) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month(-); and

(b) If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055.

~~(5) **(Combined allotment for first and second month's benefits** - If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for food assistance, we issue both the first and second months benefits in one allotment if you are eligible for both months.~~

~~(6))~~ **Minimum allotment** - Unless it is the first month of your certification period and your benefits are prorated as described in subsection (4) of this section, your monthly allotment will be at least:

(a) Sixteen dollars if your AU has one or two members(-) and at least one person is eligible for federally funded Basic Food(-); or

(b) ~~((Twelve))~~ Sixteen dollars if your AU has one or two members(-) and all members of your AU are eligible for state-funded FAP.

~~((7))~~ **(6) Use of food assistance benefits** - Your food assistance benefits may only be used to buy eligible food items as described under WAC 388-412-0046. If you use your benefits in any other way, it is an intentional program violation under WAC 388-446-0015 and could result in fines, imprisonment, disqualification from receiving food assistance benefits, or any combination of these penalties.

AMENDATORY SECTION (Amending WSR 03-22-038, filed 10/28/03, effective 12/1/03)

WAC 388-412-0020 When do I get my benefits? (1) If you get your cash benefits on an electronic benefits card (EBT), you get your cash benefits deposited on the first of each month.

(2) If you get your cash benefits deposited directly to your bank account, electronic funds transfer (EFT); your money is deposited on the first working day of the month. When the first of the month is a federal holiday or a Sunday, the benefits are deposited the following day.

(3) If you get basic food, your benefits are issued by the ~~((tenth))~~ twentieth day of each month. ~~((The day you get your benefits is the same as the last number of your assistance unit (AU) number for Basic Food. If the last number of your AU number is zero, you get your benefits on the tenth))~~ Our eligibility system automatically assigns the day you get your benefits when we approve your basic food. We tell you the date you will get your monthly benefits on your approval letter.

WSR 16-10-043

PROPOSED RULES

WASHINGTON STATE LOTTERY

[Filed April 28, 2016, 1:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-07-012.

Title of Rule and Other Identifying Information: WAC 315-04-180 Obligations of lottery retailers.

Hearing Location(s): Washington's Lottery, 814 4th Avenue, Olympia, WA 98506, on June 7, 2016, at 0900.

Date of Intended Adoption: June 7, 2016.

Submit Written Comments to: Jana Jones, P.O. Box 43000, Olympia, WA 98506, e-mail jjones@walottery.com.

Assistance for Persons with Disabilities: Contact Debbie Robinson by May 27, 2016, TTY (360) 586-0933 or (360) 664-4815.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The lottery commission wishes to update WAC 315-04-180 in order to maintain best practices regarding accounting procedures utilized in the lottery industry by allowing for an additional option in payment procedures based on retailer business type.

Statutory Authority for Adoption: RCW 67.70.040 (1),

(3).

Statute Being Implemented: RCW 67.70.040.

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

Name of Proponent: Washington state lottery commission, governmental.

Name of Agency Personnel Responsible for Drafting: Jana Jones, Washington's Lottery, (360) 664-4833; Implementation: Washington's Lottery; and Enforcement: Dan Devoe, Washington's Lottery, (360) 664-4742.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The only business allowed by law to sell lottery products are existing licensed lottery retailers.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed WAC changes do not give rise to a cost-benefit analysis.

April 28, 2016
Jana L. Jones
Director of
Legal Services

AMENDATORY SECTION (Amending WSR 07-11-154, filed 5/22/07, effective 6/22/07)

WAC 315-04-180 Obligations of lottery retailers.

(1)(a) Upon acceptance of a pack of instant tickets from the director, the retailer shall be responsible for the condition and security of the pack. The retailer shall hold the pack in its own safekeeping until it is ready to begin sale of the pack. Immediately prior to beginning sale, the retailer shall place the pack in "activated" status in the lottery's instant ticket accounting system (ITAS). Placement in activated status designates that the tickets in the pack may be sold, and prizes in the pack may be paid.

(b) In the event that instant tickets accepted by the retailer are lost, stolen or in any way unaccounted for prior to their being placed in activated status on ITAS, the retailer shall, upon discovery of their disappearance, immediately notify the director of each pack or portion of a pack so unaccounted for, lost or stolen. The retailer may be required to provide the director a police report or other evidence of the pack's disappearance. The retailer may be charged twenty-five dollars for each pack or portion of a pack unaccounted for, lost or stolen.

(c) A retailer may return an unopened pack, at no charge, to the director at any time prior to the pack having been placed in activated status. Within thirty days of the official end of an instant game, a retailer shall return to the director all packs never activated in that game.

(d) Upon placement of a pack in activated status, the retailer shall be liable to the director for payment for the pack, in the amount calculated under WAC 315-06-035. Payment for a pack shall be due to the director (1) no later than fifty calendar days after the pack has been placed in activated status or when eighty percent of the low tiered prizes have been validated, thereby validating the pack; or (2) payment for a pack shall be due to the director no later than twenty-one days after activation. The director shall not reimburse the retailer for any ticket losses which occur after activation of the pack from which the tickets came, except as allowed by WAC 315-04-210(2) or 315-06-190.

(e) Each lottery retailer and lottery license applicant shall sign and comply with a lottery instant retailer agreement. Failure to sign or to comply shall result in revocation or denial of a retailer's lottery license.

(2) Each lottery retailer shall abide by the law, these rules and all other directives or instructions issued by the director.

(3) Each lottery retailer grants to the director an irrevocable license to enter upon the premises of the lottery retailer in which tickets may be sold or any other location under the control of the lottery retailer where the director may have good cause to believe lottery materials and/or tickets are stored or kept in order to inspect said lottery materials and/or tickets and the licensed premises.

(4) All property given, except tickets, to a lottery retailer remains the property of the director, and, upon demand, the lottery retailer agrees to deliver forthwith the same to the director.

(5) All books and records pertaining to the lottery retailer's lottery activities shall be made available for inspection and copying, during the normal business hours of the lottery retailer and between 8:00 a.m. and 5:00 p.m., Monday through Friday, upon demand by the director.

(6) All books and records pertaining to the lottery retailer's lottery activities shall be subject to seizure by the director without prior notice.

(7) No lottery retailer shall advertise or otherwise display advertising in any part of the lottery retailer's premises as a licensed location which may be considered derogatory or adverse to the operations or dignity of the lottery.

WSR 16-10-050

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2015-18—Filed April 29, 2016, 4:29 p.m.]

Original Notice.

Expedited Rule Making—Proposed notice was filed as WSR 16-01-162.

Title of Rule and Other Identifying Information: Essential health benefits: Amendment to comply with recent federal guidance regarding coverage for obesity.

Hearing Location(s): Office of the Insurance Commissioner (OIC), Training Room 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on June 22, 2016, at 1:00 p.m.

Date of Intended Adoption: June 27, 2016.

Submit Written Comments to: Bianca Stoner, P.O. Box 40258, Olympia, WA 98504, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by June 20, 2016.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by June 20, 2016, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In October 2015, the United States Departments of Health and Human Services, Labor and the Treasury jointly issued Affordable Care Act Frequently-Asked Questions #29, which requires appli-

cable health plans to cover "intensive, multicomponent behavioral interventions for weight management" in certain circumstances.

This conflicts with a sentence in OIC's recently-adopted essential health benefits rules, so the agency needs to make minor revisions to bring the rules into alignment with the new guidance.

Reasons Supporting Proposal: This change is required in order to bring OIC's essential health benefits rule into alignment with recent federal guidance.

Statutory Authority for Adoption: RCW 48.02.060 and 48.43.715.

Statute Being Implemented: RCW 48.43.715.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Bianca Stoner, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7041; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: AnnaLisa Gellerman, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Insurance companies are the entities that need to comply with the proposed rule, and they do not qualify under the definition of small businesses in chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.04.328 [34.05.328] does not require agencies to do a cost-benefit analysis when they adopt federal statutes or regulations without material change.

April 29, 2016
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

WAC 284-43-5642 Essential health benefit categories. (1) A health benefit plan must cover "ambulatory patient services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as "ambulatory patient services" those medically necessary services delivered to enrollees in settings other than a hospital or skilled nursing facility, which are generally recognized and accepted for diagnostic or therapeutic purposes to treat illness or injury.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as ambulatory patient services:

- (i) Home and outpatient dialysis services;
- (ii) Hospice and home health care, including skilled nursing care as an alternative to hospitalization consistent with WAC 284-44-500, 284-46-500, and 284-96-500;
- (iii) Provider office visits and treatments, and associated supplies and services, including therapeutic injections and related supplies;
- (iv) Urgent care center visits, including provider services, facility costs and supplies;

(v) Ambulatory surgical center professional services, including anesthesiology, professional surgical services, surgical supplies and facility costs;

(vi) Diagnostic procedures including colonoscopies, cardiovascular testing, pulmonary function studies and neurology/neuromuscular procedures; and

(vii) Provider contraceptive services and supplies including, but not limited to, vasectomy, tubal ligation and insertion or extraction of FDA-approved contraceptive devices.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer should not include the following benefits in establishing actuarial value for the ambulatory category:

(i) Infertility treatment and reversal of voluntary sterilization;

(ii) Routine foot care for those that are not diabetic;

(iii) Coverage of dental services following injury to sound natural teeth. However, health plans must cover oral surgery related to trauma and injury. Therefore, a plan may not exclude services or appliances necessary for or resulting from medical treatment if the service is either emergency in nature or requires extraction of teeth to prepare the jaw for radiation treatments of neoplastic disease;

(iv) Private duty nursing for hospice care and home health care, to the extent consistent with state and federal law;

(v) Adult dental care and orthodontia delivered by a dentist or in a dentist's office;

(vi) Nonskilled care and help with activities of daily living;

(vii) Hearing care, routine hearing examinations, programs or treatment for hearing loss including, but not limited to, externally worn or surgically implanted hearing aids, and the surgery and services necessary to implant them. However, plans must cover cochlear implants and hearing screening tests that are required under the preventive services category, unless coverage for these services and devices are required as part of and classified to another essential health benefits category; and

(viii) Obesity or weight reduction or control other than:

(A) Covered nutritional counseling; and

(B) Obesity-related services for which the U.S. Preventive Services Task Force for prevention and chronic care has issued A and B recommendations on or before the applicable plan year, which issuers must cover under subsection (9) of this section.

(c) The base-benchmark plan's visit limitations on services in the ambulatory patient services category include:

- (i) Ten spinal manipulation services per calendar year without referral;
- (ii) Twelve acupuncture services per calendar year without referral;
- (iii) Fourteen days respite care on either an inpatient or outpatient basis for hospice patients, per lifetime; and
- (iv) One hundred thirty visits per calendar year for home health care.

(d) State benefit requirements classified to the ambulatory patient services category are:

- (i) Chiropractic care (RCW 48.44.310);
- (ii) TMJ disorder treatment (RCW 48.21.320, 48.44.460, and 48.46.530); and
- (iii) Diabetes-related care and supplies (RCW 48.20.391, 48.21.143, 48.44.315, and 48.46.272).

(2) A health benefit plan must cover "emergency medical services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as emergency medical services the care and services related to an emergency medical condition.

(a) A health benefit plan must include the following services which are specifically covered by the base-benchmark plan and classify them as emergency services:

- (i) Ambulance transportation to an emergency room and treatment provided as part of the ambulance service;
- (ii) Emergency room and department based services, supplies and treatment, including professional charges, facility costs, and outpatient charges for patient observation and medical screening exams required to stabilize a patient experiencing an emergency medical condition;
- (iii) Prescription medications associated with an emergency medical condition, including those purchased in a foreign country.

(b) The base-benchmark plan does not specifically exclude services classified to the emergency medical services category.

(c) The base-benchmark plan does not establish visit limitations on services in the emergency medical services category.

(d) State benefit requirements classified to the emergency medical services category include services necessary to screen and stabilize a covered person (RCW 48.43.093).

(3) A health benefit plan must cover "hospitalization" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as hospitalization services the medically necessary services delivered in a hospital or skilled nursing setting including, but not limited to, professional services, facility fees, supplies, laboratory, therapy or other types of services delivered on an inpatient basis.

(a) A health benefit plan must include the following services which are specifically covered by the base-benchmark plan and classify them as hospitalization services:

- (i) Hospital visits, facility costs, provider and staff services and treatments delivered during an inpatient hospital stay, including inpatient pharmacy services;
- (ii) Skilled nursing facility costs, including professional services and pharmacy services and prescriptions filled in the skilled nursing facility pharmacy;
- (iii) Transplant services, supplies and treatment for donors and recipients, including the transplant or donor facility fees performed in either a hospital setting or outpatient setting;
- (iv) Dialysis services delivered in a hospital;
- (v) Artificial organ transplants based on an issuer's medical guidelines and manufacturer recommendations; and

(vi) Respite care services delivered on an inpatient basis in a hospital or skilled nursing facility.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer should not include the following benefits in establishing actuarial value for the hospitalization category:

(i) Hospitalization where mental illness is the primary diagnosis to the extent that it is classified under the mental health and substance use disorder benefits category;

(ii) Cosmetic or reconstructive services and supplies except in the treatment of a congenital anomaly, to restore a physical bodily function lost as a result of injury or illness, or related to breast reconstruction following a medically necessary mastectomy;

(iii) The following types of surgery:

(A) Bariatric surgery and supplies;

(B) Orthognathic surgery and supplies unless due to temporomandibular joint disorder or injury, sleep apnea or congenital anomaly.

(iv) Reversal of sterilizations; and

(v) Surgical procedures to correct refractive errors, astigmatism or reversals or revisions of surgical procedures which alter the refractive character of the eye.

(c) The base-benchmark plan establishes specific limitations on services classified to the hospitalization category that conflict with state or federal law as of January 1, 2017, and should not be included in essential health benefit plans:

(i) The base-benchmark plan allows a waiting period for transplant services; and

(ii) The base-benchmark plan excludes coverage for sexual reassignment treatment, surgery, or counseling services. Health plans must cover such services consistent with 42 U.S.C. 18116, Section 1557, RCW 48.30.300 and 49.60.040.

(d) The base-benchmark plan's visit limitations on services in the hospitalization category include:

(i) Sixty inpatient days per calendar year for illness, injury or physical disability in a skilled nursing facility;

(ii) Thirty inpatient rehabilitation service days per calendar year. For purposes of determining actuarial value, this benefit may be classified to the hospitalization category or to the rehabilitation services category, but not to both.

(e) State benefit requirements classified to the hospitalization category are:

(i) General anesthesia and facility charges for dental procedures for those who would be at risk if the service were performed elsewhere and without anesthesia (RCW 48.43.185);

(ii) Reconstructive breast surgery resulting from a mastectomy that resulted from disease, illness or injury (RCW 48.20.395, 48.21.230, 48.44.330, and 48.46.280);

(iii) Coverage for treatment of temporomandibular joint disorder (RCW 48.21.320, 48.44.460, and 48.46.530); and

(iv) Coverage at a long-term care facility following hospitalization (RCW 48.43.125).

(4) A health benefit plan must cover "maternity and newborn services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as maternity and newborn services the medically necessary care and services delivered

to women during pregnancy and in relation to delivery and recovery from delivery and to newborn children.

(a) A health benefit plan must cover the following services which are specifically covered by the base-benchmark plan and classify them as maternity and newborn services:

- (i) In utero treatment for the fetus;
- (ii) Vaginal or cesarean childbirth delivery in a hospital or birthing center, including facility fees;
- (iii) Nursery services and supplies for newborns, including newly adopted children;
- (iv) Infertility diagnosis;
- (v) Prenatal and postnatal care and services, including screening;
- (vi) Complications of pregnancy such as, but not limited to, fetal distress, gestational diabetes, and toxemia; and
- (vii) Termination of pregnancy. Termination of pregnancy may be included in an issuer's essential health benefits package, but nothing in this section requires an issuer to offer the benefit, consistent with 42 U.S.C. 18023 (b)(a)(A)(i) and 45 C.F.R. 156.115.

(b) A health benefit plan may, but is not required to, include genetic testing of the child's father as part of the EHB-benchmark package. The base-benchmark plan specifically excludes this service. If an issuer covers this benefit, the issuer may not include this benefit in establishing actuarial value for the maternity and newborn category.

(c) The base-benchmark plan's limitations on services in the maternity and newborn services category include coverage of home birth by a midwife or nurse midwife only for low risk pregnancy.

(d) State benefit requirements classified to the maternity and newborn services category include:

- (i) Maternity services that include diagnosis of pregnancy, prenatal care, delivery, care for complications of pregnancy, physician services, and hospital services (RCW 48.43.041);
- (ii) Newborn coverage that is not less than the postnatal coverage for the mother, for no less than three weeks (RCW 48.43.115); and
- (iii) Prenatal diagnosis of congenital disorders by screening/diagnostic procedures if medically necessary (RCW 48.20.430, 48.21.244, 48.44.344, and 48.46.375).

(5) A health benefit plan must cover "mental health and substance use disorder services, including behavioral health treatment" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as mental health and substance use disorder services, including behavioral health treatment, the medically necessary care, treatment and services for mental health conditions and substance use disorders categorized in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, including behavioral health treatment for those conditions.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as mental health and substance use disorder services, including behavioral health treatment:

- (i) Inpatient, residential, and outpatient mental health and substance use disorder treatment, including diagnosis, partial hospital programs or inpatient services;

- (ii) Chemical dependency detoxification;
- (iii) Behavioral treatment for a DSM category diagnosis;
- (iv) Services provided by a licensed behavioral health provider for a covered diagnosis in a skilled nursing facility;
- (v) Prescription medication including medications prescribed during an inpatient and residential course of treatment;
- (vi) Acupuncture treatment visits without application of the visit limitation requirements, when provided for chemical dependency.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer may not include these benefits in establishing actuarial value for the category of mental health and substance use disorder services including behavioral health treatment:

- (i) Counseling in the absence of illness, other than family counseling when the patient is a child or adolescent with a covered diagnosis and the family counseling is part of the treatment for mental health services;
- (ii) Mental health treatment for diagnostic codes 302 through 302.9 in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, or for "V code" diagnoses except for medically necessary services for parent-child relational problems for children five years of age or younger, neglect or abuse of a child for children five years of age or younger, bereavement for children five years of age or younger, and gender dysphoria consistent with 42 U.S.C. 18116, Section 1557, RCW 48.30.300 and 49.60.040, unless this exclusion is preempted by federal law; and
- (iii) Court-ordered mental health treatment which is not medically necessary.

(c) The base-benchmark plan establishes specific limitations on services classified to the mental health and substance abuse disorder services category that conflict with state or federal law as of January 1, 2017. The state EHB-benchmark plan requirements for these services are: The base-benchmark plan does not provide coverage for mental health services and substance use disorder treatment delivered in a home health setting in parity with medical surgical benefits consistent with state and federal law. Health plans must cover mental health services and substance use disorder treatment that is delivered in parity with medical surgical benefits, consistent with state and federal law.

(d) The base-benchmark plan's visit limitations on services in this category include court-ordered treatment only when medically necessary.

(e) State benefit requirements classified to this category include:

- (i) Mental health services (RCW 48.20.580, 48.21.241, 48.44.341, and 48.46.285);
- (ii) Chemical dependency detoxification services (RCW 48.21.180, 48.44.240, 48.44.245, 48.46.350, and 48.46.355); and
- (iii) Services delivered pursuant to involuntary commitment proceedings (RCW 48.21.242, 48.44.342, and 48.46.-292).

(f) The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) (MHPAEA) applies to a health benefit plan subject to this section. Coverage of mental health and substance use disorder services, along with any scope and duration limits imposed on the benefits, must comply with the MHPAEA, and all rules, regulations and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26) including where state law is silent, or where federal law preempts state law.

(6) A health benefit plan must cover "prescription drug services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as prescription drug services medically necessary prescribed drugs, medication and drug therapies.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as prescription drug services:

(i) Drugs and medications both generic and brand name, including self-administrable prescription medications, consistent with the requirements of (b) through (e) of this subsection;

(ii) Prescribed medical supplies, including diabetic supplies that are not otherwise covered as durable medical equipment under the rehabilitative and habilitative services category, including test strips, glucagon emergency kits, insulin and insulin syringes;

(iii) All FDA-approved contraceptive methods, and prescription-based sterilization procedures for women with reproductive capacity;

(iv) Certain preventive medications including, but not limited to, aspirin, fluoride, and iron, and medications for tobacco use cessation, according to, and as recommended by, the United States Preventive Services Task Force, when obtained with a prescription order; and

(v) Medical foods to treat inborn errors of metabolism in accordance with RCW 48.44.440, 48.46.510, 48.20.520, 48.21.300, and 48.43.176.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services for the prescription drug services category. If an issuer includes these services, the issuer may not include the following benefits in establishing actuarial value for the prescription drug services category:

(i) Insulin pumps and their supplies, which are classified to and covered under the rehabilitation and habilitation services category; and

(ii) Weight loss drugs.

(c) The base-benchmark plan's visit limitations on services in the prescription drug services category include:

(i) Prescriptions for self-administrable injectable medication are limited to thirty day supplies at a time, other than insulin, which may be offered with more than a thirty day supply. This limitation is a floor, and an issuer may permit supplies greater than thirty days as part of its health benefit plan;

(ii) Teaching doses of self-administrable injectable medications are limited to three doses per medication per lifetime.

(d) State benefit requirements classified to the prescription drug services category include:

(i) Medical foods to treat inborn errors of metabolism (RCW 48.44.440, 48.46.510, 48.20.520, 48.21.300, and 48.43.176);

(ii) Diabetes supplies ordered by the physician (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143). Inclusion of this benefit requirement does not bar issuer variation in diabetic supply manufacturers under its drug formulary;

(iii) Mental health prescription drugs to the extent not covered under the hospitalization or skilled nursing facility services, or mental health and substance use disorders categories (RCW 48.44.341, 48.46.291, 48.20.580, and 48.21.241);

(e) An issuer's formulary is part of the prescription drug services category. The formulary filed with the commissioner must be substantially equal to the base-benchmark plan formulary, both as to U.S. Pharmacopoeia therapeutic category and classes covered and number of drugs in each class. If the base-benchmark plan formulary does not cover at least one drug in a category or class, an issuer must include at least one drug in the uncovered category or class.

(i) An issuer must file its formulary quarterly, following the filing instructions defined by the insurance commissioner in WAC 284-44A-040, 284-46A-050, and 284-58-025.

(ii) An issuer's formulary does not have to be substantially equal to the base-benchmark plan formulary in terms of formulary placement.

(7) A health benefit plan must cover "rehabilitative and habilitative services" in a manner substantially equal to the base-benchmark plan.

(a) For purposes of determining a plan's actuarial value, an issuer must classify as rehabilitative services the medically necessary services that help a person keep, restore or improve skills and function for daily living that have been lost or impaired because a person was sick, hurt or disabled.

(b) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as rehabilitative services:

(i) Cochlear implants;

(ii) Inpatient rehabilitation facilities and professional services delivered in those facilities;

(iii) Outpatient physical therapy, occupational therapy and speech therapy for rehabilitative purposes;

(iv) Braces, splints, prostheses, orthopedic appliances and orthotic devices, supplies or apparatus used to support, align or correct deformities or to improve the function of moving parts; and

(v) Durable medical equipment and mobility enhancing equipment used to serve a medical purpose, including sales tax.

(c) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes the following benefits in a health plan, the issuer may not include these benefits in establishing actuarial value for the rehabilitative and habilitative services category:

(i) Off-the-shelf shoe inserts and orthopedic shoes;

(ii) Exercise equipment for medically necessary conditions;

(iii) Durable medical equipment that serves solely as a comfort or convenience item; and

(iv) Hearing aids other than cochlear implants.

(d) For purposes of determining a plan's actuarial value, an issuer must classify as habilitative services the range of medically necessary health care services and health care devices designed to assist a person to keep, learn or improve skills and functioning for daily living. Examples include services for a child who isn't walking or talking at the expected age, or services to assist with keeping or learning skills and functioning within an individual's environment, or to compensate for a person's progressive physical, cognitive, and emotional illness. These services may include physical and occupational therapy, speech-language pathology and other services for people with disabilities in a variety of inpatient or outpatient settings.

(i) As a minimum level of coverage, an issuer must establish limitations on habilitative services on parity with those for rehabilitative services. A health benefit plan may include such limitations only if the limitations take into account the unique needs of the individual and target measurable, and specific treatment goals appropriate for the person's age and physical and mental condition. When habilitative services are delivered to treat a mental health diagnosis categorized in the most recent version of the DSM, the mental health parity requirements apply and supersede any rehabilitative services parity limitations permitted by this subsection.

(ii) A health benefit plan must not limit an enrollee's access to covered services on the basis that some, but not all, of the services in a plan of treatment are provided by a public or government program.

(iii) An issuer may establish utilization review guidelines and practice guidelines for habilitative services that are recognized by the medical community as efficacious. The guidelines must not require a return to a prior level of function.

(iv) Habilitative health care devices may be limited to those that require FDA approval and a prescription to dispense the device.

(v) Consistent with the standards in this subsection, speech therapy, occupational therapy, physical therapy, and aural therapy are habilitative services. Day habilitation services designed to provide training, structured activities and specialized assistance to adults, chore services to assist with basic needs, vocational or custodial services are not classified as habilitative services.

(vi) An issuer must not exclude coverage for habilitative services received at a school-based health care center unless the habilitative services and devices are delivered pursuant to federal Individuals with Disabilities Education Act of 2004 (IDEA) requirements and included in an individual educational plan (IEP).

(e) The base-benchmark plan's visit limitations on services in the rehabilitative and habilitative services category include:

(i) Inpatient rehabilitation facilities and professional services delivered in those facilities are limited to thirty service days per calendar year; and

(ii) Outpatient physical therapy, occupational therapy and speech therapy are limited to twenty-five outpatient visits

per calendar year, on a combined basis, for rehabilitative purposes.

(f) State benefit requirements classified to this category include:

(i) State sales tax for durable medical equipment; and

(ii) Coverage of diabetic supplies and equipment (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143).

(g) An issuer must not classify services to the rehabilitative services category if the classification results in a limitation of coverage for therapy that is medically necessary for an enrollee's treatment for cancer, chronic pulmonary or respiratory disease, cardiac disease or other similar chronic conditions or diseases. For purposes of this subsection, an issuer must establish limitations on the number of visits and coverage of the rehabilitation therapy consistent with its medical necessity and utilization review guidelines for medical/surgical benefits. Examples of these are, but are not limited to, breast cancer rehabilitation therapy, respiratory therapy, and cardiac rehabilitation therapy. Such services may be classified to the ambulatory patient or hospitalization services categories for purposes of determining actuarial value.

(8) A health plan must cover "laboratory services" in a manner substantially equal to the base-benchmark plan. For purposes of determining actuarial value, an issuer must classify as laboratory services the medically necessary laboratory services and testing, including those performed by a licensed provider to determine differential diagnoses, conditions, outcomes and treatment, and including blood and blood services, storage and procurement, and ultrasound, X ray, MRI, CAT scan and PET scans.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as laboratory services:

(i) Laboratory services, supplies and tests, including genetic testing;

(ii) Radiology services, including X ray, MRI, CAT scan, PET scan, and ultrasound imaging; and

(iii) Blood, blood products, and blood storage, including the services and supplies of a blood bank.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes procurement and storage of personal blood supplies provided by a member of the enrollee's family when this service is not medically indicated. If an issuer includes this benefit in a health plan, the issuer may not include this benefit in establishing the health plan's actuarial value.

(9) A health plan must cover "preventive and wellness services, including chronic disease management" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as preventive and wellness services, including chronic disease management, the services that identify or prevent the onset or worsening of disease or disease conditions, illness or injury, often asymptomatic; services that assist in the multidisciplinary management and treatment of chronic diseases; and services of particular preventative or early identification of disease or illness of value to specific populations, such as women, children and seniors.

(a) If a plan does not have in its network a provider who can perform the particular service, then the plan must cover the item or service when performed by an out-of-network provider and must not impose cost-sharing with respect to the item or service. In addition, a health plan must not limit sex-specific recommended preventive services based on an individual's sex assigned at birth, gender identity or recorded gender. If a provider determines that a sex-specific recommended preventive service is medically appropriate for an individual, and the individual otherwise satisfies the coverage requirements, the plan must provide coverage without cost-sharing.

(b) A health benefit plan must include the following services as preventive and wellness services, including chronic disease management:

(i) Immunizations recommended by the Centers for Disease Control's Advisory Committee on Immunization Practices;

(ii)(A) Screening and tests for which the U.S. Preventive Services Task Force for Prevention and Chronic Care have issued A and B recommendations on or before the applicable plan year.

(B) To the extent not specified in a recommendation or guideline, a plan may rely on the relevant evidence base and reasonable medical management techniques, based on necessity or appropriateness, to determine the frequency, method, treatment, or setting for the provision of a recommended preventive health service;

(iii) Services, tests and screening contained in the U.S. Health Resources and Services Administration ("HRSA") Bright Futures guidelines as set forth by the American Academy of Pediatricians; and

(iv) Services, tests, screening and supplies recommended in the HRSA women's preventive and wellness services guidelines:

(A) If the plan covers children under the age of nineteen, or covers dependent children age nineteen or over who are on the plan pursuant to RCW 48.44.200, 48.44.210, or 48.46.-320, the plan must provide the child with the full range of recommended preventive services suggested under HRSA guidelines for the child's age group without cost-sharing. Services provided in this regard may be combined in one visit as medically appropriate or may be spread over more than one visit, without incurring cost-sharing, as medically appropriate; and

(B) A plan may use reasonable medical management techniques to determine the frequency, method, treatment or setting for a recommended preventive service, including providing multiple prevention and screening services at a single visit or across multiple visits.

(v) Chronic disease management services, which typically include, but are not limited to, a treatment plan with regular monitoring, coordination of care between multiple providers and settings, medication management, evidence-based care, measuring care quality and outcomes, and support for patient self-management through education or tools; and

(vi) Wellness services.

(c) The base-benchmark plan (~~does not specifically exclude any services that could reasonably be classified to this category~~) establishes specific limitations on services

classified to the preventive services category that conflict with state or federal law as of January 1, 2017, and should not be included in essential health benefit plans.

Specifically, the base-benchmark plan excludes coverage for obesity or weight control other than covered nutritional counseling. Health plans must cover certain obesity-related services that are listed as A or B recommendations by the U.S. Preventive Services Task Force, consistent with 42 U.S.C. 300gg-13 (a)(1) and 45 C.F.R. 147.130 (a)(1)(i).

(d) The base-benchmark plan does not establish visit limitations on services in this category. In accordance with Section 2713 of the Public Health Service Act (PHS Act) and its implementing regulations relating to coverage of preventive services, the base-benchmark plan does not impose cost-sharing requirements with respect to the preventive services listed under (b)(i) through (iv) of this subsection that are provided in-network.

(e) State benefit requirements classified in this category are:

(i) Colorectal cancer screening as set forth in RCW 48.43.043;

(ii) Mammogram services, both diagnostic and screening (RCW 48.21.225, 48.44.325, and 48.46.275); and

(iii) Prostate cancer screening (RCW 48.20.392, 48.21.-227, 48.44.327, and 48.46.277).

(10) Some state benefit requirements are limited to those receiving pediatric services, but are classified to other categories for purposes of determining actuarial value.

(a) These benefits include:

(i) Neurodevelopmental therapy, consisting of physical, occupational and speech therapy and maintenance to restore or improve function based on developmental delay, which cannot be combined with rehabilitative services for the same condition (RCW 48.44.450, 48.46.520, and 48.21.310). This state benefit requirement may be classified to ambulatory patient services or mental health and substance abuse disorder including behavioral health categories; and

(ii) Treatment of congenital anomalies in newborn and dependent children (RCW 48.20.430, 48.21.155, 48.44.212, and 48.46.250). This state benefit requirement may be classified to hospitalization, ambulatory patient services or maternity and newborn categories.

(b) The base-benchmark plan contains limitations or scope restrictions that conflict with state or federal law as of January 1, 2017. Specifically, the plan covers outpatient neurodevelopmental therapy services only for persons age six and under. Health plans must cover medically necessary neurodevelopmental therapy for any DSM diagnosis without blanket exclusions.

(11) Issuers must know and apply relevant guidance, clarifications and expectations issued by federal governmental agencies regarding essential health benefits. Such clarifications may include, but are not limited to, Affordable Care Act implementation and frequently asked questions jointly issued by the U.S. Department of Health and Human Services, the U.S. Department of Labor and the U.S. Department of the Treasury.

(12) This section applies to health plans that have an effective date of January 1, 2017, or later.

WSR 16-10-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed May 2, 2016, 9:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-06-111.

Title of Rule and Other Identifying Information: The department is proposing to amend sections in chapter 388-25 WAC related to extended foster care.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on June 7, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 8, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., June 7, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by May 24, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In March 2015, fostering connections legislation added a fifth eligibility criterion to the extended foster care WAC allowing youth to be employed eighty hours or more per month. The following WAC are being amended to align with federal legislation: WAC 388-25-0110 What is the effective date for termination of foster care payments?, 388-25-0502 What is the purpose of the extended foster care program?, 388-25-0504 What is extended foster care?, 388-25-0506 Who is eligible for extended foster care?, 388-25-0540 How does CA determine a youth's continuing eligibility for the extended foster care program?, 388-25-0546 What must the youth do to remain in the extended foster care program?, and 388-25-0548 When is a youth no longer eligible for the extended foster care program?

The following WAC are being created to address the fifth eligibility criterion regarding a documented medical condition: WAC 388-25-0517 What is considered a medical condition? and 388-25-0519 How does a youth demonstrate he or she is unable to participate in extended foster care activities due to a documented medical condition?

Reasons Supporting Proposal: Refer to Purpose above.

Statutory Authority for Adoption: RCW 13.34.145, 13.34.267, 74.13.020, 74.13.031, 43.88C.010, 74.13.107, 43.131.416, 13.34.030.

Rule is necessary because of federal law, Fostering Connections to Success and Increasing Adoptions Act.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mireya Beltre, DSHS

Headquarters, 1115 Washington, Olympia, WA 98504, (360) 902-7871.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are exempt from preparing a small business economic impact statement under RCW 19.85.025(3) and 34.05.310(4).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are exempt under RCW 34.05.328 (5)(b)(iii) and adopt or incorporate by reference without material change federal statutes or regulations.

April 28, 2016

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0110 What is the effective date for termination of foster care payments? (1) The department ends payment on the day before the child actually leaves the foster home or facility. The department does not pay for the last day that a child is in a foster care home or facility.

(2) The department terminates family foster care payments for children in family foster care effective the date:

- (a) The child no longer needs foster care; ((~~☐~~))
- (b) The child no longer resides in foster care;
- (c) The child reaches the age of eighteen; ((~~☐~~))

(d) The child is no longer eligible for the extended foster care program and the dependency action is dismissed or voluntary placement agreement (VPA) is revoked. To be eligible for the extended foster care program a child, age eighteen must be:

- (i) Completing a high school diploma or high school equivalency certificate;
- (ii) Completing a post-secondary academic or vocational program; ((~~☐~~))
- (iii) Participating in a program or activity designed to promote employment or remove barriers to employment((~~-~~));
- (iv) Employed for eighty hours or more per month; or
- (v) Unable to engage in subsections (2)(d)(i) through (2)(d)(iv) of this section due to a documented medical condition.

(3) The department must terminate foster care payments for children in the behavior rehabilitative services program effective the date:

- (a) The child no longer needs rehabilitative services; ((~~☐~~))
- (b) The child is no longer served through contracted rehabilitative services program except as provided in WAC 388-25-0030; or

(c) The child reaches the age of eighteen and continues to attend, but has not finished, high school or an equivalent educational program and has a need for continued rehabilitative treatment services, the department may continue payments until the date the youth completes the high school program or equivalent educational or vocational program. The department must not extend payments for a youth in care beyond age twenty.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0502 What is the purpose of the extended foster care program? The extended foster care program provides an opportunity for young adults in foster care at age eighteen to voluntarily agree to continue receiving foster care services, including placement services, while the youth:

(1) Completes a high school or a high school equivalency program;

(2) Completes a secondary or post-secondary academic or vocational program; ((☞))

(3) Participates in a program or activity designed to promote employment or remove barriers to employment; ((☞))

(4) Is engaged in employment for eighty hours or more per month((-)); or

(5) Is unable to engage in subsections (1) through (4) of this section due to a documented medical condition.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0504 What is extended foster care? Extended foster care is a program offered to young adults, age eighteen ~~((up))~~ to twenty-one, who turn eighteen while in foster care, to enable them to:

(1) Complete a high school diploma or high school equivalency certificate;

(2) Complete a post-secondary academic or vocational program;

(3) Participate in a program or activity designed to promote employment or remove barriers to employment; ((☞))

(4) Be employed for eighty hours or more per month((-)); or

(5) Participate in the program if unable to engage in subsections (1) through (4) of this section due to a documented medical condition.

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 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0506 Who is eligible for extended foster care? (1) To be eligible for the extended foster care program, a youth, on his or her eighteenth birthday((-)) must((-)

(+)) be dependent under chapter 13.34 RCW, ((be)) placed in foster care ((f)) as defined in WAC 388-25-0508(+)) by ((children's administration)) CA, and:

(a) ~~((Be))~~ Enrolled ((f)) as described in WAC 388-25-0512(+)) in a high school or high school equivalency program; ((☞))

(b) ~~((Be))~~ Enrolled ((f)) as described in WAC 388-25-0512(+)) in a post-secondary academic or vocational education program; ((☞))

(c) ~~((Have))~~ Applied for and can demonstrate intent to timely enroll in a post-secondary academic or vocational education program (as described in WAC 388-25-0514); or

(d) ~~((Be))~~ Participating in a program or activity designed to promote employment or remove barriers to employment; ((☞))

(e) ~~((Be))~~ Engaged in employment for eighty hours or more per month((-)); or

(f) Unable to engage in subsection (1)(a) through (e) of this section due a documented medical condition.

(2) Have had their dependency dismissed on their eighteenth birthday as the youth did not meet any of the criteria found in subsections (1)(a) through ~~((☞))~~ (f) of this section, or did not agree to participate in the program and the youth is requesting to participate in the extended foster care program prior to reaching the age of nineteen. Youth must meet one of the criteria in subsections (1)(a) through ~~((☞))~~ (f) when requesting to participate in the extended foster care program.

NEW SECTION

WAC 388-25-0517 What is a "documented medical condition"? A "documented medical condition" is any physical or mental health condition documented by a licensed health care provider that may be temporary or permanent, including but not limited to, a physical injury or a physical or behavioral health condition. A "documented medical condition" may include physiological, mental, or psychological conditions or disorders, including but not limited to, orthopedic, visual, speech, and hearing impairments.

NEW SECTION

WAC 388-25-0519 How does a youth demonstrate he or she is unable to participate in extended foster care activities due to a documented medical condition? (1) To demonstrate he or she is unable to participate in extended foster care activities due to a documented medical condition defined in WAC 388-25-0517, a youth must notify the social worker of the medical condition and provide CA written documentation or consent to CA to obtain documentation from a licensed health care provider. The documentation of the medical condition must describe how the medical condition prevents the youth, either temporarily or permanently, from:

(a) Completing a high school diploma or high school equivalency certificate;

(b) Completing a post-secondary academic or vocational program;

(c) Participating in a program or activity designed to promote employment or remove barriers to employment; or

(d) Being employed for eighty hours or more per month.

(2) If the youth's medical condition prevents him or her from notifying the social worker or obtaining or providing documentation of the medical condition, the youth must notify the social worker as soon as he or she is reasonably able.

(3) If the youth's medical condition temporarily prevents him or her from engaging in extended foster care activities, the youth will provide the social worker with updated documentation from the licensed health care provider regarding the youth's ability to engage in extended foster care activities during the monthly health and safety visit.

(4) The youth may give CA consent to contact the licensed health care provider directly to determine the impact

of the youth's documented medical condition or his or her ability to engage in extended foster care activities.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0540 How does CA determine a youth's continuing eligibility for the extended foster care program? ~~((At least every six months, children's administration))~~ To determine a youth's continuing eligibility for the extended foster care program, prior to every court review hearing CA will determine if the youth continues to:

- (1) Agree to participate in the extended foster care program((-));
- (2) ~~((Be enrolled in an education program, vocational program, or participating in a program or activity designed to promote employment or remove barriers to employment, employed for eighty hours or more per month, or is transitioning from one status to another.))~~ Meet the eligibility criteria in WAC 388-25-0506 (1)(a) through (f);
- (3) ~~((Continue to))~~ Reside in an approved placement((-); and
- (4) Comply with the youth's responsibilities in WAC 388-25-0546.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0546 What must the youth do to remain in the extended foster care program? To remain in the extended foster care program, unless otherwise authorized by court order, the youth must:

- (1) Agree to participate in the program as expressed in the written extended foster care agreement;
- (2) Maintain the standard of eligibility as set by the youth's academic program, ~~((or))~~ employment related program, ~~((or))~~ employment status, or documented medical condition;
- (3) Participate in the case plan, including monthly health and safety visits;
- (4) Acknowledge that ~~((children's administration~~ f))CA~~(or))~~ has responsibility for the youth's care and placement by authorizing CA to have access to records related to court-ordered medical, mental health, drug/alcohol treatment services, additional necessary services, educational records needed to determine continuing eligibility for the program, ~~((and for additional necessary services))~~ medical records related to a documented medical condition for purposes of qualifying for extended foster care under WAC 388-25-0506 (1)(f); and
- (5) Remain in the approved foster care placement and follow placement rules~~((This means the youth will))~~ as follows:
 - (a) Stay in the placement identified by CA or approved by the court;
 - (b) Obtain approval from ~~((ease))~~ his or her social worker and notify his or her caregiver for extended absences from the placement of more than three days; and
 - (c) Comply with court orders and any specific rules developed in collaboration by the youth, caregiver and social worker.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0548 When is a youth no longer eligible for the extended foster care program? A youth is no longer eligible for the extended foster care program and the department will ask the court to dismiss the non-minor dependency, when the youth:

- (1) Graduates from high school or equivalency program((-)) and has not ~~((enrolled in, or applied for and))~~ demonstrated ~~((an))~~ intent to timely enroll in a post-secondary academic or vocational program;
- (2) Graduates from a post-secondary education or vocational program;
- (3) Reaches ~~((their))~~ his or her twenty-first birthday;
- (4) Is no longer participating or ~~((enrolled in high school or equivalency program, post-secondary or vocational program, or in a program promoting employment or removing barriers to employment))~~ engaging in any of the eligibility criteria under WAC 388-25-0506 (1)(a) through (f);
- (5) ~~((No longer employed for eighty hours or more per month;~~
- ~~((6))~~ No longer agrees to participate in extended foster care services;
- ~~((7))~~ (6) Fails or refuses to comply with youth responsibilities outlined in WAC 388-25-0546; or
- ~~((8))~~ (7) Is incarcerated ((in)) as an adult in a detention facility on a criminal conviction.

WSR 16-10-060

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed May 2, 2016, 10:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-125.

Title of Rule and Other Identifying Information: The department is proposing to create WAC 388-97-1090 Direct care hours and amend WAC 388-97-0001 Definitions and 388-97-1080 Nursing services.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on June 21, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., June 21, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by June 7, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to assure compliance with requirements from recently passed legislation SB [SSB] 5600 and SHB 2678 (requirements originally passed through SHB 1274 and revised in SHB 2678 based on the outcome of a stakeholder workgroup).

Reasons Supporting Proposal: This amendment will align the rules with the recent changes to the statute in regards to the definitions related to vulnerable adults and staffing ratios in nursing homes.

Statutory Authority for Adoption: Chapters 18.51, 74.42 RCW.

Statute Being Implemented: SB [SSB] 5600, SHB 2678.

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: Amy Abbott, P.O. Box 45600, Olympia, WA 98513, (360) 725-2581; Implementation: Candace Goehring, P.O. Box 45600, Olympia, WA 98513, (360) 725-2401; and Enforcement: Bett Schlemmer, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), a small business economic impact statement is not required for rules adopting or incorporating, by reference without material change, Washington state statutes or federal statutes or regulations. This rule change is related to a change in chapter 74.42 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iii), a cost-benefit analysis is not required for rules adopting or incorporating, by reference without material change, Washington state statutes or federal statutes or regulations. This rule change is related to a change in chapter 74.42 RCW.

April 27, 2016
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 16-11 issue of the Register.

WSR 16-10-074
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(By the Code Reviser's Office)

[Filed May 3, 2016, 9:38 a.m.]

WAC 388-101-3000, 388-101-3202, 388-101-3259, 388-101-4175, 388-101-4180, 388-101-4185, 388-101-4190, 388-101-4200, 388-101-4205, 388-101-4210, 388-101-4220, 388-101-4230, 388-101-4240, 388-101-4515, 388-101-4525 and 388-101-4535, proposed by the department of social and health services in WSR 15-20-113, appearing in issue 15-21 of the Washington State Register, which was distributed on

November 4, 2015, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 16-10-075
WITHDRAWAL OF PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
(By the Code Reviser's Office)
[Filed May 3, 2016, 9:38 a.m.]

WAC 139-05-915, proposed by the criminal justice training commission in WSR 15-21-058, appearing in issue 15-21 of the Washington State Register, which was distributed on November 4, 2015, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 16-10-086
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed May 3, 2016, 11:17 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: Chapter 246-220 WAC, General provisions; chapter 246-221 WAC, Radiation protection standards; chapter 246-231 WAC, Packaging and transportation of radioactive material; chapter 246-232 WAC, Licensing applicability; chapter 246-233 WAC, Radioactive materials—General licenses; chapter 246-235 WAC, Radioactive materials—Specific licenses; chapter 246-237 WAC, Physical protection of Category 1 and Category 2 quantities of radioactive material; chapter 246-243 WAC, Industrial radiography; and chapter 246-252 WAC, Uranium or thorium milling. The department of health is proposing to revise these rules to be consistent with United States Nuclear Regulatory Commission's rules and make editorial changes.

Hearing Location(s): Department of Health, Town Center Two, Room 145, 111 Israel Road S.E., Tumwater, WA 98501, on June 7, 2016, at 10:00 a.m.

Date of Intended Adoption: June 10, 2016.

Submit Written Comments to: Vicki M. Bouvier, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2250, by June 7, 2016.

Assistance for Persons with Disabilities: Contact Vicki M. Bouvier by May 31, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is necessary to amend eight chapters of rules and create one new chapter of rules in order to adopt federally required rule changes related to licensing and use of radioactive materials. Chapter 246-237 WAC, Physical protection of Category 1 and Category 2 quantities of radioactive material, is being proposed to permanently adopt emergency rules adopted on March 19, 2016.

Reasons Supporting Proposal: This rule making is required to comply with RCW 70.98.050 State radiation control agency and 70.98.110 Federal-state agreements. Under the formal state agreement between the governor and the United States Nuclear Regulatory Commission, the department of health is required to remain compatible with the United States Nuclear Regulatory Commission rules. This is done through rule making.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050 and 70.98.-110.

Rule is necessary because of federal law, 77 F.R. 39899, 77 F.R. 43666, 78 F.R. 16922, 78 F.R. 32310, 79 F.R. 57721, 79 F.R. 58664, and 80 F.R. 45841.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Curt DeMaris, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3223.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference, without material change, federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

May 3, 2016
Clark Halvorson
Assistant Secretary

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

WAC 246-220-007 Statement of philosophy. In accordance with the recommendations of the Environmental Protection Agency, formerly the Federal Radiation Council, approved by the president of the United States of America, persons engaged in activities under licenses issued by the Washington state department of health pursuant to the Atomic Energy Act of 1954, as amended, shall, in addition to complying with the requirements set forth in chapter 246-221 WAC, make every reasonable effort to maintain radiation

exposures, and releases of radioactive materials in effluents to unrestricted areas, as low as is reasonably achievable. Such persons should make particular efforts to keep the radiation exposure of an embryo or fetus as low as is reasonably achievable during the entire gestation period as recommended by the National Council on Radiation Protection and Measurements. The term "as low as is reasonably achievable" (~~means making every reasonable effort to maintain exposures to radiation as far below the dose limits in these regulations as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the utilization of nuclear energy, ionizing radiation, and radioactive materials in the public interest~~) has the same meaning as defined in WAC 246-220-010(10).

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-220-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout chapters 246-220 through 246-254 WAC unless the context clearly indicates otherwise. Additional definitions used only in a certain chapter are included in that chapter.

(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~~) the Atomic Energy Act of 1954, including any amendments thereto.

(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 Atomic Energy Commission or the NRC has entered into an effective agreement under subsection 274b of the (~~Atomic Energy Act of 1954, as amended~~) act. Nonagreement state means any other state.

(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 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 spe-

cific air contaminants by passing ambient air through the air-purifying element.

(10) "**ALARA**" (as low as reasonably achievable or as low as is reasonably achievable) means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this chapter as is practical, consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to the benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the utilization of nuclear energy and licensed materials in the public interest.

(11) "**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 off-site response organizations to protect persons off-site.

(12) "**ALI (annual limit on intake)**" 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.

(13) "**APF (assigned protection factor)**" 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.

(14) "**Atmosphere-supplying respirator**" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes SARs and SCBA units.

(15) "**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.

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

(17) "**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 rules, "radiobioassay" is an equivalent term.

(18) "**By-product 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 using special nuclear material;

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "by-product material" within this definition;

(c)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that:

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(d) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The ~~((commission))~~ NRC, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines what would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use for in a commercial, medical, or research activity.

(19) "**Calendar quarter**" means at least twelve but no more than fourteen consecutive weeks. The first calendar quarter of each year begins in January and subsequent calendar quarters shall be arranged 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. A licensee or registrant may not change the method of determining calendar quarters for purposes of these rules.

(20) "**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.

(21) "**C.F.R.**" means Code of Federal Regulations.

(22) "**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 rules, "lung class" and "inhalation class" are equivalent terms. For "class of waste" see WAC 246-249-040.

(23) "**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.

(24) "**Commencement of construction**" means taking any action defined as construction or any other activity at the site of a facility subject to the regulations in this chapter that has a reasonable nexus to radiological health and safety.

(25) **"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.

(26) **"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 ($H_{E,50} = \sum w_T H_{T,50}$).

(27) **"Consortium"** means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for non-commercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a federal facility or a medical facility.

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

(29) **"Construction"** means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the requirements in chapters 246-220 through 246-254 WAC that are related to radiological safety or security. The term construction does not include:

(a) Changes for temporary use of the land for public recreational purposes;

(b) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(c) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(d) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials;

(e) Excavation;

(f) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;

(g) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);

(h) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final in-place location at the facility; or

(i) Taking any other action that has no reasonable nexus to radiological health and safety.

(30) **"Controlled area."** See "Restricted area."

(31) **"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).

(32) **"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.

(33) **"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).

(34) **"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.

(35) **"Department"** means the Washington state department of health, which has been designated as the state radiation control agency under chapter 70.98 RCW.

(36) **"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.

(37) **"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 rules, 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.

(38) **"DAC-hour (derived air concentration-hour)"** means the product of the concentration of radioactive material 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).

(39) **"Discrete source"** means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical or research activities.

(40) **"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).

(41) **"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 rules, "radiation dose" is an equivalent term.

(42) **"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.

(43) "**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.

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

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

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

(47) "**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 ($H_E = \sum w_T H_T$).

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

(49) "**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.

(50) "**Exposure**" means (a) being exposed to ionizing radiation or to radioactive material, or (b) the quotient of dQ by dm where " dQ " 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 " dm " are completely stopped in air. The special unit of exposure is the roentgen (R) and the SI equivalent is the coulomb per kilogram (c/kg). One roentgen is equal to 2.58×10^{-4} coulomb per kilogram of air.

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

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

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

(54) "**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.

(55) "**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.

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

(57) "**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.

(58) "**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.

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

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

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

(62) "**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 rules, rooms or areas in which diagnostic X-ray systems are used for healing arts purposes are not considered high radiation areas.

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

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

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

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

(67) "**Individual**" means any human being.

(68) "**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.

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

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

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

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

(73) **"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.

(74) **"LDE (lens dose equivalent)"** 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/cm²).

(75) **"License"** means a license issued by the department.

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

(77) **"Licensee"** means any person who is licensed by the department under ~~((these rules and the act))~~ chapter 70.98 RCW.

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

(79) **"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.

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

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

(82) **"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 rules, radiation monitoring and radiation protection monitoring are equivalent terms.

(83) **"NARM"** means any naturally occurring or accelerator-produced radioactive material. It does not include by-product, source, or special nuclear material.

(84) **"Nationally tracked source"** means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in WAC 246-221-236. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

(85) **"Natural radioactivity"** means radioactivity of naturally occurring nuclides.

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

(87) **"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.

(88) **"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 rules, a "deterministic effect" is an equivalent term.

(89) **"NRC"** means the U.S. Nuclear Regulatory Commission.

(90) **"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 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 under chapter 246-240 WAC, from voluntary participation in medical research programs, or as a member of the public.

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

(92) **"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. For purposes of this definition, "accelerator" is an equivalent term.

(93) **"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.

(94) **"Person"** means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, and any legal successor, representative, agent or agency of the foregoing.

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

(96) **"Personnel monitoring equipment."** See individual monitoring devices.

(97) **"PET"** means positron emission tomography.

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

(99) **"Physician"** means a medical doctor or doctor of osteopathy licensed by this state to prescribe and dispense drugs in the practice of medicine.

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

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

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

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

(104) **"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.

(105) **"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 under chapter 246-240 WAC, or from voluntary participation in medical research programs.

(106) **"Qualified expert"** means an individual who has demonstrated to the satisfaction of the department 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.

(107) **"QLFT (qualitative fit test)"** means a pass/fail fit test to assess the adequacy of respirator fit which relies on the individual's response to the test agent.

(108) **"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 rules, 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	Fluence per Unit Dose
		Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
(thermal) 2.5 x 10 ⁻⁸	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻⁷	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻⁶	2	810 x 10 ⁶	810 x 10 ⁸
1 x 10 ⁻⁵	2	810 x 10 ⁶	810 x 10 ⁸
1 x 10 ⁻⁴	2	840 x 10 ⁶	840 x 10 ⁸
1 x 10 ⁻³	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻²	2.5	1010 x 10 ⁶	1010 x 10 ⁸
1 x 10 ⁻¹	7.5	170 x 10 ⁶	170 x 10 ⁸
5 x 10 ⁻¹	11	39 x 10 ⁶	39 x 10 ⁸
1	11	27 x 10 ⁶	27 x 10 ⁸
2.5	9	29 x 10 ⁶	29 x 10 ⁸
5	8	23 x 10 ⁶	23 x 10 ⁸
7	7	24 x 10 ⁶	24 x 10 ⁸
10	6.5	24 x 10 ⁶	24 x 10 ⁸
14	7.5	17 x 10 ⁶	17 x 10 ⁸
20	8	16 x 10 ⁶	16 x 10 ⁸
40	7	14 x 10 ⁶	14 x 10 ⁸
60	5.5	16 x 10 ⁶	16 x 10 ⁸
1 x 10 ²	4	20 x 10 ⁶	20 x 10 ⁸
2 x 10 ²	3.5	19 x 10 ⁶	19 x 10 ⁸
3 x 10 ²	3.5	16 x 10 ⁶	16 x 10 ⁸
4 x 10 ²	3.5	14 x 10 ⁶	14 x 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.

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

(110) **"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.

(111) **"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).

(112) **"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 rules: Radiation does not include magnetic fields or nonionizing radiation, such as radiowaves or

microwaves, visible, infrared, or ultraviolet light; and ionizing radiation is an equivalent term.

(113) **"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.

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

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

(116) **"Radiation source."** See "Source of radiation."

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

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

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

(120) **"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.

(121) **"Registrable item"** means any radiation-producing machine except those exempted by RCW 70.98.180 or exempted by the department under the authority of RCW 70.98.080.

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

(123) **"Registration"** means registration with the department in accordance with the rules adopted by the department.

(124) **"Regulations of the United States Department of Transportation"** means the regulations in 49 C.F.R. Parts 170-189, 14 C.F.R. Part 103, and 46 C.F.R. Part 146.

(125) **"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).

(126) **"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.

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

(128) **"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" 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.

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

(130) **"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.

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

(132) **"SEPA"** means the State Environmental Policy Act under chapter 43.21C RCW.

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

(134) **"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/cm²).

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

(136) **"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).

(137) **"Site area emergency"** means events which 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 off-site response organizations to protect persons off-site.

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

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

(140) **"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 uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

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

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

(143) **"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 NRC, 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.

(144) **"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 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:

175 (grams contained U-235)	+
350	
50 (grams U-233)	+
200	
50 (grams Pu)	< 1
200	

(145) **"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 rules, probabilistic effect is an equivalent term.

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

(147) **"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, the evaluation includes, but is not limited to, tests, physical examinations, calculations and measurements of levels of radiation or concentration of radioactive material present.

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

(149) **"These rules"** mean all parts of the rules for radiation protection of the state of Washington.

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

(151) **"TEDE (total effective dose equivalent)"** means the sum of the effective dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

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

(153) **"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 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 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).

(154) **"Unrefined and unprocessed ore"** means ore in its natural form prior to any processing, such as grinding, roasting(☹) or beneficiating, or refining. Processing does not include sieving or encapsulation of ore, or preparation of samples for laboratory analysis.

(155) **"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.

(156) **"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.

(157) **"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.

(158) **"Waste"** means those low-level radioactive wastes containing source, special nuclear or by-product material that are acceptable for disposal in a land disposal facility. For purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in subsection (17)(b), (c), and (d) of the definition of by-product material in this section.

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

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

(161) **"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

Organ or Tissue	w_T
Bone surfaces	0.03
Remainder	0.30 ^a
Whole Body	1.00 ^b

^a 0.30 results from 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.

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

(163) **"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.

(164) **"WL (working level)"** 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.

(165) **"WLM (working level month)"** 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.

(166) **"Year"** means the period of time beginning in January used to determine compliance with the provisions of these rules. 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 00-08-013, filed 3/24/00, effective 4/24/00)

WAC 246-221-020 Determination of prior occupational dose. (1) For each individual who is likely to receive, in a year, an occupational dose requiring monitoring pursuant to WAC 246-221-090 and 246-221-100, the licensee or registrant shall:

(a) Determine the occupational radiation dose received during the current year; and

(b) Attempt to obtain the records of lifetime cumulative occupational radiation dose.

(2) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:

(a) The internal and external doses from all previous planned special exposures; and

(b) All doses in excess of the limits, including doses received during accidents and emergencies, received during the lifetime of the individual.

(3) In complying with the requirements of subsection (1) of this section, a licensee or registrant may:

(a) Accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and

(b) Accept, as the record of lifetime cumulative radiation dose, an up-to-date Form RHF-4A, or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and

(c) Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, ((telegram,)) facsimile, e-mail, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(4) The licensee or registrant shall record the exposure history, as required by subsection (1) of this section, on Form RHF-4A, or other clear and legible record, of all the information required on that form. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing Form RHF-4A. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on Form RHF-4A indicating the periods of time for which data are not available.

(5) Licensees or registrants are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed under the regulations in effect before January 1, 1994. Further, occupational exposure histories obtained and recorded on Form RHF-4 before January 1, 1994, would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

(6) If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall assume:

(a) In establishing administrative controls under WAC 246-221-010(6) for the current year, that the allowable dose limit for the individual is reduced by 12.5 mSv (1.25 rem) for each calendar quarter for which records were unavailable and

the individual was engaged in activities that could have resulted in occupational radiation exposure; and

(b) That the individual is not available for planned special exposures.

(7) The licensee or registrant shall retain the records on Form RHF-4A or equivalent until the department terminates each pertinent license requiring this record. The licensee or registrant shall retain records used in preparing Form RHF-4 or RHF-4A for three years after the record is made.

AMENDATORY SECTION (Amending WSR 14-01-077, filed 12/16/13, effective 1/16/14)

WAC 246-221-160 Procedures for picking up, receiving, and opening packages. (1) Each licensee who expects to receive a package containing quantities of radioactive material in excess of the Type A₁ or A₂ quantities specified in WAC 246-231-200 shall make arrangements to receive:

(a) The package when it is offered for delivery by the carrier; or

(b) Immediate notification from the carrier of the arrival of the package at the carrier's terminal.

(2) Each licensee who picks up a package of radioactive material from a carrier's terminal shall pick up the package expeditiously upon receipt of notification from the carrier of its arrival.

(3) Each licensee shall:

(a) Monitor for radioactive contamination the external surfaces of any package labeled with a Radioactive White I, Yellow II or Yellow III label unless the package contains only radioactive material in the form of gas or in special form as defined in WAC 246-231-010; and

(b) Monitor the radiation levels of the external surfaces of any package labeled with a Radioactive White I, Yellow II or Yellow III label unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, as defined in WAC 246-231-200; and

(c) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if the package has evidence of potential contamination, such as packages that are crushed, wet, or damaged.

(4) Monitoring shall be performed:

(a) Immediately upon receipt if there is evidence of package degradation or any other evidence of potential contamination or excessive radiation levels; or

(b) As soon as practicable after receipt, but no later than three hours after the package is received at the licensee's facility if received during the licensee's normal working hours, or no later than three hours from the beginning of the next working day if received after normal working hours.

(5) The licensee shall immediately notify the final delivery carrier and, by telephone (~~and telegram, mailgram, or~~), facsimile, e-mail, or letter, the department when:

(a) For normal shipments, removable radioactive surface contamination exceeds either 22 dpm/cm² for beta-gamma emitting radionuclides, all radionuclides with half-lives less than ten days, natural uranium, natural thorium, uranium-235, uranium-238, thorium-232, and thorium-228 and thorium 230 when contained in ores or concentrates; or 2.2 dpm/cm² for all other alpha emitting radionuclides; or

(b) For exclusive use shipments, removable radioactive surface contamination exceeds either 220 dpm/cm² for beta-gamma emitting radionuclides, all radionuclides with half-lives less than ten days, natural uranium, natural thorium, uranium-235, uranium-238, thorium-232, and thorium-228 and thorium 230 when contained in ores or concentrates; or 22 dpm/cm² for all other alpha emitting radionuclides; or

(c) For normal or exclusive use shipments, external radiation levels exceed two mSv/hour (200 millirem per hour) at any point on the external surface of the package; or

(d) For exclusive use shipments where the shipment is made in a closed transport vehicle, packages are secured in a fixed position, and no loading or unloading occurs between the beginning and end of transportation, external radiation levels exceed ten mSv/hour (1000 millirem per hour) at any point on the external surface of the package.

(6) Each licensee shall establish and maintain procedures for safely opening packages in which radioactive material is received, and shall assure that such procedures are followed and that due consideration is given to instructions for the type of package being opened and the monitoring of potentially contaminated packaging material (including packages containing radioactive material in gaseous form) to assure that only background levels of radiation are present prior to disposal of such material as nonradioactive waste.

(7) Licensees transferring special form sources to and from a work site in vehicles owned or operated by the licensee are exempt from the contamination monitoring requirements of subsection (3)(a) of this section but are not exempt from the monitoring requirement in subsection (3)(b) of this section for measuring radiation levels to ensure that the source is still properly lodged in its shield.

AMENDATORY SECTION (Amending WSR 14-01-077, filed 12/16/13, effective 1/16/14)

WAC 246-221-240 Reports of stolen, lost or missing radiation sources. (1) Each licensee and registrant shall report by telephone (206-682-5327) and confirm promptly by letter, (~~telegram, mailgram, or~~) facsimile, or e-mail to the State Department of Health, Office of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827.

(a) Immediately after its occurrence becomes known to the licensee, stolen, lost, or missing radioactive material in an aggregate quantity equal to or greater than one thousand times the quantity specified in WAC 246-221-300, Appendix B; or

(b) Within thirty days after its occurrence becomes known to the licensee, lost, stolen, or missing radioactive material in an aggregate quantity greater than ten times the quantity specified in WAC 246-221-300, Appendix B that is still missing or any item not exempted in chapter 246-232 WAC; or

(c) Immediately after its occurrence becomes known to the registrant, a stolen, lost, or missing radiation machine.

(2) Each licensee or registrant required to make a report pursuant to subsection (1) of this section shall, within thirty days after making the telephone report, make a written report to the department setting forth the following information:

(a) A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model and serial number, type and maximum energy of radiation emitted; and

(b) A description of the circumstances under which the loss or theft occurred; and

(c) A statement of disposition, or probable disposition, of the licensed or registered source of radiation involved; and

(d) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(e) Actions that have been taken, or will be taken, to recover the source of radiation; and

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.

(3) Subsequent to filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within thirty days after the licensee or registrant learns of such information.

(4) The licensee or registrant shall prepare any report filed with the department pursuant to this section so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

AMENDATORY SECTION (Amending WSR 14-01-077, filed 12/16/13, effective 1/16/14)

WAC 246-221-250 Notification of incidents. (1) **Immediate notification.** Notwithstanding other requirements for notification, each licensee and registrant shall immediately (as soon as possible but no later than four hours after discovery of an incident) notify the State Department of Health, Office of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827, by telephone (206-682-5327) and confirming letter, ~~((telegram, mailgram, or))~~ facsimile, or e-mail with a follow-up written report within thirty days of any incident involving any radiation source which may have caused or threatens to cause:

(a) An individual to receive:

(i) A total effective dose equivalent of 0.25 Sv (25 rem) or more;

(ii) A lens dose equivalent of 0.75 Sv (75 rem) or more; or

(iii) A shallow dose equivalent to the skin or extremities or a total organ dose equivalent of 2.5 Sv (250 rem) or more;

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for twenty-four hours, the individual could have received an intake five times the occupational ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures; or

(c) The loss of ability to take immediate protective actions necessary to avoid exposure to sources of radiation or releases of radioactive material that could exceed regulatory limits. Events which could cause such a loss of ability include fires, explosions, toxic gas releases, etc.

(2) **Twenty-four hour notification.** Each licensee and registrant shall within twenty-four hours of discovery of the event, notify the State Department of Health, Office of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827, by telephone (206-682-5327) and confirming letter, ~~((telegram, mailgram, or))~~ facsimile, or e-mail with a follow-up written report within thirty days of any incident involving any radiation source possessed which may have caused or threatens to cause:

(a) An individual to receive, in a period of twenty-four hours:

(i) A total effective dose equivalent exceeding 0.05 Sv (5 rem);

(ii) A lens dose equivalent exceeding 0.15 Sv (15 rem); or

(iii) A shallow dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 0.5 Sv (50 rem);

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for twenty-four hours, the individual could have received an intake in excess of one occupational ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures;

(c) An unplanned contamination incident that:

(i) Requires access to the contaminated area, by workers or the general public, to be restricted for more than twenty-four hours by imposing additional radiological controls or by prohibiting entry into the area;

(ii) Involves a quantity of material greater than five times the lowest annual limit on intake specified in WAC 246-221-290; and

(iii) Has access to the area restricted for a reason other than to allow radionuclides with a half-life of less than twenty-four hours to decay prior to decontamination;

(d) Equipment failure or inability to function as designed when:

(i) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive material exceeding regulatory limits or to mitigate the consequences of an accident;

(ii) The equipment is required to be available and operable at the time it becomes disabled or fails to function; and

(iii) No redundant equipment is available and operable to perform the required safety functions;

(e) An unplanned medical treatment at a medical facility of an individual with removable radioactive contamination on the individual's clothing or body; or

(f) An unplanned fire or explosion damaging any radioactive material or any device, container or equipment containing radioactive material when:

(i) The quantity of radioactive material involved is greater than five times the lowest annual limit on intake specified in WAC 246-221-290; and

(ii) The damage affects the integrity of the radioactive material or its container.

(3) For each occurrence requiring notification pursuant to this section, a prompt investigation of the situation shall be initiated by the licensee/registrant. A written report of the

findings of the investigation shall be sent to the department within thirty days.

(4) The licensee or registrant shall prepare each report filed with the department under this section so that names of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

Any report filed with the department under this section shall contain the information described in WAC 246-221-260 (2) and (3).

(5) The provisions of this section do not apply to doses that result from planned special exposures, provided such doses are within the limits for planned special exposures and are reported pursuant to WAC 246-221-265.

(6) Telephone notifications that do not involve immediate or twenty-four hour notification should be made to the Tumwater office (360-236-3300).

(7) Telephone notification required under this section shall include, to the extent that the information is available at the time of notification:

- (a) The caller's name and call-back telephone number;
- (b) A description of the incident including date and time;
- (c) The exact location of the incident;
- (d) The radionuclides, quantities, and chemical and physical forms of the radioactive materials involved; and
- (e) Any personnel radiation exposure data available.

AMENDATORY SECTION (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

WAC 246-231-040 Exemptions. (1) Common and contract carriers, freight forwarders, ~~((and))~~ warehouse workers ~~((who are subject to the rules and regulations of the United States Department of Transportation (49 C.F.R. 170 through 189) or the United States Postal Service (*Mailing Standards of the United States Postal Service, Domestic Mail Manual*, 39 C.F.R. 111.1)))~~, and the U.S. Postal Service are exempt from this chapter and chapters 246-232, 246-233, 246-235, 246-237, 246-240, 246-243, and 246-244 WAC to the extent that they transport or store radioactive material in the regular course of their carriage for another or storage incident thereto. Common and contract carriers who are not subject to the rules and regulations of the DOT or United States Postal Service are subject to WAC 246-231-005 and other applicable sections of these regulations.

(2) Any licensee who delivers radioactive material to a carrier for transport, where such transport is subject to the regulations of the United States Postal Service, is exempt from the provisions of WAC 246-231-005.

(3) **Exemption of physicians.** Any physician as defined in WAC 246-220-010 who is licensed by the department, NRC or an agreement state, to dispense drugs in the practice of medicine, is exempt from WAC 246-220-030 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under chapter 246-240 WAC, 10 C.F.R. 35, or the equivalent agreement state regulations.

(4) **Exemption for low-level materials.** A licensee is exempt from all requirements of this chapter with respect to shipment or carriage of the following low-level materials:

(a) Natural material and ores containing naturally occurring radionuclides that are not intended to be processed for use of these radionuclides, provided the activity concentration of the material does not exceed ten times the values specified in WAC 246-231-200, Table A-2.

(b) Materials for which the activity concentration is not greater than the activity concentration values specified in WAC 246-231-200, Table A-2, or for which the consignment activity is not greater than the limit for an exempt consignment found in WAC 246-231-200, Table A-2.

(5) **Exemption from classification as fissile material.** Fissile material meeting at least one of the requirements in (a) through (f) of this subsection is exempt from classification as fissile material and from the fissile material package standards of 10 C.F.R. 71.55 and 71.59, but are subject to all other requirements of this chapter, except as noted.

(a) Individual package containing 2 grams or less fissile material.

(b) Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.

(c)(i) Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:

(A) There are at least 2000 grams of solid nonfissile material for every gram of fissile material; and

(B) There are no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material.

(ii) Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass of solid nonfissile material.

(d) Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass.

(e) Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a DOT Type A package.

(f) Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

AMENDATORY SECTION (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

WAC 246-231-200 Appendix A—Determination of A1 and A2. (1) Values of A1 and A2 for individual radionu-

clides, which are the basis for many activity limits elsewhere in these regulations, are given in this section, Table A-1. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) value. The Terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. Where values of A1 or A2 are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

(2)(a) For individual radionuclides whose identities are known, but which are not listed in this section, Table A-1, the A1 and A2 values contained in this section, Table A-3 may be used. Otherwise, the licensee shall obtain prior NRC approval of the A1 and A2 values for radionuclides not listed in this section, Table A-1, before shipping the material.

(b) For individual radionuclides whose identities are known, but which are not listed in this section, Table A-2, the exempt material activity concentration and exempt consignment activity values contained in this section, Table A-3 may be used. Otherwise, the licensee shall obtain prior NRC approval of the exempt material activity concentration and exempt consignment activity values for radionuclides not listed in this section, Table A-2, before shipping the material.

(c) The licensee shall submit requests for prior approval, described under (a) and (b) of this subsection, to NRC in accordance with 10 C.F.R. 71.1.

(3) In the calculations of A1 and A2 for a radionuclide not in this section, Table A-1, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no daughter radionuclide has a half-life either longer than ten days, or longer than that of the parent radionuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A1 or A2 value to be applied shall be those corresponding to the parent radionuclide of that chain. In the case of radioactive decay chains in which any daughter radionuclide has a half-life either longer than ten days, or greater than that of the parent radionuclide, the parent and those daughter radionuclides shall be considered as mixtures of different radionuclides.

(4) For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:

(a) For special form radioactive material, the maximum quantity transported in a Type A package:

$$\sum_I \frac{B(i)}{A1(i)} \quad \text{less than or equal to } 1$$

Where B(i) is the activity of radionuclide I, and A1(i) is the A1 value for radionuclide I.

(b) For normal form radioactive material, the maximum quantity transported in a Type A package:

$$\sum_I \frac{B(i)}{A2(i)} \quad \text{less than or equal to } 1$$

Where B(i) is the activity of radionuclide I and A2(i) is the A2 value for radionuclide I.

(c) Alternatively, the A1 value for mixtures of special form material may be determined as follows:

$$A1 \text{ for mixture} = \frac{1}{\sum_I \frac{f(i)}{A1(i)}}$$

Where f(i) is the fraction of activity for radionuclide I in the mixture and A1(i) is the appropriate A1 value for radionuclide I.

(d) Alternatively, the A2 value for mixtures of normal form material may be determined as follows:

$$A2 \text{ for mixture} = \frac{1}{\sum_I \frac{f(i)}{A2(i)}}$$

Where f(i) is the fraction of activity for radionuclide I in the mixture and A2(i) is the appropriate A2 value for radionuclide I.

(e) The exempt activity concentration for mixtures of nuclides may be determined as follows:

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_I \frac{f(i)}{[A](i)}}$$

Where f(i) is the fraction of activity concentration of radionuclide I in the mixture, and A is the activity concentration of material containing radionuclide I.

(f) The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_I \frac{f(i)}{A(i)}}$$

Where f(i) is the fraction of activity of radionuclide I in the mixture, and A is the activity limit for exempt consignments for radionuclide I.

(5) When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest A1 or A2 value, as appropriate, for the radionuclides in each group may be used in applying the formulas in subsection (4)

of this section. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A1 or A2 values for the alpha emitters and beta/gamma emitters.

Table A-1.—A1 and A2 Values for Radionuclides

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Ac-225 (a)	Actinium (89)	8.0X10 ⁻¹	2.2X10 ¹	6.0X10 ⁻³	1.6X10 ⁻¹	2.1X10 ³	5.8X10 ⁴
Ac-227 (a)		9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻⁵	2.4X10 ⁻³	2.7	7.2X10 ¹
Ac-228		6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	8.4X10 ⁴	2.2X10 ⁶
Ag-105	Silver (47)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.1X10 ³	3.0X10 ⁴
Ag-108m (a)		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	9.7X10 ⁻¹	2.6X10 ¹
Ag-110m (a)		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.8X10 ²	4.7X10 ³
Ag-111		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.8X10 ³	1.6X10 ⁵
Al-26	Aluminum (13)	1.0X10 ⁻¹	2.7	1.0X10 ⁻¹	2.7	7.0X10 ⁻⁴	1.9X10 ⁻²
Am-241	Americium (95)	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.3X10 ⁻¹	3.4
Am-242m (a)		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	3.6X10 ⁻¹	1.0X10 ¹
Am-243 (a)		5.0	1.4X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	7.4X10 ⁻³	2.0X10 ⁻¹
Ar-37	Argon (18)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.7X10 ³	9.9X10 ⁴
Ar-39		4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	1.3	3.4X10 ¹
Ar-41		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.5X10 ⁶	4.2X10 ⁷
As-72	Arsenic (33)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	6.2X10 ⁴	1.7X10 ⁶
As-73		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	8.2X10 ²	2.2X10 ⁴
As-74		1.0	2.7X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	3.7X10 ³	9.9X10 ⁴
As-76		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.8X10 ⁴	1.6X10 ⁶
As-77		2.0X10 ¹	5.4X10 ²	7.0X10 ⁻¹	1.9X10 ¹	3.9X10 ⁴	1.0X10 ⁶
At-211 (a)	Astatine (85)	2.0X10 ¹	5.4X10 ²	5.0X10 ⁻¹	1.4X10 ¹	7.6X10 ⁴	2.1X10 ⁶
Au-193	Gold (79)	7.0	1.9X10 ²	2.0	5.4X10 ¹	3.4X10 ⁴	9.2X10 ⁵
Au-194		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.5X10 ⁴	4.1X10 ⁵
Au-195		1.0X10 ¹	2.7X10 ²	6.0	1.6X10 ²	1.4X10 ²	3.7X10 ³
Au-198		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.0X10 ³	2.4X10 ⁵
Au-199		1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	7.7X10 ³	2.1X10 ⁵
Ba-131 (a)	Barium (56)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.1X10 ³	8.4X10 ⁴
Ba-133		3.0	8.1X10 ¹	3.0	8.1X10 ¹	9.4	2.6X10 ²
Ba-133m		2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	2.2X10 ⁴	6.1X10 ⁵
Ba-140 (a)		5.0X10 ⁻¹	1.4X10 ¹	3.0X10 ⁻¹	8.1	2.7X10 ³	7.3X10 ⁴
Be-7	Beryllium (4)	2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	1.3X10 ⁴	3.5X10 ⁵
Be-10		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻¹	1.6X10 ¹	8.3X10 ⁻⁴	2.2X10 ⁻²
Bi-205	Bismuth (83)	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.5X10 ³	4.2X10 ⁴
Bi-206		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	3.8X10 ³	1.0X10 ⁵
Bi-207		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.9	5.2X10 ¹
Bi-210		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.6X10 ³	1.2X10 ⁵
Bi-210m (a)		6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	2.1X10 ⁻⁵	5.7X10 ⁻⁴
Bi-212 (a)		7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.4X10 ⁵	1.5X10 ⁷
Bk-247	Berkelium (97)	8.0	2.2X10 ²	8.0X10 ⁻⁴	2.2X10 ⁻²	3.8X10 ⁻²	1.0
Bk-249 (a)		4.0X10 ¹	1.1X10 ³	3.0X10 ⁻¹	8.1	6.1X10 ¹	1.6X10 ³
Br-76	Bromine (35)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	9.4X10 ⁴	2.5X10 ⁶
Br-77		3.0	8.1X10 ¹	3.0	8.1X10 ¹	2.6X10 ⁴	7.1X10 ⁵
Br-82		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁴	1.1X10 ⁶

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
C-11	Carbon (6)	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.1X10 ⁷	8.4X10 ⁸
C-14		4.0X10 ¹	1.1X10 ³	3.0	8.1X10 ¹	1.6X10 ⁻¹	4.5
Ca-41	Calcium (20)	Unlimited	Unlimited	Unlimited	Unlimited	3.1X10 ⁻³	8.5X10 ⁻²
Ca-45		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	6.6X10 ²	1.8X10 ⁴
Ca-47 (a)		3.0	8.1X10 ¹	3.0X10 ⁻¹	8.1	2.3X10 ⁴	6.1X10 ⁵
Cd-109	Cadmium (48)	3.0X10 ¹	8.1X10 ²	2.0	5.4X10 ¹	9.6X10 ¹	2.6X10 ³
Cd-113m		4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	8.3	2.2X10 ²
Cd-115 (a)		3.0	8.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.9X10 ⁴	5.1X10 ⁵
Cd-115m		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	9.4X10 ²	2.5X10 ⁴
Ce-139	Cerium (58)	7.0	1.9X10 ²	2.0	5.4X10 ¹	2.5X10 ²	6.8X10 ³
Ce-141		2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.1X10 ³	2.8X10 ⁴
Ce-143		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁴	6.6X10 ⁵
Ce-144 (a)		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.2X10 ²	3.2X10 ³
Cf-248	Californium (98)	4.0X10 ¹	1.1X10 ³	6.0X10 ⁻³	1.6X10 ⁻¹	5.8X10 ¹	1.6X10 ³
Cf-249		3.0	8.1X10 ¹	8.0X10 ⁻⁴	2.2X10 ⁻²	1.5X10 ⁻¹	4.1
Cf-250		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	4.0	1.1X10 ²
Cf-251		7.0	1.9X10 ²	7.0X10 ⁻⁴	1.9X10 ⁻²	5.9X10 ⁻²	1.6
Cf-252 (h)		5.0X10 ⁻²	1.4	3.0X10 ⁻³	8.1X10 ⁻²	2.0X10 ¹	5.4X10 ²
Cf-253 (a)		4.0X10 ¹	1.1X10 ³	4.0X10 ⁻²	1.1	1.1X10 ³	2.9X10 ⁴
Cf-254		1.0X10 ⁻³	2.7X10 ⁻²	1.0X10 ⁻³	2.7X10 ⁻²	3.1X10 ²	8.5X10 ³
Cl-36	Chlorine (17)	1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁻³	3.3X10 ⁻²
Cl-38		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	4.9X10 ⁶	1.3X10 ⁸
Cm-240	Curium (96)	4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	7.5X10 ²	2.0X10 ⁴
Cm-241		2.0	5.4X10 ¹	1.0	2.7X10 ¹	6.1X10 ²	1.7X10 ⁴
Cm-242		4.0X10 ¹	1.1X10 ³	1.0X10 ⁻²	2.7X10 ⁻¹	1.2X10 ²	3.3X10 ³
Cm-243		9.0	2.4X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.9X10 ⁻³	5.2X10 ¹
Cm-244		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	3.0	8.1X10 ¹
Cm-245		9.0	2.4X10 ²	9.0X10 ⁻⁴	2.4X10 ⁻²	6.4X10 ⁻³	1.7X10 ⁻¹
Cm-246		9.0	2.4X10 ²	9.0X10 ⁻⁴	2.4X10 ⁻²	1.1X10 ⁻²	3.1X10 ⁻¹
Cm-247 (a)		3.0	8.1X10 ¹	1.0X10 ⁻³	2.7X10 ⁻²	3.4X10 ⁻⁶	9.3X10 ⁻⁵
Cm-248		2.0X10 ⁻²	5.4X10 ⁻¹	3.0X10 ⁻⁴	8.1X10 ⁻³	1.6X10 ⁻⁴	4.2X10 ⁻³
Co-55	Cobalt (27)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.1X10 ⁵	3.1X10 ⁶
Co-56		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.1X10 ³	3.0X10 ⁴
Co-57		1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	3.1X10 ²	8.4X10 ³
Co-58		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.2X10 ³	3.2X10 ⁴
Co-58m		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	2.2X10 ⁵	5.9X10 ⁶
Co-60		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.2X10 ¹	1.1X10 ³
Cr-51	Chromium (24)	3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	3.4X10 ³	9.2X10 ⁴
Cs-129	Cesium (55)	4.0	1.1X10 ²	4.0	1.1X10 ²	2.8X10 ⁴	7.6X10 ⁵
Cs-131		3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	3.8X10 ³	1.0X10 ⁵
Cs-132		1.0	2.7X10 ¹	1.0	2.7X10 ¹	5.7X10 ³	1.5X10 ⁵
Cs-134		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.8X10 ¹	1.3X10 ³
Cs-134m		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ⁵	8.0X10 ⁶
Cs-135		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	4.3X10 ⁻⁵	1.2X10 ⁻³
Cs-136		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.7X10 ³	7.3X10 ⁴
Cs-137 (a)		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.2	8.7X10 ¹
Cu-64	Copper (29)	6.0	1.6X10 ²	1.0	2.7X10 ¹	1.4X10 ⁵	3.9X10 ⁶

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Cu-67		1.0X10 ¹	2.7X10 ²	7.0X10 ⁻¹	1.9X10 ¹	2.8X10 ⁴	7.6X10 ⁵
Dy-159	Dysprosium (66)	2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	2.1X10 ²	5.7X10 ³
Dy-165		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ⁵	8.2X10 ⁶
Dy-166 (a)		9.0X10 ⁻¹	2.4X10 ¹	3.0X10 ⁻¹	8.1	8.6X10 ³	2.3X10 ⁵
Er-169	Erbium (68)	4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	3.1X10 ³	8.3X10 ⁴
Er-171		8.0X10 ⁻¹	2.2X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	9.0X10 ⁴	2.4X10 ⁶
Eu-147	Europium (63)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.4X10 ³	3.7X10 ⁴
Eu-148		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.0X10 ²	1.6X10 ⁴
Eu-149		2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	3.5X10 ²	9.4X10 ³
Eu-150 (short lived)		2.0	5.4X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	6.1X10 ⁴	1.6X10 ⁶
Eu-150 (long lived)		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	6.1X10 ⁴	1.6X10 ⁶
Eu-152		1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.5	1.8X10 ²
Eu-152m		8.0X10 ⁻¹	2.2X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	8.2X10 ⁴	2.2X10 ⁶
Eu-154		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.8	2.6X10 ²
Eu-155		2.0X10 ¹	5.4X10 ²	3.0	8.1X10 ¹	1.8X10 ¹	4.9X10 ²
Eu-156		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	2.0X10 ³	5.5X10 ⁴
F-18	Fluorine (9)	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.5X10 ⁶	9.5X10 ⁷
Fe-52 (a)	Iron (26)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.7X10 ⁵	7.3X10 ⁶
Fe-55		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	8.8X10 ¹	2.4X10 ³
Fe-59		9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	1.8X10 ³	5.0X10 ⁴
Fe-60 (a)		4.0X10 ¹	1.1X10 ³	2.0X10 ⁻¹	5.4	7.4X10 ⁻⁴	2.0X10 ⁻²
Ga-67	Gallium (31)	7.0	1.9X10 ²	3.0	8.1X10 ¹	2.2X10 ⁴	6.0X10 ⁵
Ga-68		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.5X10 ⁶	4.1X10 ⁷
Ga-72		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.1X10 ⁵	3.1X10 ⁶
Gd-146 (a)	Gadolinium (64)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.9X10 ²	1.9X10 ⁴
Gd-148		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	1.2	3.2X10 ¹
Gd-153		1.0X10 ¹	2.7X10 ²	9.0	2.4X10 ²	1.3X10 ²	3.5X10 ³
Gd-159		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.9X10 ⁴	1.1X10 ⁶
Ge-68 (a)	Germanium (32)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.6X10 ²	7.1X10 ³
Ge-71		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	5.8X10 ³	1.6X10 ⁵
Ge-77		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.3X10 ⁵	3.6X10 ⁶
Hf-172 (a)	Hafnium (72)	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.1X10 ¹	1.1X10 ³
Hf-175		3.0	8.1X10 ¹	3.0	8.1X10 ¹	3.9X10 ²	1.1X10 ⁴
Hf-181		2.0	5.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.3X10 ²	1.7X10 ⁴
Hf-182		Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 ⁻⁶	2.2X10 ⁻⁴
Hg-194 (a)	Mercury (80)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.3X10 ⁻¹	3.5
Hg-195m (a)		3.0	8.1X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.5X10 ⁴	4.0X10 ⁵
Hg-197		2.0X10 ¹	5.4X10 ²	1.0X10 ¹	2.7X10 ²	9.2X10 ³	2.5X10 ⁵
Hg-197m		1.0X10 ¹	2.7X10 ²	4.0X10 ⁻¹	1.1X10 ¹	2.5X10 ⁴	6.7X10 ⁵
Hg-203		5.0	1.4X10 ²	1.0	2.7X10 ¹	5.1X10 ²	1.4X10 ⁴
Ho-166	Holmium (67)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	2.6X10 ⁴	7.0X10 ⁵
Ho-166m		6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.6X10 ⁻²	1.8
I-123	Iodine (53)	6.0	1.6X10 ²	3.0	8.1X10 ¹	7.1X10 ⁴	1.9X10 ⁶
I-124		1.0	2.7X10 ¹	1.0	2.7X10 ¹	9.3X10 ³	2.5X10 ⁵
I-125		2.0X10 ¹	5.4X10 ²	3.0	8.1X10 ¹	6.4X10 ²	1.7X10 ⁴
I-126		2.0	5.4X10 ¹	1.0	2.7X10 ¹	2.9X10 ³	8.0X10 ⁴
I-129		Unlimited	Unlimited	Unlimited	Unlimited	6.5X10 ⁻⁶	1.8X10 ⁻⁴

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
I-131		3.0	8.1X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.6X10 ³	1.2X10 ⁵
I-132		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.8X10 ⁵	1.0X10 ⁷
I-133		7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ⁴	1.1X10 ⁶
I-134		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	9.9X10 ⁵	2.7X10 ⁷
I-135 (a)		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.3X10 ⁵	3.5X10 ⁶
In-111	Indium (49)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	1.5X10 ⁴	4.2X10 ⁵
In-113m		4.0	1.1X10 ²	2.0	5.4X10 ¹	6.2X10 ⁵	1.7X10 ⁷
In-114m (a)		1.0X10 ¹	2.7X10 ²	5.0X10 ⁻¹	1.4X10 ¹	8.6X10 ²	2.3X10 ⁴
In-115m		7.0	1.9X10 ²	1.0	2.7X10 ¹	2.2X10 ⁵	6.1X10 ⁶
Ir-189 (a)	Iridium (77)	1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	1.9X10 ³	5.2X10 ⁴
Ir-190		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	2.3X10 ³	6.2X10 ⁴
Ir-192 (c)		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.4X10 ²	9.2X10 ³
Ir-194		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	3.1X10 ⁴	8.4X10 ⁵
K-40	Potassium (19)	9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	2.4X10 ⁻⁷	6.4X10 ⁻⁶
K-42		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	2.2X10 ⁵	6.0X10 ⁶
K-43		7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁵	3.3X10 ⁶
Kr-81	Krypton (36)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	7.8X10 ⁻⁴	2.1X10 ⁻²
Kr-85		1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	1.5X10 ¹	3.9X10 ²
Kr-85m		8.0	2.2X10 ²	3.0	8.1X10 ¹	3.0X10 ⁵	8.2X10 ⁶
Kr-87		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.0X10 ⁶	2.8X10 ⁷
La-137	Lanthanum (57)	3.0X10 ¹	8.1X10 ²	6.0	1.6X10 ²	1.6X10 ⁻³	4.4X10 ⁻²
La-140		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	2.1X10 ⁴	5.6X10 ⁵
Lu-172	Lutetium (71)	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ³	1.1X10 ⁵
Lu-173		8.0	2.2X10 ²	8.0	2.2X10 ²	5.6X10 ¹	1.5X10 ³
Lu-174		9.0	2.4X10 ²	9.0	2.4X10 ²	2.3X10 ¹	6.2X10 ²
Lu-174m		2.0X10 ¹	5.4X10 ²	1.0X10 ¹	2.7X10 ²	2.0X10 ²	5.3X10 ³
Lu-177		3.0X10 ¹	8.1X10 ²	7.0X10 ⁻¹	1.9X10 ¹	4.1X10 ³	1.1X10 ⁵
Mg-28 (a)	Magnesium (12)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.0X10 ⁵	5.4X10 ⁶
Mn-52	Manganese (25)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.6X10 ⁴	4.4X10 ⁵
Mn-53		Unlimited	Unlimited	Unlimited	Unlimited	6.8X10 ⁻⁵	1.8X10 ⁻³
Mn-54		1.0	2.7X10 ¹	1.0	2.7X10 ¹	2.9X10 ²	7.7X10 ³
Mn-56		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	8.0X10 ⁵	2.2X10 ⁷
Mo-93	Molybdenum (42)	4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	4.1X10 ⁻²	1.1
Mo-99 (a) (i)		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.8X10 ⁴	4.8X10 ⁵
N-13	Nitrogen (7)	9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.4X10 ⁷	1.5X10 ⁹
Na-22	Sodium (11)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.3X10 ²	6.3X10 ³
Na-24		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	3.2X10 ⁵	8.7X10 ⁶
Nb-93m	Niobium (41)	4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	8.8	2.4X10 ²
Nb-94		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	6.9X10 ⁻³	1.9X10 ⁻¹
Nb-95		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.5X10 ³	3.9X10 ⁴
Nb-97		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.9X10 ⁵	2.7X10 ⁷
Nd-147	Neodymium (60)	6.0	1.6X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ³	8.1X10 ⁴
Nd-149		6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	4.5X10 ⁵	1.2X10 ⁷
Ni-59	Nickel (28)	Unlimited	Unlimited	Unlimited	Unlimited	3.0X10 ⁻³	8.0X10 ⁻²
Ni-63		4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	2.1	5.7X10 ¹
Ni-65		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	7.1X10 ⁵	1.9X10 ⁷
Np-235	Neptunium (93)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	5.2X10 ¹	1.4X10 ³

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Np-236 (short-lived)		2.0X10 ¹	5.4X10 ²	2.0	5.4X10 ¹	4.7X10 ⁻⁴	1.3X10 ⁻²
Np-236 (long-lived)		9.0X10 ⁰	2.4X10 ²	2.0X10 ⁻²	5.4X10 ⁻¹	4.7X10 ⁻⁴	1.3X10 ⁻²
Np-237		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	2.6X10 ⁻⁵	7.1X10 ⁻⁴
Np-239		7.0	1.9X10 ²	4.0X10 ⁻¹	1.1X10 ¹	8.6X10 ³	2.3X10 ⁵
Os-185	Osmium (76)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	2.8X10 ²	7.5X10 ³
Os-191		1.0X10 ¹	2.7X10 ²	2.0	5.4X10 ¹	1.6X10 ³	4.4X10 ⁴
Os-191m		4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	4.6X10 ⁴	1.3X10 ⁶
Os-193		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁴	5.3X10 ⁵
Os-194 (a)		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.1X10 ¹	3.1X10 ²
P-32	Phosphorus (15)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.1X10 ⁴	2.9X10 ⁵
P-33		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	5.8X10 ³	1.6X10 ⁵
Pa-230 (a)	Protactinium (91)	2.0	5.4X10 ¹	7.0X10 ⁻²	1.9	1.2X10 ³	3.3X10 ⁴
Pa-231		4.0	1.1X10 ²	4.0X10 ⁻⁴	1.1X10 ⁻²	1.7X10 ⁻³	4.7X10 ⁻²
Pa-233		5.0	1.4X10 ²	7.0X10 ⁻¹	1.9X10 ¹	7.7X10 ²	2.1X10 ⁴
Pb-201	Lead (82)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.2X10 ⁴	1.7X10 ⁶
Pb-202		4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	1.2X10 ⁻⁴	3.4X10 ⁻³
Pb-203		4.0	1.1X10 ²	3.0	8.1X10 ¹	1.1X10 ⁴	3.0X10 ⁵
Pb-205		Unlimited	Unlimited	Unlimited	Unlimited	4.5X10 ⁻⁶	1.2X10 ⁻⁴
Pb-210 (a)		1.0	2.7X10 ¹	5.0X10 ⁻²	1.4	2.8	7.6X10 ¹
Pb-212 (a)		7.0X10 ⁻¹	1.9X10 ¹	2.0X10 ⁻¹	5.4	5.1X10 ⁴	1.4X10 ⁶
Pd-103 (a)	Palladium (46)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	2.8X10 ³	7.5X10 ⁴
Pd-107		Unlimited	Unlimited	Unlimited	Unlimited	1.9X10 ⁻⁵	5.1X10 ⁻⁴
Pd-109		2.0	5.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	7.9X10 ⁴	2.1X10 ⁶
Pm-143	Promethium (61)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	1.3X10 ²	3.4X10 ³
Pm-144		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	9.2X10 ¹	2.5X10 ³
Pm-145		3.0X10 ¹	8.1X10 ²	1.0X10 ¹	2.7X10 ²	5.2	1.4X10 ²
Pm-147		4.0X10 ¹	1.1X10 ³	2.0	5.4X10 ¹	3.4X10 ¹	9.3X10 ²
Pm-148m (a)		8.0X10 ⁻¹	2.2X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	7.9X10 ²	2.1X10 ⁴
Pm-149		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.5X10 ⁴	4.0X10 ⁵
Pm-151		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.7X10 ⁴	7.3X10 ⁵
Po-210	Polonium (84)	4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	1.7X10 ²	4.5X10 ³
Pr-142	Praseodymium (59)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.3X10 ⁴	1.2X10 ⁶
Pr-143		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ³	6.7X10 ⁴
Pt-188 (a)	Platinum (78)	1.0	2.7X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	2.5X10 ³	6.8X10 ⁴
Pt-191		4.0	1.1X10 ²	3.0	8.1X10 ¹	8.7X10 ³	2.4X10 ⁵
Pt-193		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	1.4	3.7X10 ¹
Pt-193m		4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	5.8X10 ³	1.6X10 ⁵
Pt-195m		1.0X10 ¹	2.7X10 ²	5.0X10 ⁻¹	1.4X10 ¹	6.2X10 ³	1.7X10 ⁵
Pt-197		2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.2X10 ⁴	8.7X10 ⁵
Pt-197m		1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.7X10 ⁵	1.0X10 ⁷
Pu-236	Plutonium (94)	3.0X10 ¹	8.1X10 ²	3.0X10 ⁻³	8.1X10 ⁻²	2.0X10 ¹	5.3X10 ²
Pu-237		2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	4.5X10 ²	1.2X10 ⁴
Pu-238		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	6.3X10 ⁻¹	1.7X10 ¹
Pu-239		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	2.3X10 ⁻³	6.2X10 ⁻²
Pu-240		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	8.4X10 ⁻³	2.3X10 ⁻¹
Pu-241 (a)		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻²	1.6	3.8	1.0X10 ²
Pu-242		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.5X10 ⁻⁴	3.9X10 ⁻³

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Pu-244 (a)		4.0X10 ⁻¹	1.1X10 ¹	1.0X10 ⁻³	2.7X10 ⁻²	6.7X10 ⁻⁷	1.8X10 ⁻⁵
Ra-223 (a)	Radium (88)	4.0X10 ⁻¹	1.1X10 ¹	7.0X10 ⁻³	1.9X10 ⁻¹	1.9X10 ³	5.1X10 ⁴
Ra-224 (a)		4.0X10 ⁻¹	1.1X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	5.9X10 ³	1.6X10 ⁵
Ra-225 (a)		2.0X10 ⁻¹	5.4	4.0X10 ⁻³	1.1X10 ⁻¹	1.5X10 ³	3.9X10 ⁴
Ra-226 (a)		2.0X10 ⁻¹	5.4	3.0X10 ⁻³	8.1X10 ⁻²	3.7X10 ⁻²	1.0
Ra-228 (a)		6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	1.0X10 ¹	2.7X10 ²
Rb-81	Rubidium (37)	2.0	5.4X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	3.1X10 ⁵	8.4X10 ⁶
Rb-83 (a)		2.0	5.4X10 ¹	2.0	5.4X10 ¹	6.8X10 ²	1.8X10 ⁴
Rb-84		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.8X10 ³	4.7X10 ⁴
Rb-86		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	3.0X10 ³	8.1X10 ⁴
Rb-87		Unlimited	Unlimited	Unlimited	Unlimited	3.2X10 ⁻⁹	8.6X10 ⁻⁸
Rb (nat)		Unlimited	Unlimited	Unlimited	Unlimited	6.7X10 ⁶	1.8X10 ⁸
Re-184	Rhenium (75)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.9X10 ²	1.9X10 ⁴
Re-184m		3.0	8.1X10 ¹	1.0	2.7X10 ¹	1.6X10 ²	4.3X10 ³
Re-186		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	6.9X10 ³	1.9X10 ⁵
Re-187		Unlimited	Unlimited	Unlimited	Unlimited	1.4X10 ⁻⁹	3.8X10 ⁻⁸
Re-188		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.6X10 ⁴	9.8X10 ⁵
Re-189 (a)		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁴	6.8X10 ⁵
Re (nat)		Unlimited	Unlimited	Unlimited	Unlimited	0.0	2.4X10 ⁻⁸
Rh-99	Rhodium (45)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.0X10 ³	8.2X10 ⁴
Rh-101		4.0	1.1X10 ²	3.0	8.1X10 ¹	4.1X10 ¹	1.1X10 ³
Rh-102		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	4.5X10 ¹	1.2X10 ³
Rh-102m		2.0	5.4X10 ¹	2.0	5.4X10 ¹	2.3X10 ²	6.2X10 ³
Rh-103m		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	1.2X10 ⁶	3.3X10 ⁷
Rh-105		1.0X10 ¹	2.7X10 ²	8.0X10 ⁻¹	2.2X10 ¹	3.1X10 ⁴	8.4X10 ⁵
Rn-222 (a)	Radon (86)	3.0X10 ⁻¹	8.1	4.0X10 ⁻³	1.1X10 ⁻¹	5.7X10 ³	1.5X10 ⁵
Ru-97	Ruthenium (44)	5.0	1.4X10 ²	5.0	1.4X10 ²	1.7X10 ⁴	4.6X10 ⁵
Ru-103 (a)		2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.2X10 ³	3.2X10 ⁴
Ru-105		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁵	6.7X10 ⁶
Ru-106 (a)		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.2X10 ²	3.3X10 ³
S-35	Sulphur (16)	4.0X10 ¹	1.1X10 ³	3.0	8.1X10 ¹	1.6X10 ³	4.3X10 ⁴
Sb-122	Antimony (51)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.5X10 ⁴	4.0X10 ⁵
Sb-124		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	6.5X10 ²	1.7X10 ⁴
Sb-125		2.0	5.4X10 ¹	1.0	2.7X10 ¹	3.9X10 ¹	1.0X10 ³
Sb-126		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.1X10 ³	8.4X10 ⁴
Sc-44	Scandium (21)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.7X10 ⁵	1.8X10 ⁷
Sc-46		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.3X10 ³	3.4X10 ⁴
Sc-47		1.0X10 ¹	2.7X10 ²	7.0X10 ⁻¹	1.9X10 ¹	3.1X10 ⁴	8.3X10 ⁵
Sc-48		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.5X10 ⁴	1.5X10 ⁶
Se-75	Selenium (34)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	5.4X10 ²	1.5X10 ⁴
Se-79		4.0X10 ¹	1.1X10 ³	2.0	5.4X10 ¹	2.6X10 ⁻³	7.0X10 ⁻²
Si-31	Silicon (14)	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.4X10 ⁶	3.9X10 ⁷
Si-32		4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	3.9	1.1X10 ²
Sm-145	Samarium (62)	1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	9.8X10 ¹	2.6X10 ³
Sm-147		Unlimited	Unlimited	Unlimited	Unlimited	8.5X10 ⁻¹	2.3X10 ⁻⁸
Sm-151		4.0X10 ¹	1.1X10 ³	1.0X10 ¹	2.7X10 ²	9.7X10 ⁻¹	2.6X10 ¹
Sm-153		9.0	2.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.6X10 ⁴	4.4X10 ⁵

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Sn-113 (a)	Tin (50)	4.0	1.1X10 ²	2.0	5.4X10 ¹	3.7X10 ²	1.0X10 ⁴
Sn-117m		7.0	1.9X10 ²	4.0X10 ⁻¹	1.1X10 ¹	3.0X10 ³	8.2X10 ⁴
Sn-119m		4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	1.4X10 ²	3.7X10 ³
Sn-121m (a)		4.0X10 ¹	1.1X10 ³	9.0X10 ⁻¹	2.4X10 ¹	2.0	5.4X10 ¹
Sn-123		8.0X10 ⁻¹	2.2X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ²	8.2X10 ³
Sn-125		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ³	1.1X10 ⁵
Sn-126 (a)		6.0X10 ⁻¹	1.6X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.0X10 ⁻³	2.8X10 ⁻²
Sr-82 (a)	Strontium (38)	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	2.3X10 ³	6.2X10 ⁴
Sr-85		2.0	5.4X10 ¹	2.0	5.4X10 ¹	8.8X10 ²	2.4X10 ⁴
Sr-85m		5.0	1.4X10 ²	5.0	1.4X10 ²	1.2X10 ⁶	3.3X10 ⁷
Sr-87m		3.0	8.1X10 ¹	3.0	8.1X10 ¹	4.8X10 ⁵	1.3X10 ⁷
Sr-89		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.1X10 ³	2.9X10 ⁴
Sr-90 (a)		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.1	1.4X10 ²
Sr-91 (a)		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.3X10 ⁵	3.6X10 ⁶
Sr-92 (a)		1.0	2.7X10 ¹	3.0X10 ⁻¹	8.1	4.7X10 ⁵	1.3X10 ⁷
T(H-3)	Tritium (1)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.6X10 ²	9.7X10 ³
Ta-178 (long-lived)	Tantalum (73)	1.0	2.7X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	4.2X10 ⁶	1.1X10 ⁸
Ta-179		3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	4.1X10 ¹	1.1X10 ³
Ta-182		9.0X10 ⁻¹	2.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.3X10 ²	6.2X10 ³
Tb-157	Terbium (65)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	5.6X10 ⁻¹	1.5X10 ¹
Tb-158		1.0	2.7X10 ¹	1.0	2.7X10 ¹	5.6X10 ⁻¹	1.5X10 ¹
Tb-160		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ²	1.1X10 ⁴
Tc-95m (a)	Technetium (43)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	8.3X10 ²	2.2X10 ⁴
Tc-96		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.2X10 ⁴	3.2X10 ⁵
Tc-96m (a)		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.4X10 ⁶	3.8X10 ⁷
Tc-97		Unlimited	Unlimited	Unlimited	Unlimited	5.2X10 ⁻⁵	1.4X10 ⁻³
Tc-97m		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	5.6X10 ²	1.5X10 ⁴
Tc-98		8.0X10 ⁻¹	2.2X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	3.2X10 ⁻⁵	8.7X10 ⁻⁴
Tc-99		4.0X10 ¹	1.1X10 ³	9.0X10 ⁻¹	2.4X10 ¹	6.3X10 ⁻⁴	1.7X10 ⁻²
Tc-99m		1.0X10 ¹	2.7X10 ²	4.0	1.1X10 ²	1.9X10 ⁵	5.3X10 ⁶
Te-121	Tellurium (52)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	2.4X10 ³	6.4X10 ⁴
Te-121m		5.0	1.4X10 ²	3.0	8.1X10 ¹	2.6X10 ²	7.0X10 ³
Te-123m		8.0	2.2X10 ²	1.0	2.7X10 ¹	3.3X10 ²	8.9X10 ³
Te-125m		2.0X10 ¹	5.4X10 ²	9.0X10 ⁻¹	2.4X10 ¹	6.7X10 ²	1.8X10 ⁴
Te-127		2.0X10 ¹	5.4X10 ²	7.0X10 ⁻¹	1.9X10 ¹	9.8X10 ⁴	2.6X10 ⁶
Te-127m (a)		2.0X10 ¹	5.4X10 ²	5.0X10 ⁻¹	1.4X10 ¹	3.5X10 ²	9.4X10 ³
Te-129		7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	7.7X10 ⁵	2.1X10 ⁷
Te-129m (a)		8.0X10 ⁻¹	2.2X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.1X10 ³	3.0X10 ⁴
Te-131m (a)		7.0X10 ⁻¹	1.9X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	3.0X10 ⁴	8.0X10 ⁵
Te-132 (a)		5.0X10 ⁻¹	1.4X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	((3-1X10 ⁴)) 1.1X10 ⁴	3.0X10 ⁵
Th-227	Thorium (90)	1.0X10 ¹	2.7X10 ²	5.0X10 ⁻³	1.4X10 ⁻¹	1.1X10 ³	3.1X10 ⁴
Th-228 (a)		5.0X10 ⁻¹	1.4X10 ¹	1.0X10 ⁻³	2.7X10 ⁻²	3.0X10 ¹	8.2X10 ²
Th-229		5.0	1.4X10 ²	5.0X10 ⁻⁴	1.4X10 ⁻²	7.9X10 ⁻³	2.1X10 ⁻¹
Th-230		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	7.6X10 ⁻⁴	2.1X10 ⁻²
Th-231		4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	2.0X10 ⁴	5.3X10 ⁵
Th-232		Unlimited	Unlimited	Unlimited	Unlimited	4.0X10 ⁻⁹	1.1X10 ⁻⁷
Th-234 (a)		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	8.6X10 ²	2.3X10 ⁴

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Th(nat)		Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 ⁻⁹	2.2X10 ⁻⁷
Ti-44 (a)	Titanium (22)	5.0X10 ⁻¹	1.4X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	6.4	1.7X10 ²
Tl-200	Thallium (81)	9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	2.2X10 ⁴	6.0X10 ⁵
Tl-201		1.0X10 ¹	2.7X10 ²	4.0	1.1X10 ²	7.9X10 ³	2.1X10 ⁵
Tl-202		2.0	5.4X10 ¹	2.0	5.4X10 ¹	2.0X10 ³	5.3X10 ⁴
Tl-204		1.0X10 ¹	2.7X10 ²	7.0X10 ⁻¹	1.9X10 ¹	1.7X10 ¹	4.6X10 ²
Tm-167	Thulium (69)	7.0	1.9X10 ²	8.0X10 ⁻¹	2.2X10 ¹	3.1X10 ³	8.5X10 ⁴
Tm-170		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.2X10 ²	6.0X10 ³
Tm-171		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³
U-230 (fast lung absorption) (a)(d)	Uranium (92)	4.0X10 ¹	1.1X10 ³	1.0X10 ⁻¹	2.7	1.0X10 ³	2.7X10 ⁴
U-230 (medium lung absorption) (a)(e)		4.0X10 ¹	1.1X10 ³	4.0X10 ⁻³	1.1X10 ⁻¹	1.0X10 ³	2.7X10 ⁴
U-230 (slow lung absorption) (a)(f)		3.0X10 ¹	8.1X10 ²	3.0X10 ⁻³	8.1X10 ⁻²	1.0X10 ³	2.7X10 ⁴
U-232 (fast lung absorption) (d)		4.0X10 ¹	1.1X10 ³	1.0X10 ⁻²	2.7X10 ⁻¹	8.3X10 ⁻¹	2.2X10 ¹
U-232 (medium lung absorption) (e)		4.0X10 ¹	1.1X10 ³	7.0X10 ⁻³	1.9X10 ⁻¹	8.3X10 ⁻¹	2.2X10 ¹
U-232 (slow lung absorption) (f)		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	8.3X10 ⁻¹	2.2X10 ¹
U-233 (fast lung absorption) (d)		4.0X10 ¹	1.1X10 ³	9.0X10 ⁻²	2.4	3.6X10 ⁻⁴	9.7X10 ⁻³
U-233 (medium lung absorption) (e)		4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	3.6X10 ⁻⁴	9.7X10 ⁻³
U-233 (slow lung absorption) (f)		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻³	1.6X10 ⁻¹	3.6X10 ⁻⁴	9.7X10 ⁻³
U-234 (fast lung absorption) (d)		4.0X10 ¹	1.1X10 ³	9.0X10 ⁻²	2.4	2.3X10 ⁻⁴	6.2X10 ⁻³
U-234 (medium lung absorption) (e)		4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	2.3X10 ⁻⁴	6.2X10 ⁻³
U-234 (slow lung absorption) (f)		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻³	1.6X10 ⁻¹	2.3X10 ⁻⁴	6.2X10 ⁻³
U-235 (all lung absorption types) (a), (d), (e), (f)		Unlimited	Unlimited	Unlimited	Unlimited	8.0X10 ⁻⁸	2.2X10 ⁻⁶
U-236 (fast lung absorption) (d)		Unlimited	Unlimited	Unlimited	Unlimited	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-236 (medium lung absorption) (e)		4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-236 (slow lung absorption) (f)		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻³	1.6X10 ⁻¹	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-238 (all lung absorption types) (d), (e), (f)		Unlimited	Unlimited	Unlimited	Unlimited	1.2X10 ⁻⁸	3.4X10 ⁻⁷
U (nat)		Unlimited	Unlimited	Unlimited	Unlimited	2.6X10 ⁻⁸	7.1X10 ⁻⁷
U (enriched to 20% or less) (g)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-4
U (dep)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-3
V-48	Vanadium (23)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	6.3X10 ³	1.7X10 ⁵
V-49		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.0X10 ²	8.1X10 ³
W-178 (a)	Tungsten (74)	9.0	2.4X10 ²	5.0	1.4X10 ²	1.3X10 ³	3.4X10 ⁴
W-181		3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	2.2X10 ²	6.0X10 ³
W-185		4.0X10 ¹	1.1X10 ³	8.0X10 ⁻¹	2.2X10 ¹	3.5X10 ²	9.4X10 ³
W-187		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.6X10 ⁴	7.0X10 ⁵
W-188 (a)		4.0X10 ⁻¹	1.1X10 ¹	3.0X10 ⁻¹	8.1	3.7X10 ²	1.0X10 ⁴

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Xe-122 (a)	Xenon (54)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.8X10 ⁴	1.3X10 ⁶
Xe-123		2.0	5.4X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.4X10 ⁵	1.2X10 ⁷
Xe-127		4.0	1.1X10 ²	2.0	5.4X10 ¹	1.0X10 ³	2.8X10 ⁴
Xe-131m		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.1X10 ³	8.4X10 ⁴
Xe-133		2.0X10 ¹	5.4X10 ²	1.0X10 ¹	2.7X10 ²	6.9X10 ³	1.9X10 ⁵
Xe-135		3.0	8.1X10 ¹	2.0	5.4X10 ¹	9.5X10 ⁴	2.6X10 ⁶
Y-87 (a)	Yttrium (39)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.7X10 ⁴	4.5X10 ⁵
Y-88		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	5.2X10 ²	1.4X10 ⁴
Y-90		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.0X10 ⁴	5.4X10 ⁵
Y-91		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.1X10 ²	2.5X10 ⁴
Y-91m		2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.5X10 ⁶	4.2X10 ⁷
Y-92		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	3.6X10 ⁵	9.6X10 ⁶
Y-93		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.2X10 ⁵	3.3X10 ⁶
Yb-169	Ytterbium (70)	4.0	1.1X10 ²	1.0	2.7X10 ¹	8.9X10 ²	2.4X10 ⁴
Yb-175		3.0X10 ¹	8.1X10 ²	9.0X10 ⁻¹	2.4X10 ¹	6.6X10 ³	1.8X10 ⁵
Zn-65	Zinc (30)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.0X10 ²	8.2X10 ³
Zn-69		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.8X10 ⁶	4.9X10 ⁷
Zn-69m (a)		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁵	3.3X10 ⁶
Zr-88	Zirconium (40)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	6.6X10 ²	1.8X10 ⁴
Zr-93		Unlimited	Unlimited	Unlimited	Unlimited	9.3X10 ⁻⁵	2.5X10 ⁻³
Zr-95 (a)		2.0	5.4X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	7.9X10 ²	2.1X10 ⁴
Zr-97 (a)		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	7.1X10 ⁴	1.9X10 ⁶

- (a) A₁ or A₂ values include contributions from daughter nuclides with half-lives less than ten days.
- (b) (Reserved.)
- (c) The quantity may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.
- (d) These values apply only to compounds of uranium that take the chemical form of UF₆, UO₂F₂ and UO₂(NO₃)₂ in both normal and accident conditions of transport.
- (e) These values apply only to compounds of uranium that take the chemical form of UO₃, UF₄, UCl₄ and hexavalent compounds in both normal and accident conditions of transport.
- (f) These values apply to all compounds of uranium other than those specified in notes (d) and (e) of this table.
- (g) These values apply to unirradiated uranium only.
- (h) A₁ = 0.1 TBq (2.7 Ci) and A₂ = 0.001 TBq (0.027 Ci) for Cf-252 for domestic use.
- (i) A₂ = 0.74 TBq (20 Ci) for Mo-99 for domestic use.

Table A-2.—Exempt Material Activity Concentrations and Exempt Consignment Activity Limits for Radionuclides

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Ac-225	Actinium (89)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Ac-227	-	1.0X10 ⁻¹	2.7X10 ⁻¹²	1.0X10 ³	2.7X10 ⁻⁸
Ac-228	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ag-105	Silver (47)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ag-108m (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ag-110m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ag-111	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Al-26	Aluminum (13)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Am-241	Americium (95)	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Am-242m (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Am-243 (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Ar-37	Argon (18)	1.0X10 ⁶	2.7X10 ⁻⁵	1.0X10 ⁸	2.7X10 ⁻³
Ar-39	-	1.0X10 ⁷	2.7X10 ⁻⁴	1.0X10 ⁴	2.7X10 ⁻⁷
Ar-41	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
As-72	Arsenic (33)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
As-73	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
As-74	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
As-76	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
As-77	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
At-211	Astatine (85)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Au-193	Gold (79)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Au-194	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Au-195	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Au-198	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Au-199	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ba-131	Barium (56)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ba-133	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ba-133m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ba-140 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Be-7	Beryllium (4)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Be-10	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Bi-205	Bismuth (83)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Bi-206	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Bi-207	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Bi-210	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Bi-210m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Bi-212 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Bk-247	Berkelium (97)	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Bk-249	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Br-76	Bromine (35)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Br-77	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Br-82	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
C-11	Carbon (6)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
C-14	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Ca-41	Calcium (20)	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁷	2.7X10 ⁻⁴
Ca-45	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Ca-47	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-109	Cadmium (48)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-113m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-115	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-115m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Ce-139	Cerium (58)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ce-141	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Ce-143	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ce-144 (b)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cf-248	Californium (98)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cf-249	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Cf-250	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cf-251	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cf-252	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cf-253	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cf-254	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cl-36	Chlorine (17)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Cl-38	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cm-240	Curium (96)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cm-241	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Cm-242	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cm-243	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Cm-244	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cm-245	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cm-246	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cm-247	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Cm-248	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Co-55	Cobalt (27)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Co-56	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Co-57	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Co-58	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Co-58m	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Co-60	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cr-51	Chromium (24)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Cs-129	Cesium (55)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-131	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Cs-132	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-134	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cs-134m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-135	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Cs-136	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-137 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cu-64	Copper (29)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Cu-67	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Dy-159	Dysprosium (66)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Dy-165	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Dy-166	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Er-169	Erbium (68)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Er-171	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-147	Europium (63)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-148	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-149	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Eu-150 (short lived)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-150 (long lived)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-152	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-152m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-154	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-155	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Eu-156	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
F-18	Fluorine (9)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-52	Iron (26)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-55	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-59	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-60	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ga-67	Gallium (31)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ga-68	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Ga-72	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Gd-146	Gadolinium (64)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Gd-148	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Gd-153	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Gd-159	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Ge-68	Germanium (32)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Ge-71	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Ge-77	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Hf-172	Hafnium (72)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Hf-175	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hf-181	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Hf-182	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-194	Mercury (80)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-195m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-197	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Hg-197m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-203	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ho-166	Holmium (67)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Ho-166m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
I-123	Iodine (53)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
I-124	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
I-125	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
I-126	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
I-129	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
I-131	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
I-132	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
I-133	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
I-134	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
I-135	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
In-111	Indium (49)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
In-113m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
In-114m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
In-115m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ir-189	Iridium (77)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Ir-190	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ir-192	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Ir-194	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
K-40	Potassium (19)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
K-42	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
K-43	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Kr-81	Krypton (36)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Kr-85	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁴	2.7X10 ⁻⁷
Kr-85m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ¹⁰	2.7X10 ⁻¹
Kr-87	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
La-137	Lanthanum (57)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
La-140	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Lu-172	Lutetium (71)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Lu-173	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Lu-174	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Lu-174m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Lu-177	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Mg-28	Magnesium (12)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Mn-52	Manganese (25)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Mn-53	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁹	2.7X10 ⁻²
Mn-54	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Mn-56	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Mo-93	Molybdenum (42)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁸	2.7X10 ⁻³
Mo-99	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
N-13	Nitrogen (7)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
Na-22	Sodium (11)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Na-24	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Nb-93m	Niobium (41)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Nb-94	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Nb-95	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Nb-97	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Nd-147	Neodymium (60)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Nd-149	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ni-59	Nickel (28)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Ni-63	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Ni-65	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Np-235	Neptunium (93)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Np-236 (short-lived)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Np-236 (long-lived)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Np-237 (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Np-239	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Os-185	Osmium (76)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Os-191	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Os-191m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Os-193	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Os-194	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
P-32	Phosphorus (15)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
P-33	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Pa-230	Protactinium (91)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pa-231	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Pa-233	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Pb-201	Lead (82)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Pb-202	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pb-203	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pb-205	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Pb-210 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Pb-212 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Pd-103	Palladium (46)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁸	2.7X10 ⁻³
Pd-107	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Pd-109	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-143	Promethium (61)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-144	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-145	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Pm-147	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Pm-148m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-149	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-151	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Po-210	Polonium (84)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Pr-142	Praseodymium (59)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Pr-143	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-188	Platinum (78)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-191	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-193	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Pt-193m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Pt-195m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-197	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-197m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pu-236	Plutonium (94)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Pu-237	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Pu-238	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Pu-239	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Pu-240	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Pu-241	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Pu-242	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Pu-244	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Ra-223 (b)	Radium (88)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ra-224 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Ra-225	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ra-226 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Ra-228 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Rb-81	Rubidium (37)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rb-83	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Rb-84	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rb-86	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Rb-87	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Rb (nat)	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Re-184	Rhenium (75)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Re-184m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Re-186	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Re-187	-	1.0X10 ⁶	2.7X10 ⁻⁵	1.0X10 ⁹	2.7X10 ⁻²
Re-188	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Re-189	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Re (nat)	-	1.0X10 ⁶	2.7X10 ⁻⁵	1.0X10 ⁹	2.7X10 ⁻²
Rh-99	Rhodium (45)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rh-101	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Rh-102	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rh-102m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Rh-103m	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Rh-105	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Rn-222 (b)	Radon (86)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁸	2.7X10 ⁻³
Ru-97	Ruthenium (44)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Ru-103	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ru-105	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ru-106 (b)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
S-35	Sulphur (16)	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Sb-122	Antimony (51)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁴	2.7X10 ⁻⁷
Sb-124	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Sb-125	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sb-126	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sc-44	Scandium (21)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sc-46	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Sc-47	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sc-48	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Se-75	Selenium (34)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Se-79	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Si-31	Silicon (14)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Si-32	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Sm-145	Samarium (62)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Sm-147	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Sm-151	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Sm-153	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sn-113	Tin (50)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Sn-117m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sn-119m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Sn-121m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Sn-123	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Sn-125	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Sn-126	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sr-82	Strontium (38)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sr-85	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sr-85m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Sr-87m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sr-89	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Sr-90 (b)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁴	2.7X10 ⁻⁷
Sr-91	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sr-92	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
T(H-3)	Tritium (1)	1.0X10 ⁶	2.7X10 ⁻⁵	1.0X10 ⁹	2.7X10 ⁻²
Ta-178 (long-lived)	Tantalum (73)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ta-179	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Ta-182	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Tb-157	Terbium (65)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Tb-158	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tb-160	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-95m	Technetium (43)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-96	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-96m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Tc-97	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁸	2.7X10 ⁻³
Tc-97m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Tc-98	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-99	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Tc-99m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Te-121	Tellurium (52)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Te-121m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Te-123m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Te-125m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Te-127	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Te-127m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Te-129	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Te-129m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Te-131m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Te-132	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Th-227	Thorium (90)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Th-228 (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Th-229 (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Th-230	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Th-231	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Th-232	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Th-234 (b)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Th (nat) (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Ti-44	Titanium (22)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Tl-200	Thallium (81)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tl-201	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Tl-202	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Tl-204	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁴	2.7X10 ⁻⁷
Tm-167	Thulium (69)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Tm-170	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Tm-171	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
U-230 (fast lung absorption) (b), (d)	Uranium (92)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
U-230 (medium lung absorption) (e)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-230 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-232 (fast lung absorption) (b), (d)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
U-232 (medium lung absorption) (e)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
U-232 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-233 (fast lung absorption) (d)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-233 (medium lung absorption) (e)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
U-233 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
U-234 (fast lung absorption) (d)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-234 (medium lung absorption) (e)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
U-234 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
U-235 (all lung absorption types) (b), (d), (e), (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-236 (fast lung absorption) (d)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-236 (medium lung absorption) (e)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
U-236 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-238 (all lung absorption types) (b), (d), (e), (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U (nat) (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
U (enriched to 20% or less) (g)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
U (dep)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
V-48	Vanadium (23)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
V-49	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
W-178	Tungsten (74)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
W-181	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
W-185	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
W-187	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
W-188	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Xe-122	Xenon (54)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
Xe-123	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
Xe-127	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Xe-131m	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁴	2.7X10 ⁻⁷
Xe-133	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁴	2.7X10 ⁻⁷
Xe-135	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ¹⁰	2.7X10 ⁻¹
Y-87	Yttrium (39)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Y-88	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Y-90	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Y-91	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Y-91m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Y-92	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Y-93	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Yb-169	Ytterbium (70)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Yb-175	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Zn-65	Zinc (30)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Zn-69	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Zn-69m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Zr-88	Zirconium (40)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Zr-93 (b)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Zr-95	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Zr-97 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶

(a) (Reserved)

(b) Parent nuclides and their progeny included in secular equilibrium are listed in the following:

Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
Cs-137	Ba-137m
Ce-134	La-134
Ce-144	Pr-144
Ba-140	La-140
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
Rn-220	Po-216
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
Th-226	Ra-222, Rn-218, Po-214
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-nat	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-234	Pa-234m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234m
U-nat	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
U-240	Np-240m
Np-237	Pa-233
Am-242m	Am-242
Am-243	Np-239

- (c) (Reserved)
- (d) These values apply only to compounds of uranium that take the chemical form of UF_6 , UO_2F_2 and $UO_2(NO_3)_2$ in both normal and accident conditions of transport.
- (e) These values apply only to compounds of uranium that take the chemical form of UO_3 , UF_4 , UCl_4 and hexavalent compounds in both normal and accident conditions of transport.
- (f) These values apply to all compounds of uranium other than those specified in notes (d) and (e) of this table.
- (g) These values apply to unirradiated uranium only.

Table A-3. General Values for A1 and A2

Contents	A ₁		A ₂		Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limits for exempt consignments (Bq)	Activity limits for exempt consignments (Ci)
	(TBq)	(Ci)	(TBq)	(Ci)				
Only beta or gamma emitting radionuclides are known to be present	1×10^{-1}	2.7×10^0	2×10^{-2}	5.4×10^{-1}	1×10^1	2.7×10^{-10}	1×10^4	2.7×10^{-7}
Only alpha emitting radionuclides are known to be present	2×10^{-1}	5.4×10^0	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^3	2.7×10^{-8}
No relevant data are available	1×10^{-3}	2.7×10^{-2}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^3	2.7×10^{-8}

Table A-4.
Activity-Mass Relationships for Uranium

Uranium Enrichment ¹ wt % U-235 present	Specific Activity	
	TBq/g	Ci/g
0.45	1.8 x 10 ⁻⁸	5.0 x 10 ⁻⁷
0.72	2.6 x 10 ⁻⁸	7.1 x 10 ⁻⁷
1	2.8 x 10 ⁻⁸	7.6 x 10 ⁻⁷
1.5	3.7 x 10 ⁻⁸	1.0 x 10 ⁻⁶
5	1.0 x 10 ⁻⁷	2.7 x 10 ⁻⁶
10	1.8 x 10 ⁻⁷	4.8 x 10 ⁻⁶
20	3.7 x 10 ⁻⁷	1.0 x 10 ⁻⁵
35	7.4 x 10 ⁻⁷	2.0 x 10 ⁻⁵
50	9.3 x 10 ⁻⁷	2.5 x 10 ⁻⁵
90	2.2 x 10 ⁻⁶	5.8 x 10 ⁻⁵
93	2.6 x 10 ⁻⁶	7.0 x 10 ⁻⁵
95	3.4 x 10 ⁻⁶	9.1 x 10 ⁻⁵

¹ The figures for uranium include representative values for the activity of the uranium-234 that is concentrated during the enrichment process.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-006 Exemption of certain source material. (1) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, transfers, or delivers, source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution, or alloy.

(2) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material, provided such person shall not refine or process such ore unless authorized to do so in a specific license.

(3) A person is exempt from the requirements for a license and from this chapter and chapters 246-221, 246-246, 246-222, 246-233, and 246-235 WAC to the extent that the person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

- (i) Incandescent gas mantles;
- (ii) Vacuum tubes;
- (iii) Welding rods;
- (iv) Electric lamps for illuminating purposes if each lamp contains fifty milligrams or less of thorium;

(v) Germicidal lamps, sunlamps and lamps for outdoor or industrial lighting if each lamp contains two grams or less of thorium;

(vi) Rare earth metals and compounds, mixtures, and products containing 0.25 percent or less by weight thorium, uranium, or any combination of these; or

(vii) Personnel neutron dosimeters if each dosimeter contains 1.85 gigabecquerels (50 milligrams) or less of thorium;

(b) Source material contained in the following products:

(i) Glazed ceramic tableware manufactured before August 27, 2013, if the glaze contains twenty percent or less by weight source material; (~~and~~)

(ii) Piezoelectric ceramic containing two percent or less by weight source material; and

(iii) Glassware containing not more than two percent by weight source material or, for glassware manufactured before August 27, 2013, ten percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys if the thorium content of the alloy is four percent or less by weight. The exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Thorium or uranium contained in or on finished optical lenses (~~if each lens contains~~) and mirrors, provided that each lens or mirror does not contain more than ten percent by weight of thorium or uranium or, for lenses manufactured before August 27, 2013, thirty percent ((or less)) by weight of thorium. The exemption contained in this subparagraph shall not be deemed to authorize either:

(i) The shaping, grinding or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without alteration of the lens or mirror; or

(ii) The receipt, possession, use or transfer of thorium or uranium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(f) Uranium contained in detector heads for use in fire detection units if each detector head contains 185 becquerels (0.005 microcuries) or less of uranium; or

(g) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy if:

(i) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(ii) The thorium content in the nickel-thoria alloy is four percent or less by weight.

(4) The exemptions in subsection (3) of this section do not authorize the manufacture of any of the products described.

(5) No person may initially transfer for sale or distribution a product containing source material to persons exempt under this section, or equivalent regulations of an agreement state, unless authorized by a license issued under 10 C.F.R. 40.52, chapter 246-235 WAC, or equivalent regulations of an agreement state to initially transfer such products for sale or distribution.

(a) Persons initially distributing source material in products covered by the exemptions in this section before August 27, 2013, without specific authorization may continue such distribution for one year beyond this date. Initial distribution may also be continued until NRC takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than one year beyond this date.

(b) Persons authorized by an agreement state to manufacture, process, or produce these materials or products containing source material, and persons who import finished products or parts for sale or distribution must be authorized by a license issued under 10 C.F.R. 40.52 for distribution only and are exempt from the requirements of chapters 246-221 and 246-222 WAC, and WAC 246-235-020 (1) and (2).

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-007 Exemption of certain depleted uranium items. (1) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses or transfers:

(a) Depleted uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles, or stored or handled in connection with installation or removal of such counterweights if:

~~(i) (The counterweights are manufactured in accordance with a specific license issued by the NRC authorizing distribution by the licensee pursuant to 10 C.F.R. Part 40;~~

~~(ii))~~ Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM"*;

~~((iii))~~ (ii) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"*; and

~~((iv))~~ (iii) The exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweight other than repair or restoration of any plating or other covering;

*Note: The requirements specified in ~~((e)(v)(B) and (C))~~ (1)(a)(i) and (ii) of this subsection need not be met by counterweights manufactured prior to December 31, 1969: Provided, That such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM," as previously required by the rules, provided that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend required by WAC 246-232-007 (1)(a)(i) in effect on June 30, 1969.

(b) Natural or depleted uranium used as shielding constituting part of any shipping container which is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and the uranium metal is encased in mild steel or in an equally fire resistant metal of a minimum wall thickness of 3.2 millimeters.

(2) The exemptions in this subsection do not authorize the manufacture of any of the products described.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-011 Exemption of certain self-luminous products containing radioactive material(s). (1) Hydrogen-3 (tritium), krypton-85, or promethium-147.

(a) A person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, transfers, owns or acquires, and does not manufacture, process, produce, apply radioactive material to, incorporate radioactive material into, or initially transfer for sale or distribution, self-luminous products containing hydrogen-3 (tritium), krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, imported or initially transferred in accordance with a specific license issued by the NRC. The exemption in this subsection does not apply to hydrogen-3, (tritium), krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

(b) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium (H-3), krypton-85 (Kr-85), or promethium-147 (Pm-147) for use under (a) of this subsection shall apply for a license under chapter 246-235 WAC.

(2) No person may introduce radioactive material into a product or material knowing, or having reason to believe, that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-012 Exemption of certain gas and aerosol detectors containing radioactive material. (1) ~~((A))~~ (a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas or aerosol detectors containing radioactive material, any person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC to the extent that the person receives, possesses, uses, transfers, owns or acquires ~~(, and does not apply radioactive material to, or incorporate radioactive material into, manufacture, process or produce,)~~ radioactive material in gas and aerosol detectors designed to protect ~~((life))~~ health, safety, or property ~~((from fires and airborne hazards if the detectors have been manufactured, imported, or transferred in accordance with a specific license issued by the NRC)), and manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the department, NRC, or an agreement state which authorizes the initial transfer of the product for use under this chapter. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007, in accordance with a specific license authorizing distribution to persons exempt from regulatory requirements.~~

(b) Any person who desires to manufacture, process, or produce gas or aerosol detectors containing radioactive material, or to initially transfer such products for use under this

chapter shall apply for a license under chapter 246-235 WAC.

(2) No person may introduce radioactive material into a product or material knowing, or having reason to believe, that it will be transferred to persons exempt under this section or other sections or equivalent regulations of the NRC or an agreement state, except in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

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 and from this chapter and chapters 246-233 and 246-235 WAC if the person receives, possesses, uses, transfers, owns, or acquires, and does not apply radioactive material to, or incorporate radioactive material into, capsules containing 37 (~~kilobecquerels~~) kilobecquerels (1 microcurie) of 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 must apply for and receive a specific license under chapters 246-240 and 246-235 WAC.

(3) A person who desires to manufacture, prepare, process, produce, package, repack, or transfer for commercial distribution these capsules must do so in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

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

NEW SECTION

WAC 246-232-015 Certain industrial devices. (1) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing radioactive material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license and from the regulations in chapters 246-222, 246-221, 246-232, 246-233, 246-235, 246-243, 246-240, and 246-244 WAC to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license which authorizes the initial transfer of the device for use under this chapter. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

(2) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing radioactive material for use under subsec-

tion (1) of this section, shall apply for a license under chapter 246-235 WAC.

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-232-120 Schedule B, exempt quantities of radioactive materials. (See also WAC 246-232-010(2).)

Radioactive Material	Microcuries
Antimony-122 (Sb-122)	100
Antimony-124 (Sb-124)	10
Antimony-125 (Sb-125)	10
Arsenic-73 (As-73)	100
Arsenic-74 (As-74)	10
Arsenic-76 (As-76)	10
Arsenic-77 (As-77)	100
Barium-131 (Ba-131)	10
Barium-133 (Ba-133)	10
Barium-140 (Ba-140)	10
Bismuth-210 (Bi-210)	1
Bromine-82 (Br-82)	10
Cadmium-109 (Cd-109)	10
Cadmium-115m (Cd-115m)	10
Cadmium-115 (Cd-115)	100
Calcium-45 (Ca-45)	10
Calcium-47 (Ca-47)	10
Carbon-14 (C-14)	100
Cerium-141 (Ce-141)	100
Cerium-143 (Ce-143)	100
Cerium-144 (Ce-144)	1
Cesium-129 (Cs-129)	100
Cesium-131 (Cs-131)	1,000
Cesium-134m (Cs-134m)	100
Cesium-134 (Cs-134)	1
Cesium-135 (Cs-135)	10
Cesium-136 (Cs-136)	10
Cesium-137 (Cs-137)	10
Chlorine-36 (Cl-36)	10
Chlorine-38 (Cl-38)	10
Chromium-51 (Cr-51)	1,000
Cobalt-57 (Co-57)	100
Cobalt-58m (Co-58m)	10
Cobalt-58 (Co-58)	10
Cobalt-60 (Co-60)	1
Copper-64 (Cu-64)	100
Dysprosium-165 (Dy-165)	10

Radioactive Material	Microcuries	Radioactive Material	Microcuries
Dysprosium-166 (Dy-166)	100	Manganese-52 (Mn-52)	10
Erbium-169 (Er-169)	100	Manganese-54 (Mn-54)	10
Erbium-171 (Er-171)	100	Manganese-56 (Mn-56)	10
Europium-152 (Eu-152) 9.2h	100	Mercury-197m (Hg-197m)	100
Europium-152 (Eu-152) 13 yr	1	Mercury-197 (Hg-197)	100
Europium-154 (Eu-154)	1	Mercury-203 (Hg-203)	10
Europium-155 (Eu-155)	10	Molybdenum-99 (Mo-99)	100
Fluorine-18 (F-18)	1,000	Neodymium-147 (Nd-147)	100
Gadolinium-153 (Gd-153)	10	Neodymium-149 (Nd-149)	100
Gadolinium-159 (Gd-159)	100	Nickel-59 (Ni-59)	100
Gallium-67 (Ga-67)	100	Nickel-63 (Ni-63)	10
Gallium-72 (Ga-72)	10	Nickel-65 (Ni-65)	100
Germanium-68 (Ge-68)	10	Niobium-93m (Nb-93m)	10
Germanium-71 (Ge-71)	100	Niobium-95 (Nb-95)	10
Gold-195 (Au-195)	10	Niobium-97 (Nb-97)	10
Gold-198 (Au-198)	100	Osmium-185 (Os-185)	10
Gold-199 (Au-199)	100	Osmium-191m (Os-191m)	100
Hafnium-181 (Hf-181)	10	Osmium-191 ((Os-191)) <u>Os-191</u>	100
Holmium-166 (Ho-166)	100	Osmium-193 ((Os-193)) <u>Os-193</u>	100
Hydrogen-3 (H-3)	1,000	Palladium-103 (Pd-103)	100
Indium-111 (In-111)	100	Palladium-109 (Pd-109)	100
Indium-113m (In-113m)	100	Phosphorus-32 (P-32)	10
Indium-114m (In-114m)	10	Platinum-191 (Pt-191)	100
Indium-115m (In-115m)	100	Platinum-193m (Pt-193m)	100
Indium-115 (In-115)	10	Platinum-193 (Pt-193)	100
Iodine-123 (I-123)	100	Platinum-197m (Pt-197m)	100
Iodine-125 (I-125)	1	Platinum-197 (Pt-197)	100
Iodine-126 (I-126)	1	Polonium-210 (Po-210)	0.1
Iodine-129 (I-129)	0.1	Potassium-42 (K-42)	10
Iodine-131 (I-131)	1	Potassium-43 (K-43)	10
Iodine-132 (I-132)	10	Praseodymium-142 (Pr-142)	100
Iodine-133 (I-133)	1	Praseodymium-143 (Pr-143)	100
Iodine-134 (I-134)	10	Promethium-147 (Pm-147)	10
Iodine-135 (I-135)	10	Promethium-149 (Pm-149)	10
Iridium-192 (Ir-192)	10	Radium-226 (Ra-226)	0.1
Iridium-194 (Ir-194)	100	Rhenium-186 (Re-186)	100
Iron-52 (Fe-52)	10	Rhenium-188 (Re-188)	100
Iron-55 (Fe-55)	100	Rhodium-103m (Rh-103m)	100
Iron-59 (Fe-59)	10	Rhodium-105 (Rh-105)	100
Krypton-85 (Kr-85)	100	Rubidium-81 (Rb-81)	10
Krypton-87 (Kr-87)	10	Rubidium-86 (Rb-86)	10
Lanthanum-140 (La-140)	10	Rubidium-87 (Rb-87)	10
Lutetium-177 (Lu-177)	100	Ruthenium-97 (Ru-97)	100

Radioactive Material	Microcuries	Radioactive Material	Microcuries
Ruthenium-103 (Ru-103)	10	Tungsten-181 (W-181)	10
Ruthenium-105 (Ru-105)	10	Tungsten-185 (W-185)	10
Ruthenium-106 (Ru-106)	1	Tungsten-187 (W-187)	100
Samarium-151 (Sm-151)	10	Vanadium-48 (V-48)	10
Samarium-153 (Sm-153)	100	Xenon-131m (Xe-131m)	1,000
Scandium-46 (Sc-46)	10	Xenon-133 (Xe-133)	100
Scandium-47 (Sc-47)	100	Xenon-135 (Xe-135)	100
Scandium-48 (Sc-48)	10	Ytterbium-169 (Yb-169)	10
Selenium-75 (Se-75)	10	Ytterbium-175 (Yb-175)	100
Silicon-31 ((Is-31)) <u>Si-31</u>)	100	Yttrium-87 (Y-87)	10
Silver-105 (Ag-105)	10	Yttrium-88 (Y-88)	10
Silver-110m (Ag-110m)	1	Yttrium-90 (Y-90)	10
Silver-111 (Ag-111)	100	Yttrium-91 (Y-91)	10
Sodium-22 (Na-22)	10	Yttrium-92 (Y-92)	100
Sodium-24 (Na-24)	10	Yttrium-93 (Y-93)	100
Strontium-85 (Sr-85)	10	Zinc-65 (Zn-65)	10
Strontium-89 (Sr-89)	1	Zinc-69m (Zn-69m)	100
Strontium-90 (Sr-90)	0.1	Zinc-69 (Zn-69)	1,000
Strontium-91 (Sr-91)	10	Zirconium-93 (Zr-93)	10
Strontium-92 (Sr-92)	10	Zirconium-95 (Zr-95)	10
Sulphur-35 (S-35)	100	Zirconium-97 (Zr-97)	10
Tantalum-182 (Ta-182)	10	Any radioactive material not listed above	
Technetium-96 (Tc-96)	10	other than alpha emitting radioactive	
Technetium-97m (Tc-97m)	100	material	0.1
Technetium-97 (Tc-97)	100		
Technetium-99m (Tc-99m)	100		
Technetium-99 (Tc-99)	10		
Tellurium-125m (Te-125m)	10		
Tellurium-127m (Te-127m)	10		
Tellurium-127 (Te-127)	100		
Tellurium-129m (Te-129m)	10		
Tellurium-129 (Te-129)	100		
Tellurium-131m (Te-131m)	10		
Tellurium-132 (Te-132)	10		
Terbium-160 (Tb-160)	10		
Thallium-200 (Tl-200)	100		
Thallium-201 (Tl-201)	100		
Thallium-202 (Tl-202)	100		
Thallium-204 (Tl-204)	10		
Thulium-170 (Tm-170)	10		
Thulium-171 (Tm-171)	10		
Tin-113 (Sn-113)	10		
Tin-125 (Sn-125)	10		

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-130 Schedule C, exempt concentrations. (See WAC 246-232-010(1).)

Element (atomic number)	Radionuclide	Column I Gas concentration $\mu\text{Ci/ml}^1$	Column II Liquid and solid concentration $\mu\text{Ci/ml}^2$
Antimony (51)	Sb-122		3×10^{-4}
	Sb-124		2×10^{-4}
	Sb-125		1×10^{-3}
Argon (18)	Ar-37	1×10^{-3}	
	Ar-41	4×10^{-7}	
Arsenic (33)	As-73		5×10^{-3}
	As-74		5×10^{-4}
	As-76		2×10^{-4}
	As-77		8×10^{-4}
Barium (56)	Ba-131		2×10^{-3}
	Ba-140		3×10^{-4}

Element (atomic number)	Radionuclide	Column I Gas concentration μCi/ml ¹	Column II Liquid and solid concentration μCi/ml ²	Element (atomic number)	Radionuclide	Column I Gas concentration μCi/ml ¹	Column II Liquid and solid concentration μCi/ml ²	
Beryllium (4)	Be-7		2x10 ⁻²	Iodine (53)	I-125	3x10 ⁻⁹	2x10 ⁻⁵	
Bismuth (83)	Bi-206		4x10 ⁻⁴		I-126	3x10 ⁻⁹	2x10 ⁻⁵	
Bromine (35)	Br-82	4x10 ⁻⁷	3x10 ⁻³		I-131	3x10 ⁻⁹	2x10 ⁻⁵	
Cadmium (48)	Cd-109		2x10 ⁻³		I-132	8x10 ⁻⁸	6x10 ⁻⁴	
	Cd-115m		3x10 ⁻⁴		I-133	1x10 ⁻⁸	7x10 ⁻⁵	
	Cd-115		3x10 ⁻⁴		I-134	2x10 ⁻⁷	1x10 ⁻³	
Calcium (20)	Ca-45		9x10 ⁻⁵	Iridium (77)	Ir-190		2x10 ⁻³	
	Ca-47		5x10 ⁻⁴			Ir-192		4x10 ⁻⁴
Carbon (6)	C-14	1x10 ⁻⁶	8x10 ⁻³			Ir-194		3x10 ⁻⁴
Cerium (58)	Ce-141		9x10 ⁻⁴	Iron (26)	Fe-55		8x10 ⁻³	
	Ce-143		4x10 ⁻⁴			Fe-59		6x10 ⁻⁴
	Ce-144		1x10 ⁻⁴	Krypton (36)	Kr-85m	1x10 ⁻⁶		
Cesium (55)	Cs-131		2x10 ⁻²			Kr-85		3x10 ⁻⁶
	Cs-134m		6x10 ⁻²	Lanthanum (57)	La-140		2x10 ⁻⁴	
	Cs-134		9x10 ⁻⁵	Lead (82)	Pb-203		4x10 ⁻³	
Chlorine (17)	Cl-38	9x10 ⁻⁷	4x10 ⁻³	Lutetium (71)	Lu-177		1x10 ⁻³	
	Chromium (24)	Cr-51	2x10 ⁻²	Manganese (25)	Mn-52		3x10 ⁻⁴	
Cobalt (27)	Co-57		5x10 ⁻³			Mn-54		1x10 ⁻³
	Co-58		1x10 ⁻³			Mn-56		1x10 ⁻³
	Co-60		5x10 ⁻⁴	Mercury (80)	Hg-197m		2x10 ⁻³	
Copper (29)	Cu-64		3x10 ⁻³			Hg-197		3x10 ⁻³
	Dysprosium (66)	Dy-165	4x10 ⁻³			Hg-203		2x10 ⁻⁴
	Dy-166		4x10 ⁻⁴	Molybdenum (42)	Mo-99		2x10 ⁻³	
Erbium (68)	Er-169		9x10 ⁻⁴		Neodymium (60)	(And-147) <u>Nd-147</u>		6x10 ⁻⁴
	Er-171		1x10 ⁻³			(And-149) <u>Nd-149</u>		3x10 ⁻³
Europium (63)	Eu-152 (9.2 h)		6x10 ⁻⁴	Nickel (28)	Ni-65		1x10 ⁻³	
	Eu-155		2x10 ⁻³		Niobium ((Columbium))	Nb-95		1x10 ⁻³
Fluorine (9)	F-18	2x10 ⁻⁶	8x10 ⁻³	(41)		Nb-97		9x10 ⁻³
	Gadolinium (64)	Gd-153		2x10 ⁻³	Osmium (76)	((So-185)) <u>Os-185</u>		7x10 ⁻⁴
Gd-159			8x10 ⁻⁴			((So-191m)) <u>Os-191m</u>		3x10 ⁻²
Gallium (31)	Ga-72		4x10 ⁻⁴			((So-191)) <u>Os-191</u>		2x10 ⁻³
Germanium (32)	Ge-71		2x10 ⁻²		((So-193)) <u>Os-193</u>		6x10 ⁻⁴	
Gold (79)	Au-196		2x10 ⁻³	Palladium (46)	Pd-103		3x10 ⁻³	
	Au-198		5x10 ⁻⁴			Pd-109		9x10 ⁻⁴
	Au-199		2x10 ⁻³	Phosphorus (15)	P-32		2x10 ⁻⁴	
Hafnium (72)	Hf-181		7x10 ⁻⁴		Platinum (78)	Pt-191		1x10 ⁻³
	Hydrogen (1)	H-3	5x10 ⁻⁶				Pt-193m	
Indium (49)	In-113m		1x10 ⁻²			Pt-197m		1x10 ⁻²
	In-114m		2x10 ⁻⁴		Pt-197		1x10 ⁻³	

Element (atomic number)	Radionuclide	Column I Gas concentration $\mu\text{Ci}/\text{ml}^1$	Column II Liquid and solid concentration $\mu\text{Ci}/\text{ml}^2$	Element (atomic number)	Radionuclide	Column I Gas concentration $\mu\text{Ci}/\text{ml}^1$	Column II Liquid and solid concentration $\mu\text{Ci}/\text{ml}^2$
Potassium (19)	K-42		3×10^{-3}	Thallium (81)	Tl-200		4×10^{-3}
Praseodymium (59)	Pr-142		3×10^{-4}		Tl-201		3×10^{-3}
	Pr-143		5×10^{-4}		Tl-202		1×10^{-3}
Promethium (61)	Pm-147		2×10^{-3}		Tl-204		1×10^{-3}
	Pm-149		4×10^{-4}	Thulium (69)	Tm-170		5×10^{-4}
Radium (88)	Ra-226		1×10^{-7}		Tm-171		5×10^{-3}
	Ra-228		3×10^{-7}	Tin (50)	Sn-113		9×10^{-4}
Rhenium (75)	Re-183		6×10^{-3}		Sn-125		2×10^{-4}
	Re-186		9×10^{-4}	Tungsten (Wolfram) (74)	W-181		4×10^{-3}
	Re-188		6×10^{-4}		W-187		7×10^{-4}
Rhodium (45)	Rh-103m		1×10^{-1}	Vanadium (23)	V-48		3×10^{-4}
	Rh-105		1×10^{-3}	Xenon (54)	Xe-131m	4×10^{-6}	
Rubidium (37)	Rb-86		7×10^{-4}		Xe-133	3×10^{-6}	
Ruthenium (44)	Ru-97		4×10^{-3}		Xe-135	1×10^{-6}	
	Ru-103		8×10^{-4}	Ytterbium (70)	Yb-175		1×10^{-3}
	Ru-105		1×10^{-3}	Yttrium (39)	Y-90		2×10^{-4}
	Ru-106		1×10^{-4}		Y-91m		3×10^{-2}
Samarium (62)	Sm-153		8×10^{-4}		Y-91		3×10^{-4}
Scandium (21)	Sc-46		4×10^{-4}		Y-92		6×10^{-4}
	Sc-47		9×10^{-4}		Y-93		3×10^{-4}
	Sc-48		3×10^{-4}	Zinc (30)	Zn-65		1×10^{-3}
Selenium (34)	Se-75		3×10^{-3}		Zn-69m		7×10^{-4}
Silicon (14)	((Is-31)) Si-31		9×10^{-3}		Zn-69		2×10^{-2}
	Silver (47)	Ag-105		1×10^{-3}	Zirconium (40)	Zr-95	
	Ag-110m		3×10^{-4}		Zr-97		2×10^{-4}
	Ag-111		4×10^{-4}	Beta or gamma emitting radioactive material not listed above with half-life less than 3 years		1×10^{-10}	1×10^{-6}
Sodium (11)	Na-24		2×10^{-3}	Notes:	¹ Values are given in Column I only for those materials normally used as gases		
Strontium (38)	Sr-85		1×10^{-3}		² $\mu\text{Ci}/\text{gm}$ for solids		
	Sr-89		1×10^{-4}	Note 1:	Many radionuclides decay into nuclides which are also radioactive. In expressing the concentrations in Schedule C the activity stated is that of the parent nuclide and takes into account the daughters.		
	Sr-91		7×10^{-4}	Note 2:	For purposes of WAC 246-232-010(1) where there is involved a combination of nuclides, the limit for the combination should be derived as follows: Determine for each nuclide in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule C for the specific nuclide when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).		
	Sr-92		7×10^{-4}				
Sulfur (16)	S-35	9×10^{-8}	6×10^{-4}				
Tantalum (73)	Ta-182		4×10^{-4}				
Technetium (43)	Tc-96m		1×10^{-1}				
	Tc-96		1×10^{-3}				
Tellurium (52)	Te-125m		2×10^{-3}				
	Te-127m		6×10^{-4}				
	Te-127		3×10^{-3}				
	Te-129m		3×10^{-4}				
	Te-131m		6×10^{-4}				
	Te-132		3×10^{-4}				
Terbium (65)	Tb-160		4×10^{-4}				

Example:

$$\frac{\text{Concentration of Nuclide A in Product}}{\text{Exempt concentration of Nuclide A}} + \frac{\text{Concentration of Nuclide B in Product}}{\text{Exempt concentration of Nuclide B}} \leq 1$$

Note 3: For the purpose of determining concentration in a product or device, the total quantity of radioactive material present is divided by only that weight or volume of the discrete part or component throughout which the radioactive material is relatively uniformly distributed. If the weight or volume of this part or component cannot be determined then the product or device should be evaluated on the basis of the total quantity of radioactive material present.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-233-001 Purpose and scope. (1) This chapter establishes general licenses for the possession and use of radioactive material and a general license for ownership of radioactive material.

(2) Chapter 246-232 WAC also contains provisions applicable to the general licenses established in this part.

(3) The definitions contained in WAC 246-220-010 also apply to this chapter.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-233-010 General licenses—Source material. (1) A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and federal, state, and local government agencies to receive, possess, use, ((possession,)) and transfer ((of not more than fifteen pounds of source material at any one time by persons in the following categories:

(a) ~~Pharmacists using the source material solely for the preparation of medicinal compounds;~~

(b) ~~Physicians using the source material for medicinal purposes;~~

(c) ~~Persons receiving possession of source material from pharmacists and physicians in the form of medicinals or drugs;~~

(d) ~~Commercial and industrial firms, and research, educational, and medical institutions, and state and local government agencies for research, development, educational, operational, or commercial purposes: And provided, That no such person shall, pursuant to this general license, receive more than a total of one hundred fifty pounds of source material in any one calendar year-)) uranium and thorium, in their natural isotopic concentrations, and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities:~~

(a) No more than 1.5 kg (3.3 lbs.) of uranium and thorium in dispersible forms, for example, gaseous, liquid, or powder at any one time. Any material processed by the general licensee that alters the chemical or physical form of the

material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this section may not receive more than a total of 7 kg (15.4 lbs.) of uranium and thorium in any one calendar year. Persons possessing source material in excess of these limits as of August 27, 2013, may continue to possess up to 7 kg (15.4 lbs.) of uranium and thorium at any one time for one year beyond this date, or until the department takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and receive up to 70 kg (154 lbs.) of uranium or thorium in any one calendar year until December 31, 2014, or until the department takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and

(b) No more than a total of 7 kg (15.4 lbs.) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this section may not receive more than a total of 70 kg (154 lbs.) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this section unless it is accounted for under the limits of (a) of this subsection; or

(c) No more than 7 kg (15.4 lbs.) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lbs.) of uranium from drinking water during a calendar year under this section; or

(d) No more than 7 kg (15.4 lbs.) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this section may not receive more than a total of 70 kg (154 lbs.) of source material in any one calendar year.

(2) Any person(s) who receives, ((possess)) possesses, uses, or transfers source material pursuant to the general license issued in subsection (1) of this section ((are exempt from the provisions of chapters 246-221 and 246-222 WAC to the extent that such receipt, possession, use, or transfer is within the terms of such general license: Provided, however, That this exemption shall not be deemed to apply to any such person who is also in possession of source material under a specific license issued pursuant to chapter 246-235 WAC.

~~(3)):~~

(a) Is prohibited from administering source material, or the radiation therefrom, either externally or internally, to humans except as may be authorized by the department, NRC, or an agreement state in a specific license.

(b) May not abandon such source material. Source material may be disposed as follows:

(i) A cumulative total of 0.5 kg (1.1 lbs.) of source material in a solid, nondispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license, to persons receiving the material for permanent disposal. The recipient of source material transferred under the provisions of this section is exempt from the requirements to obtain a license under this chapter to the extent the source material is permanently disposed. This provision does not apply to any

person who is in possession of source material under a specific license issued under chapter 246-235 WAC; or

(ii) In accordance with WAC 246-221-170.

(c) Is subject to the provisions of chapters 246-221, 246-232, 246-233, and 246-235 WAC.

(d) Shall respond to written requests from the department to provide information relating to the general license within thirty calendar days of the date of the request, or other time period specified in the request. If the person cannot provide the requested information within the allotted time, the person shall, within that same time period, request a longer period to supply the information by providing the director, office of radiation protection, using an appropriate method of communication, a written justification for the request:

(e) May not export such source material except in accordance with 10 C.F.R. 110.

(3) Any person who receives, possesses, uses, or transfers source material in accordance with subsection (1) of this section shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the director, office of radiation protection, by an appropriate method of communication about such contamination, and may consult with the department regarding the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under the general license is not likely to result in exposures that exceed the limits in WAC 246-246-020.

(4) Any person who receives, possesses, uses, or transfers source material in accordance with the general license granted in subsection (1) of this section is exempt from the provisions of chapters 246-221 and 246-222 WAC to the extent that such receipt, possession, use, and transfer are within the terms of this general license, except that such person shall comply with the provisions of WAC 246-246-020 and 246-221-170 to the extent necessary to meet the provisions of this section. However, this exemption does not apply to any person who also holds a specific license issued under chapter 246-235 WAC.

(5) No person may initially transfer or distribute source material to persons generally licensed under subsection (1)(a) or (b) of this section, or equivalent regulations of an agreement state or NRC, unless authorized by a specific license issued in accordance with chapter 246-235 WAC or equivalent provisions of an agreement state or NRC. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to persons generally licensed by subsection (1) of this section before August 27, 2013, without specific authorization may continue for one year beyond this date. Distribution may also be continued until the department takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or before August 27, 2014.

(6) A general license is hereby issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use, or transfer source material.

~~((4))~~ (7) Depleted uranium in industrial products and devices.

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of (b), (c), (d), and (e) of this subsection, depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license in (a) of this subsection applies only to industrial products or devices which have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to WAC 246-235-091 or in accordance with a specific license issued to the manufacturer by the department, NRC, or an agreement state which authorizes manufacture of the products or devices for distribution to persons generally licensed by the NRC or an agreement state.

(c)(i) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by (a) of this subsection shall file department form RHF-20 "Registration certificate - Use of depleted uranium under general license," with the department. The form shall be submitted within thirty days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on department form RHF-20 the following information and such other information as may be required by that form:

(A) Name and address of the registrant;

(B) A statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in (a) of this subsection and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in (c)(i)(B) of this subsection.

(ii) The registrant possessing or using depleted uranium under the general license established by (a) of this subsection shall report in writing to the department any changes in information previously furnished on the "Registration certificate - Use of depleted uranium under general license." The report shall be submitted within thirty days after the effective date of such change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by (a) of this subsection:

(i) Shall not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium.

(ii) Shall not abandon such depleted uranium.

(iii) Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provision of chapter 246-232 WAC. In the case where the transferee receives the depleted uranium pursuant to the general license established

by (a) of this subsection the transferor shall furnish the transferee a copy of this regulation and a copy of department form RHF-20.

In the case where the transferee receives the depleted uranium pursuant to a general license contained in the NRC's or agreement state's regulation equivalent to (a) of this subsection the transferor shall furnish the transferee a copy of this regulation and a copy of department form RHF-20 accompanied by a note explaining that use of the product or device is regulated by the NRC or agreement state under requirements substantially the same as those in this regulation.

(iv) Shall maintain and make available to the department upon request the name and address of the person receiving the depleted uranium pursuant to such transfer.

(v) Shall not export such depleted uranium except in accordance with a license issued by the NRC pursuant to 10 C.F.R. Part 110.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by (a) of this subsection is exempt from the requirements of chapters 246-221 and 246-222 WAC of these regulations with respect to the depleted uranium covered by that general license.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-233-015 Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the NRC for use pursuant to ((~~Section 31.3 of~~) 10 C.F.R. (~~Part 31~~) 30.15). This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, chapters 246-232, 246-221** and 246-222 WAC.

(1) *Static elimination device.* Devices designed for use as static eliminators ((~~which~~) that) contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerels (500 microcuries) of Polonium-210 per device.

(2) *Ion generating tube.* Devices designed for ionization of air ((~~which~~) that) contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerels (500 microcuries) of Polonium-210 per device or a total of not more than 1.85 gigabecquerels (50 millicuries) of Hydrogen-3 (tritium) per device.

(3) Such devices authorized before October 23, 2012, for use under the general license provided in 10 C.F.R. 30.15, department license, or equivalent regulations of an agreement state and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the department or an agreement state.

** Attention is directed particularly to the provisions of chapter 246-221 WAC which relate to the labeling of containers.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-233-020 Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere. (1) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and federal, state, or local government agencies to acquire, receive, possess, use or transfer, in accordance with the provisions of subsections (2), (3), and (4) of this section, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in subsection (1) of this section applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the department pursuant to WAC 246-235-093 or in accordance with an equivalent specific license issued by the department, NRC, or an agreement state, which authorizes distribution or transfer of devices to persons generally licensed by the department, NRC, or an agreement state**. The devices must have been received from one of the specific licensees described in this subsection or through a transfer made under subsection (3)(h) of this section.

**Note: Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in Section 179.21 of 21 C.F.R. Part 179.

(3) Any person who acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in subsection (1) of this section:

(a) Shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

(b) Shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label, however:

(i) Devices containing only krypton need not be tested for leakage of radioactive material; and

(ii) Devices containing only tritium or not more than 3.7 megabecquerels (100 microcuries) of other beta or gamma emitting material or 370 kilobecquerels (10 microcuries) of alpha emitting material need not be tested for any purpose. Devices held in storage in the original shipping container prior to initial installation need not be tested until immediately prior to use;

(c) Shall assure that the tests required by (b) of this subsection and other testing, installing, servicing, and removing from installation involving the radioactive material, its shielding or containment, are performed:

(i) In accordance with the instructions provided by the labels; or

(ii) By a person holding a specific license issued by the department, the NRC or an agreement state to perform such activities;

(d) Shall maintain records showing compliance with the requirements of (b) and (c) of this subsection. The records must show the results of tests. The records also must show the dates of performance and the names of persons performing, testing, installing, servicing, and removing from installation radioactive material and its shielding or containment. Records of tests for leakage of radioactive material required by (b) of this subsection must be retained for three years after the next required leak test is performed or the sealed source is transferred or disposed. Records of tests of the on/off mechanism and indicator required by (b) of this subsection must be retained for three years after the next required test of the on/off mechanism and indicator is performed or the sealed source is transferred or disposed. Records of other testing, installation, servicing, and removal from installation required by (c) of this subsection must be retained for a period of three years from the date of the recorded event or until the device is transferred or disposed;

(e) Shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of, or damage to, the shielding of the radioactive material or the on/off mechanism or indicator, or upon the detection of 185 becquerels (0.005 microcurie) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license issued by the department, the NRC or an agreement state to repair such devices, or disposed by transfer to a person authorized by a specific license to receive the radioactive material contained in the device or as otherwise approved by the department. Within thirty days, the licensee must send the department a written report containing a brief description of the event and the remedial action taken; and, in the case of detection of 185 becquerels (0.005 microcurie) or more of removable radioactive material, or failure of, or damage to, a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use (see WAC 246-246-020);

(f)(i) Shall not abandon the device containing radioactive material;

(ii) Shall not export the device containing radioactive material except in accordance with the provisions of 10 C.F.R. 110;

(g) Except as provided in (h) of this subsection, must transfer or dispose of the device containing radioactive material only by transfer to a person with a specific license issued by the department, the NRC, or an agreement state, which authorizes the person to receive the device. Within thirty days after export or transfer of a device to a specific licensee, the general licensee must send a report to the department, containing the identity of the device and manufacturer (or initial transferor), model number, serial number, the nuclide(s), and activity of radioactive material contained in the devices; the name, address, and license number of the person receiving the device, and the date of transfer. Prior written approval

from the department is required before transferring the device to any other specific licensee not specifically identified in this subsection; however, a specific licensee may transfer a device for possession and use under its own specific license without prior approval, if the specific licensee:

(i) Verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(ii) Removes, alters, covers, or clearly and unambiguously augments the existing label, so that the device is labeled in compliance with WAC 246-221-120(9); however, the manufacturer, model number, and serial number must be retained;

(iii) Obtains the manufacturer's or initial transferor's maintenance information applicable under the specific license (such as leak test procedures); and

(iv) Reports the transfer under WAC 246-233-020 (3)(g)((-));

(h) Shall transfer the device to another general licensee only if:

(i) The device remains in use at a particular location. In such case, the transferor shall give the transferee a copy of this section, a copy of WAC 246-221-240, 246-221-250, 246-232-050, and 246-232-060, and any safety documents identified by the label of the device. Within thirty days of the transfer, the transferor shall report to the department: The name of the manufacturer (or initial transferor), model number, serial number, and the source, nuclide(s), and original activity contained in the device(s) transferred; the transferee's name and mailing address for the location of use, and the name, title, and phone number of the responsible individual identified by the transferee in accordance with (j) of this subsection to have knowledge of and authority to take action to ensure compliance with the appropriate regulations and requirements; or

(ii) The device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

(i) Shall comply with the provisions of WAC 246-221-240 and 246-221-250 for reporting radiation incidents, or theft or loss of radioactive material, but shall be exempt from other requirements of chapters 246-221 and 246-222 WAC;

(j) Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any responsibility in this regard;

(k)(i) Shall register, in accordance with (k)(ii) and (iii) of this subsection, devices containing at least 370 megabecquerels (10 millicuries) of Cesium-137, 3.7 megabecquerels (0.1 millicurie(s)) of Strontium-90, 3.7 megabecquerels (100 microcuries) of Radium-226, 37 megabecquerels (1 millicurie) of Cobalt-60, or 37 megabecquerels (1 millicurie) of Americium-241, or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under (k)(iii)(D) of this subsection, rep-

resents a separate general licensee and requires a separate registration and fee;

(ii) If in possession of a device meeting the criteria of (k)(i) of this subsection, shall register these devices annually with the department and shall pay the fee required by WAC 246-254-090. Registration must be done by verifying, correcting, or adding to the information provided in a request for registration received from the department. The registration information must be submitted to the department within thirty days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of (k)(i) of this subsection is subject to the bankruptcy notification requirement in WAC 246-232-050;

(iii) When registering devices, the general licensee shall provide the following information and any other information specifically requested by the department:

(A) Name and mailing address of the general licensee;

(B) Information about each device: The manufacturer (or initial transferor), model number, serial number, the radionuclide and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under (j) of this subsection;

(D) Address or location at which the device(s) are used or stored. For portable devices, the address of the primary place of storage;

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and verification of label information;

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license;

(iv) WAC 246-232-040, Reciprocal recognition of licenses describes how persons licensed by the NRC or an agreement state may obtain approval to work in Washington(-);

(l) Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the department within thirty days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;

(m) Shall not hold devices that are not in use for longer than two years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by subsection (3)(b) of this section need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby;

(n) Must respond to written requests from the department to provide information relating to the general license within thirty calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide

the requested information within the allotted time, it shall, within the same time period, request a longer period to supply the information by providing a written justification for the extension request.

(4) The general license in subsection (1) of this section does not authorize the manufacture, import, or export of devices containing radioactive material. A person must not export the device containing radioactive material except in accordance with NRC's regulations, including 10 C.F.R. Part 110, and in accordance with other applicable federal, state, and local regulations including, but not limited to, the U.S. Department of Commerce, U.S. Department of Revenue, U.S. Department of Transportation, and any other applicable jurisdiction for each export.

(5) The general license provided in this subsection is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-221-240, 246-221-250, 246-232-050, 246-232-060, 246-232-070, 246-232-080, and 246-232-090.

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-010 Filing application for specific licenses. (1) Applications for specific licenses must be filed on department form RHF-1.

(2) The department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the department to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application must be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's behalf.

(4) An application for a license may include a request for a license authorizing one or more activities.

(5) In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the department provided such references are clear and specific.

(6) Except as provided in (c), (d), and (e) of this subsection, an application for a specific license to use radioactive materials in the form of a sealed source or in a device that contains the sealed source must:

(a) Identify the source or device by manufacturer and model number; or

(b) Be registered with the NRC under 10 C.F.R. 32.210; or

(c) For sources or devices manufactured before October 23, 2012, that are not registered with the NRC((-provide)) or an agreement state, and for which the applicant is unable to provide all categories of information specified in WAC 246-235-108(3), the application must include:

(i) All available information identified in WAC 246-235-108(3) concerning the source, and, if applicable, the device;

(ii) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must

include a description of the source or device, a description of radiation safety features, the intended use (~~(-relevant operational safety history)~~) and associated operating experience, and the results of the most recent leak test.

(d) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with 10 C.F.R. 32.210 or this section, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.

(e) If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used, and the conditions under which they will be used, in lieu of identifying each sealed source and device.

(7) Applications and documents submitted to the department may be made available for public inspection except that the department may withhold any document or part thereof from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.

NEW SECTION

WAC 246-235-082 Special requirements for issuance of a specific license to initially transfer source material. In addition to the requirements set forth in WAC 246-235-020, an application for a specific license to initially transfer source material for use under 10 C.F.R. 40.22 or WAC 246-233-010 or equivalent regulations of an agreement state will be approved if:

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

(2) The applicant submits adequate information about, and the department approves, the methods to be used for quality control, labeling, and providing safety instructions to recipients.

NEW SECTION

WAC 246-235-083 Conditions of licenses to initially transfer source material for use under general license—Quality control, labeling, safety instructions, and reports and records. (1) Each person licensed under WAC 246-235-082 shall label the immediate container of each quantity of source material with the type and quantity of source material and the words "radioactive material."

(2) Each person licensed under WAC 246-235-082 shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

(3) Each person licensed under WAC 246-235-082 shall provide the information specified in this section to each person to whom source material is transferred for use under WAC 246-233-010, 10 C.F.R. 40.22, or equivalent provisions in agreement state regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

(a) A copy of 10 C.F.R. 40.22 and 10 C.F.R. 40.51, or WAC 246-232-080 and 246-233-010, or equivalent agreement state regulations.

(b) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

(4) Each person licensed under this section shall report transfers as follows:

(a) File a report with the director, Office of Radiation Protection, Radioactive Materials Section, P.O. Box 47827, Olympia, WA 98504. The report shall include the following information:

(i) The name, address, and license number of the person who transferred the source material;

(ii) For each general licensee under these rules, 10 C.F.R. 40.22, or equivalent agreement state regulations, to whom greater than 50 grams (0.11 lbs.) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

(iii) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.

(b) File a report with each responsible agreement state agency that identifies all persons, operating under provisions of 10 C.F.R. 40.22 or equivalent regulations of the department or an agreement state, to whom greater than 50 grams (0.11 lbs.) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to those transfers made to the agreement state being reported to:

(i) The name, address, and license number of the person who transferred the source material;

(ii) The name and address of the general licensee to whom source material was distributed; a responsible agent, by name or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

(iii) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients within the agreement state.

(c) Submit each report by January 31st of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under 10 C.F.R. 40.22 or equivalent department rules or agreement state regulations during the current period, a report shall be submitted to the department so indicating. If no transfers have been made to general licensees in a particular agreement state during the reporting period, this information shall be reported to the responsible agreement state agency upon request by the agency.

(5) Each person licensed under 10 C.F.R. 40.54 or equivalent department or agreement state regulations shall maintain all information that supports the reports required by this section concerning each transfer to a general licensee for a period of one year after the event is included in a report to the department, NRC, or to an agreement state agency.

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-093 Manufacture, assembly or distribution of devices under general license. (1) An application for a specific license to manufacture or initially transfer or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under WAC 246-233-020 or equivalent regulations of the NRC or an agreement state will be approved if:

- (a) The applicant satisfies the general requirements of WAC 246-235-020;
(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:
(i) The device can be safely operated by persons not having training in radiological protection;
(ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in one year a dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1); and
(iii) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

Table with 2 columns: Organ, Dose. Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye: 15 centigray (15 rem). Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter: 200 centigray (200 rem). Other organs: 50 centigray (50 rem).

- (c) Each device bears a durable, legible, clearly visible label or labels approved by the department, which contain in a clearly identified and separate statement:
(i) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);
(ii) The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by nuclide, quantity of radioactivity, and date of determination of the quantity; and
(iii) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(A) The receipt, possession, use and transfer of this device, Model, Serial No. Note*, are subject to a general license or the equivalent, and the regulations of the NRC or a state with which the NRC has entered into an agreement for the exercise of regulatory authority. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

(Name of manufacturer or distributor)*

(B) The receipt, possession, use and transfer of this device, Model, Serial No. Note*, are subject to a general license or the equivalent, and the rules of an agreement state. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

(Name of manufacturer or distributor)*

*Note: The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(d) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the nuclide and quantity, the words, "CAUTION - RADIOACTIVE MATERIAL," the radiation symbol described in WAC 246-221-120, and the name of the manufacturer or initial distributor;

(e) Each device meeting the criteria of WAC 246-233-020 (3)(k), bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "CAUTION - RADIOACTIVE MATERIAL," and, if practicable, the radiation symbol described in WAC 246-221-120;

(f) The device has been registered in the sealed source and device registry.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information which 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 devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under WAC 246-233-020, or under equivalent regulations of the NRC or an agreement state be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant must include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information must demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive in one year a radiation dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1).

(4) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to generally licensed persons must provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. If transfer is through an intermediate person, the information must also be provided to the intended user before initial transfer to the intermediate person.

(a) If a device containing radioactive material is to be transferred for use under the general license contained in WAC 246-233-020, the required information must include:

(i) A copy of the general license contained in WAC 246-233-020. If WAC 246-233-020 (3)(b), (c), and (d) or (k) do not apply, those subsections may be omitted;

(ii) A copy of WAC 246-232-050, 246-221-230, 246-221-240, and 246-221-250;

(iii) A list of the services that can only be performed by a specific licensee; and

(iv) Information on acceptable disposal options including estimated costs of disposal; and

(v) An indication that the NRC's policy is to issue high civil penalties for improper disposal.

(b) If a device containing radioactive material is to be transferred for use in another jurisdiction under a general license equivalent to WAC 246-233-020, the required information must include:

(i) A copy of the appropriate NRC or an agreement state's regulations, equivalent to WAC 246-233-020, 246-232-050, 246-221-230, 246-221-240, and 246-221-250. If a copy of WAC 246-233-020, 246-232-050, 246-221-230, 246-221-240, and 246-221-250 is provided to a prospective general licensee in lieu of the NRC's or the agreement state's regulations, it must be accompanied by a note explaining that the use of the device is regulated by the NRC or the agreement state. If certain subsections do not apply to the particular device, those subsections may be omitted;

(ii) A list of the services that can only be performed by a specific licensee;

(iii) Information on acceptable disposal options including estimated cost of disposal;

(iv) The name or title, address, and phone number of the contact at the appropriate NRC or an agreement state regula-

tory agency from which additional information may be obtained; and

(v) An indication that NRC policy is to issue high civil penalties for improper disposal;

(c) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under WAC 246-233-020 must report to the department all transfers of devices to persons for use under the general license in WAC 246-233-020 and all receipts of devices from persons licensed under WAC 246-233-020.

(i) Each report must be clear and legible and contain all of the data required. The required information for transfers to general licensees includes:

(A) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee must be included with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The manufacturer or initial transferor, the type, model number and serial number of the device transferred; and

(E) The source serial(s), nuclide(s), activity, and date(s) of original activity of radioactive material contained in the device.

(ii) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, clearly identify and designate each intermediate person by name, address, contact, and relationship to the intended user.

(iii) For devices received from a general licensee under WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received; and the source serial(s), nuclide(s), activity, and date(s) of original activity of radioactive material contained in the device;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(iv) If the licensee makes changes to a device possessed by a person generally licensed under WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(v) If no transfers have been made to or from persons generally licensed under WAC 246-233-020 during the reporting period, the report must so indicate.

(vi) The report must cover each calendar quarter, must clearly indicate the period covered by the report, and must be filed within thirty days of the end of the calendar quarter.

(vii) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(d) Reports to NRC or an agreement state regulatory agency.

(i) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under the NRC's regulations equivalent to WAC 246-233-020 must report to the NRC all transfers of devices to persons for use under a general license equivalent to WAC 246-233-020 and all receipts of devices from persons licensed under regulations equivalent to WAC 246-233-020.

(ii) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under an agreement state's regulations equivalent to WAC 246-233-020 must report to the agreement state's regulatory authority all transfers of devices to persons for use under a general license equivalent to WAC 246-233-020 and all receipts of devices from persons licensed under regulations equivalent to WAC 243-233-020.

(iii) Such report must be clear and legible and contain all of the data required. The required information for transfers to general licenses must include:

(A) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee must be submitted along with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type, model number and serial number of the device transferred; and

(E) The quantity and type of radioactive material contained in the device.

(iv) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(v) For devices received from persons generally licensed under NRC's or an agreement state's regulations equivalent to WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(vi) If the licensee makes changes to a device possessed by a person generally licensed under NRC's or an agreement state's regulations equivalent to WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(vii) The report must cover each calendar quarter, must be filed within thirty days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(viii) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(ix) If no transfers have been made to or from NRC licensees during the reporting period, this information must be reported to the NRC.

(x) If no transfers have been made to or from general licensees within an agreement state during the reporting period, this information must be reported to the responsible agreement state agency upon request of the agency.

(e) The person shall maintain all information and keep records concerning transfers and receipts of devices that support the reports required by this section. Records required by this section must be maintained for a period of three years following the date of the recorded event.

(f) If a notification of bankruptcy has been made under WAC 246-233-050 or the license is to be terminated, each person licensed under this section shall provide, upon request, to the department, the NRC or an agreement state, records of final disposition required under ~~((this subsection (4)))~~(e) of this subsection.

AMENDATORY SECTION (Amending WSR 04-04-055, filed 1/30/04, effective 3/1/04)

WAC 246-235-095 Manufacture, assembly, or distribution of luminous safety devices, certain calibration sources or ice detectors under general license. (1) *Special requirements for the manufacture, assembly or repair of luminous safety devices for use in aircraft.* An application for a specific license to manufacture, assemble ~~((or))~~, repair, or initially transfer luminous safety devices containing tritium or promethium-147 for use in aircraft for distribution to persons generally licensed under WAC 246-233-025 will be approved subject to the following conditions:

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

(b) The applicant satisfies the requirements of Sections 32.53, 32.54, 32.55, and 32.56~~((, 32.101))~~ of 10 C.F.R. Part 32 or their equivalent.

(2) *Special requirements for license to manufacture calibration sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under WAC 246-233-035.* An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed under WAC 246-233-035 will be approved subject to the following conditions:

(a) The applicant satisfies the general requirement of WAC 246-235-020; and

(b) The applicant satisfies the requirements of Sections 32.57, 32.58, and 32.59~~((, 32.102))~~ of 10 C.F.R. Part 32 and Section 70.39 of 10 C.F.R. Part 70 or their equivalent.

(3) *Licensing the manufacture and distribution of ice detection devices.* An application for a specific license to manufacture and distribute ice detection devices to persons

generally licensed under WAC 246-233-030 will be approved subject to the following conditions:

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

(b) The criteria of Sections 32.61((:)) and 32.62((: 32-103)) of 10 C.F.R. Part 32 are met.

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

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 under chapter 246-240 WAC for use as a calibration, transmission, or reference source or for the uses listed in WAC 246-240-251, 246-240-301, and 246-240-351 will be approved if:

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

(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 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 under chapter 246-240 WAC or under equivalent regulations of the NRC or an agreement state: Provided that the labeling for sources which do not require long term storage may be on a leaflet or brochure which accompanies the source((-));

(4) The source or device has been registered in the sealed source and device registry.

(5) If the applicant desires that the source or device 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 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 significant bearing on the probability or consequences of leakage of radioactive material from the source.

~~((5))~~ (6) 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.

NEW SECTION

WAC 246-235-108 Sealed source and device registration and inactivation. (1) Any manufacturer or initial distributor of a sealed source or device containing a sealed source may submit a request to the department or NRC for evaluation of radiation safety information about its product and for its registration.

(2) Request for review must be sent to the department or to NRC's office of nuclear material safety and safeguards, ATTN: SDDR, by an appropriate method listed in 10 C.F.R. 30.6(a).

(3) The request for review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and, for a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

(4) The department normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the department formulates reasonable standards and criteria with the help of the manufacturer or distributor. The department shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property. 10 C.F.R. 32 Subpart A includes specific criteria that apply to certain exempt products, Subpart B includes specific criteria applicable to certain generally licensed devices, and Subpart C includes specific provisions that apply to certain specifically licensed items.

(5) After completion of the evaluation, the department issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product, or concerning use under an exemption from licensing or general license as applicable for the category of certificate.

(6) The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with:

(a) The statements and representations, including quality control program, contained in the request; and

(b) The provisions of the registration certificate.

(7) Authority to manufacture or initially distribute a sealed source or device to specific licensees may be provided in the license without the issuance of a certificate of registration in the following cases:

(a) Calibration and reference sources containing no more than:

(i) 37 megabecquerels (one millicurie) for beta or gamma emitting radionuclides; or

(ii) 0.37 megabecquerels (ten microcuries), for alpha emitting radionuclides; or

(b) The intended recipients are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in any form in the case of unregistered sources or, for registered sealed sources contained in unregistered devices, are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in unshielded form, as specified in their licenses and:

(i) The intended recipients are licensed under WAC 246-235-090 of this chapter, 10 C.F.R. 33, or comparable provisions of an agreement state;

(ii) The recipients are authorized for research and development; or

(iii) The sources and devices are to be built to the unique specifications of the particular recipient and contain no more than 740 gigabecquerels (20 curies) of tritium (H-3) or 7.4 gigabecquerels (200 millicuries) of any other radionuclide.

(8) After the certificate is issued, the department may conduct an additional review as it determines is necessary to ensure compliance with current regulatory standards. In conducting its review, the department will complete its evaluation in accordance with criteria specified in this section. The department may request such additional information as it considers necessary to conduct its review and the certificate holder shall provide the information as requested.

(9)(a) A certificate holder who no longer manufactures or initially transfers any of the sealed sources or devices covered by a particular certificate issued by the department or NRC shall request inactivation of the registration certificate from the issuing regulatory authority. Such a request must be made to the department, or (as appropriate) to NRC's office of nuclear material safety and safeguards, ATTN: SDDR by an appropriate method listed in 10 C.F.R. 30.6(a) and must normally be made no later than two years after initial distribution of all of the sources or devices covered by the certificate has ceased. However if the certificate holder determines

that an initial transfer was in fact the last initial transfer more than two years after that transfer, the certificate holder shall request inactivation of the certificate within ninety days of this determination and briefly describe the circumstances of the delay.

(b) If a distribution license is to be terminated in accordance with chapters 246-232, 246-233, and 246-235 WAC, the licensee shall request inactivation of its registration certificates associated with that distribution license before the department will terminate the license. Such a request for inactivation of certificates must indicate that the license is being terminated and include the associated specific license number.

(c) A specific license to manufacture or initially transfer a source or device covered only by an inactivated certificate no longer authorizes the licensee to initially transfer such sources or devices for use. Servicing of devices must be in accordance with any conditions in the certificate, including in the case of an inactive certificate.

AMENDATORY SECTION (Amending WSR 91-02-049, filed 12/27/90, effective 1/31/91)

WAC 246-243-001 Purpose. The regulations in this chapter establish radiation safety requirements for persons utilizing sources of radiation for industrial radiography. The requirements of this ~~((part))~~ chapter are in addition to and not in substitution for ~~((the))~~ other requirements of these regulations.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-010 Scope. The regulations in this chapter apply to all licensees who use sources of radiation for industrial radiography: Provided, however, that nothing in this ~~((part))~~ chapter shall apply to the use of sources of radiation in the healing arts.

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

WAC 246-243-020 Definitions, abbreviations, and acronyms. ((As used in this part:)) The definitions, abbreviations, and acronyms in this section and in WAC 246-220-010 apply throughout this chapter, unless the context clearly indicates otherwise.

(1) **"Annual refresher safety training"** means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, new or revised regulations, accidents or errors that have been observed, and should also provide opportunities for employees to ask safety questions.

(2) **"Associated equipment"** means equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures ~~((that))~~ which drives, guides, or comes in contact with the source, ~~((e.g.,))~~ for example guide tube, control tube, control (drive) cable, removable source

stop, "J" tube and collimator(†)) when it is used as an exposure head.

(3) **"Certifying entity"** means an independent certifying organization meeting the requirements in WAC 246-243-250 Appendix C or an agreement state meeting the requirements in WAC 246-243-250 Appendix C, subsections (2) and (3).

(4) **"Collimator"** means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size of the radiation beam when the sealed source is cranked into position to make a radiographic exposure.

(5) **"Control (drive) cable"** means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

(6) **"Control drive mechanism"** means a device that enables the source assembly to be moved to and from the exposure device.

(7) **"Control tube"** means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

(8) **"Exposure head"** means a device that locates the gamma radiography sealed source in the selected working position. (An exposure head is also known as a source stop.)

(9) **"Field station"** means a facility where licensed material may be stored or used and from which equipment is dispatched.

(10) **"Guide tube (projection sheath)"** means a flexible or rigid tube ((+i.e., "J" tube))) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

(11) **"Hands-on experience"** means experience in all of those areas considered to be directly involved in the radiography process.

(12) **"Independent certifying organization"** means an independent organization that meets all of the criteria of WAC 246-243-250 Appendix C.

(13) **"Industrial radiography"** ((radiography)) means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation to make radiographic images. Industrial radiography as used in this chapter does not include well logging operations.

(14) **"Lay-barge radiography"** means industrial radiography performed on any water vessel used for laying pipe.

(15) **"Offshore platform radiography"** means industrial radiography conducted from a platform over a body of water.

(16) **"Permanent radiographic installation"** means an enclosed shielded room, cell or vault, not located at a temporary job site, in which radiography is performed, regardless of ownership.

(17) **"Practical examination"** means a demonstration through practical application of the safety rules and principles in industrial radiography including use of all appropriate equipment and procedures.

(18) **"Radiation safety officer for industrial radiography"** means an individual with the responsibility for the

overall radiation safety program on behalf of the licensee and who meets the requirements of WAC 246-243-047.

(19) **"Radiographer"** means any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee for assuring compliance with the requirements of these regulations and all license conditions.

(20) **"Radiographer certification"** means written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.

(21) **"Radiographer's assistant"** means any individual who, under the personal supervision of a radiographer, uses sources of radiation, related handling tools, or radiation survey instruments in industrial radiography.

(22) **"Radiographic exposure device"** means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed, from a shielded to unshielded position for purposes of making a radiographic exposure.

(23) **"Radiographic operations"** means all activities associated with the presence of radioactive sources in a radiographic exposure device during use of the device or transport (except when being transported by a common or contract carrier), to include surveys to confirm the adequacy of boundaries, setting up equipment and any activity inside restricted area boundaries.

(24) **"S-tube"** means a tube through which the radioactive source travels when inside a radiographic exposure device.

(25) **"Shielded position"** means the location within the radiographic exposure device or source changer where the sealed source is secured and restricted from movement.

(26) **"Source assembly"** means an assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

(27) **"Source changer"** means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

(28) **"Storage area"** means any location, facility, or vehicle which is used to store or to secure a radiographic exposure device, a storage container, or a sealed source when it is not in use and which is locked or has a physical barrier to prevent accidental exposure, tampering with, or unauthorized removal of the device, container, or source.

(29) **"Storage container"** means a container in which sealed sources are secured and stored.

(30) **"Temporary job site"** means a location where radiographic operations are conducted and where licensed material may be stored other than those ((location(s))) locations of use authorized on the license.

(31) **"Underwater radiography"** means industrial radiography performed when the radiographic exposure device ((and/)) or related equipment are beneath the surface of the water.

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

WAC 246-243-030 Conducting industrial radiography operations. (1) Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has at a minimum met the requirements of WAC 246-243-130(2) (radiographer's assistant). The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

(2) All radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized by the department.

(3) Offshore platform, lay-barge, ~~((and/))~~ or underwater radiography shall be performed only by licensees whose license specifically authorizes such activity. Such operations fall under the jurisdiction of the United States Nuclear Regulatory Commission when conducted outside of the territorial waters of the state of Washington.

~~((4) Licensees will have until January 1, 2001, to meet the requirement for having two qualified individuals present at locations other than a permanent radiographic installation as specified in subsection (1) of this section.))~~

AMENDATORY SECTION (Amending WSR 99-05-012, filed 2/5/99, effective 3/8/99)

WAC 246-243-040 Equipment performance requirements. Equipment used in industrial radiography operations must meet the following minimum criteria:

(1)(a) Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standards Institute, N432-1980 "*Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography*," (published as NBS Handbook 136, issued January 1981). This publication may be purchased from American National Standards Institute, Inc., 25 West 43rd Street, New York, New York, 10036; telephone: 212-642-4900. Copies of the document are available for inspection at the Department of Health, ~~((Division))~~ Office of Radiation Protection, Olympia, Washington. A copy of the document is also on file at the National Archives and Records Administration. For information on the availability of this material at the National Archives and Records Administration call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) Engineering analysis may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the department may find this an acceptable alternative to actual testing of the component pursuant to the above referenced standard.

(c) Notwithstanding (a) of this subsection, equipment used in industrial radiographic operations need not comply with § 8.9.2(c) of the Endurance Test in American National

Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

(2) In addition to the requirements specified in subsection (1) of this section, the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources.

(a) The licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, clearly visible label bearing the:

(i) Chemical symbol and mass number of the radionuclide in the device;

(ii) Activity and the date on which this activity was last measured;

(iii) Model (or product code) and serial number of the sealed source;

(iv) Manufacturer's identity of the sealed source; and

(v) Licensee's name, address, and telephone number.

(b) Radiographic exposure devices intended for use as Type B transport containers must meet the applicable requirements of 10 C.F.R. Part 71.

(c) Modification of radiographic exposure devices, source changers, and source assemblies and associated equipment is prohibited, unless the design of any replacement component, including source holder, source assembly, controls or guide tubes would not compromise the design safety features of the system.

(3) In addition to the requirements specified in subsections (1) and (2) of this section, the following requirements apply to radiographic exposure devices, source assemblies, and associated equipment that allow the source to be moved out of the device for radiographic operations or to source changers.

(a) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it ~~((can not))~~ cannot be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. The securing system may only be released by means of a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fitting on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand, or other foreign matter.

(d)(i) Each sealed source or source assembly must have attached to it or engraved on it, a durable, legible, visible label with the words: "DANGER—RADIOACTIVE."

(ii) The label may not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube must be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand

a kinking resistance test that closely approximates the kinking forces likely to be encountered during use.

(f) Guide tubes must be used when moving the source out of the device.

(g) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube must be attached to the outermost end of the guide tube during radiographic operations.

(h) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432-1980.

(i) Source changers must provide a system for ensuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(4) All radiographic exposure devices and associated equipment in use after January 1, 1998, must comply with the requirements of this section.

(5) The maximum exposure rate limits for storage containers and source changers with the sealed source in the shielded position are:

(a) 2 millisieverts (200 millirem) per hour at any exterior surface; and

(b) 0.1 millisieverts (10 millirem) per hour at one meter from any exterior surface.

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

WAC 246-243-042 Labeling, storage, and transportation. (1) The licensee may not use a source changer or a container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol in conventional colors, ~~((i.e.))~~ that is, magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording:

CAUTION (or "DANGER")
RADIOACTIVE MATERIAL
NOTIFY CIVIL AUTHORITIES IF FOUND
(or "NAME OF COMPANY")

(2) The licensee may not transport licensed material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with regulations set out in 10 C.F.R. Part 71.

(3) Locked radiographic exposure devices and storage containers must be physically secured to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner which will minimize danger from explosion or fire.

(4) The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

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

WAC 246-243-044 Records of receipt and transfer of sealed sources. (1) Each licensee shall maintain records showing the receipts and transfers of sealed sources and of devices using depleted uranium (DU) for shielding and retain each record for three years after it is made.

(2) These records must include the date, shipper or destination, the name of the individual making the record, radionuclide, number of becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each sealed source (~~(and)~~) or device, as appropriate.

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

WAC 246-243-047 Radiation safety officer for industrial radiography. The radiation safety officer (RSO) shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's program.

(1) The minimum qualifications, training, and experience for RSOs for industrial radiography are as follows:

(a) Completion of the training and testing requirements of WAC 246-243-130(1);

(b) Two thousand hours of hands-on experience as a qualified radiographer in industrial radiographic operations utilizing sealed radioactive material; and

(c) Formal training in the establishment and maintenance of a radiation protection program.

(2) The department will consider alternatives when the RSO has appropriate training (~~(and)~~) or experience in the field of ionizing radiation, and in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program.

(3) The specific duties and authorities of the RSO include, but are not limited to:

(a) Establishing and overseeing all operating, emergency, and ALARA procedures as required by chapter 246-221 WAC, and reviewing them regularly to ensure that the procedures in use conform to current chapter 246-221 WAC requirements, conform to other department regulations and to the license conditions;

(b) Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;

(c) Ensuring that required radiation surveys and leak tests are performed and documented in accordance with the regulations, including any corrective measures when levels of radiation exceed established limits;

(d) Ensuring that personnel monitoring devices are calibrated and used properly by occupationally exposed personnel, that records are kept of the monitoring results, and that timely notifications are made as required by WAC 246-221-260; and

(e) Ensuring that operations are conducted safely and to assume control for instituting corrective actions including stopping of operations when necessary.

(4) The licensee will have until January 1, 2001, to meet the requirements of subsection (1) or (2) of this section.

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

WAC 246-243-100 Quarterly inventory. Each licensee shall conduct a quarterly physical inventory to account for all sealed sources and for devices containing depleted uranium (DU) received or possessed. The records of the inventories shall be maintained for three years from the date of inventory for inspection by the department and shall include:

- (1) Exposure device or source changer make, model, and serial number;
- (2) Sealed source serial number and manufacturer;
- (3) Radionuclide and current activity in becquerels (curies) or mass (for DU) in each device;
- (4) Location of sealed source (~~(and)~~) or device/changer;
- (5) Date of inventory;
- (6) Name of person who performed inventory.

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

WAC 246-243-120 Inspection and maintenance of radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments. (1) The licensee shall perform visual and operability checks on survey meters, radiographic exposure devices, transport and storage containers, associated equipment and source changers before use on each day the equipment is to be used to ensure that the equipment is in good working condition, that the sources are adequately shielded, and that required labeling is present. Survey instrument operability must be performed using check sources or other appropriate means. If equipment problems are found, the equipment must be removed from service until repaired.

(2) Each licensee shall have written procedures for:

(a) Inspection and routine maintenance of radiographic exposure devices, source changers, associated equipment, transport and storage containers, and survey instruments at intervals not to exceed three months or before the first use thereafter to ensure the proper functioning of components important to safety. Replacement components shall meet design specifications. If equipment problems are found, the equipment must be removed from service until repaired.

(b) Inspection and maintenance necessary to maintain the Type B packaging used to transport radioactive materials. The inspection and maintenance program must include procedures to assure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

(3) Any maintenance performed on radiographic exposure devices and accessories shall be in accordance with the manufacturer's specifications.

(4) Records of daily checks and quarterly inspections including any equipment problems identified and of any maintenance performed under subsections (1) and (2) of this section shall be made and retained for three years. The record shall include:

- (a) The date of check or inspection;
- (b) Name of inspector;
- (c) Equipment involved;

- (d) Any problems found; and
- (e) What repair (~~(and)~~) or maintenance, if any, was done.

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

WAC 246-243-130 Limitations—Personal radiation safety requirements for radiographers and radiographers' assistants. (1) No licensee shall permit any individual to act as a radiographer as defined in this chapter until such individual:

(a) Has been instructed in the subjects outlined in WAC 246-243-230, in addition to a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in WAC 246-243-250, Appendix C or equivalent regulations of the United States Nuclear Regulatory Commission or an agreement state. The department maintains a list of recognized certifying entities for reference. The licensee may, until January 1, 2001, allow an individual who has not met the requirement of this subsection, to act as a radiographer after the individual has received training in the subjects outlined in WAC 246-243-230 and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the department;

(b) Has received copies of and instruction in the regulations contained in chapters 246-220, 246-221, 246-222, 246-231, and 246-243 WAC, in the United States Department of Transportation regulations as referenced in chapter 246-231 WAC, and the applicable sections of appropriate (~~(license(s))~~) license, and the licensee's operating and emergency procedures, and shall have demonstrated understanding thereof by successful completion of a written or oral examination covering this material;

(c) Has received training in the use of the licensee's radiographic exposure devices, sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of radiographic exposure devices, sources, survey instruments and associated equipment described in subsection (1)(c) of this section by successful completion of a practical examination on the subjects covered.

(2) No licensee shall permit any individual to act as a radiographer's assistant as defined in this chapter until such individual:

(a) Has received copies of and instruction in the regulations contained in chapters 246-220, 246-221, 246-222, 246-231, and 246-243 WAC, in the United States Department of Transportation regulations as referenced in chapter 246-231 WAC, and the applicable sections of appropriate (~~(license(s))~~) license, and the licensee's operating and emergency procedures;

(b) Has developed competence to use under the personal supervision of the radiographer the radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments which will be employed in the individual's assignment; and

(c) Has demonstrated understanding of the instructions provided under (a) of this subsection by successfully completing a written test on the subjects covered and has demonstrated competence in the use of the hardware described in (b) of this subsection by successful completion of a practical examination on the use of such hardware.

(3) Each licensee shall maintain, for inspection by the department, records of training and certification which demonstrate that the requirements of subsections (1) and (2) of this section are met. These records shall be maintained for three years after the record is made. The record shall include:

- (a) Radiographer certification documents and verification of certification status;
- (b) Copies of written tests;
- (c) Dates of oral and practical examinations; and
- (d) Names of individuals conducting and receiving the oral and practical examinations.

(4) Licensees will have until January 1, 2001, to comply with the certification requirements specified in subsection (1)(a) of this section, and the additional training requirements specified in subsections (1)(b) and (2)(a) of this section.

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

WAC 246-243-200 Records required at temporary job sites. Each licensee conducting radiographic operations at a temporary site shall have copies of the following documents and records available at that site for inspection by the department:

- (1) Appropriate license;
- (2) Operating and emergency procedures;
- (3) Applicable regulations;
- (4) Survey records required pursuant to WAC 246-243-190 for the period of operation at the site;
- (5) Direct reading dosimeter records for the period of operation at the site;
- (6) The latest radiation survey instrument calibration record and leak test record for specific devices in use at the site;
- (7) The latest calibration record for alarm rate meters and operability checks of pocket dosimeters (~~and~~) or electronic personal dosimeters as required by WAC 246-243-150;
- (8) Utilization records for each radiographic exposure device dispatched from that location as required by WAC 246-243-110;
- (9) Records of equipment problems identified in daily checks of equipment as required by WAC 246-243-120;
- (10) Records of alarm system and entrance control checks required by WAC 246-243-220, if applicable;
- (11) The shipping papers for the transportation of radioactive materials; and
- (12) When operating under reciprocity pursuant to WAC 246-232-040, a copy of the NRC or agreement state license authorizing the use of radioactive material.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-205 Temporary job site notification.
(1) Each licensee shall provide notification to the department

as required by the department, preferably twenty-four hours but no later than two hours, prior to beginning radiographic operations at a temporary job site. The notification will be given by using the prescribed 1-800 telephone notification system. The notification shall include:

- (a) Name and office telephone number of the licensee;
- (b) Radioactive materials license number;
- (c) Address or directions to the temporary job site;
- (d) Specific (~~(date(s), time(s))~~) dates, times, and duration of expected radiographic operations;
- (e) Names of radiographers and, if applicable, radiographer assistants taking part in the radiographic operations; and
- (f) Name and telephone number of a contact person at the temporary job site.

(2) In the event that operations at a temporary job site continue for longer than thirty days, the licensee will (~~re-~~~~notify~~) again notify the department, as required by subsection (1) of this section, each succeeding month.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-240 Appendix B—General guidelines for inspection of radiography equipment. (1) Panoramic devices (devices in which the source is physically removed from shielded container during exposure) should be inspected for:

- (a) Radiographic exposure unit;
 - (i) Abnormal surface radiation levels anywhere on camera;
 - (ii) Condition of safety plugs;
 - (iii) Proper operation of locking mechanism;
 - (iv) Condition of pigtail connector;
 - (v) Alignment of "S" tube with exit port;
 - (vi) Condition of carrying device (for example, straps(;- handle, etc.) and handles);
 - (vii) Proper labeling;
 - (b) Source tube;
 - (i) Rust, corrosion, dirt, or sludge buildup inside the source tube;
 - (ii) Condition of source tube connector;
 - (iii) Condition of source stop;
 - (iv) Kinks or damage that could prevent proper operation;
 - (c) Control cables and drive mechanism;
 - (i) Proper drive mechanism for this camera, if appropriate;
 - (ii) Changes in general operating characteristics;
 - (iii) Condition of connector on drive cable;
 - (iv) Drive cable flexibility, wear, and rust;
 - (v) Excessive wear or damage to crank assembly parts;
 - (vi) Damage to drive cable conduit that could prevent the cable from moving freely;
 - (vii) Connection of the control cable connector with the pigtail connector for proper mating;
 - (viii) Proper operation of source position indicator, if applicable.
- (2) Directional beam devices should be inspected for:
- (a) Abnormal surface radiation;

- (b) Changes in the general operating characteristics of the unit;
- (c) Proper operation of shutter mechanism;
- (d) Chafing or binding of shutter mechanism;
- (e) Damage to the device which might impair its operation;
- (f) Proper operation of locking mechanism;
- (g) Proper drive mechanism with this camera, if appropriate;
- (h) Condition of carrying device (~~((strap, handle, etc.))~~ for example, straps and handles);
- (i) Proper labeling.

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

WAC 246-243-250 Appendix C—Radiographer certification. (1) Requirements for an independent certifying organization. An independent certifying organization shall:

- (a) Be an organization such as a society or association, whose members participate in, or have an interest in, the fields of industrial radiography;
- (b) Make its membership available to the general public nationwide that is not restricted because of race, color, religion, sex, age, national origin or disability;
- (c) Have a certification program open to nonmembers, as well as members;
- (d) Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- (e) Have an adequate staff, a viable system for financing its operations, and a policy- and decision-making review board;
- (f) Have a set of written organizational by-laws and policies that provide adequate assurance of lack of conflict of interest and a system for monitoring and enforcing those by-laws and policies;
- (g) Have a committee, whose members can carry out their responsibilities impartially, to review and approve the certification guidelines and procedures, and to advise the organization's staff in implementing the certification program.
- (h) Have a committee, whose members can carry out their responsibilities impartially, to review complaints against certified individuals and to determine appropriate sanctions;
- (i) Have written procedures describing all aspects of its certification program, maintain records of the current status of each individual's certification and the administration of its certification program;
- (j) Have procedures to ensure that certified individuals are provided due process with respect to the administration of its certification program, including the process of becoming certified and any sanctions imposed against certified individuals;
- (k) Have procedures for proctoring examinations, including qualifications for proctors. These procedures must ensure that the individuals proctoring each examination are not employed by the same company or corporation (or a

wholly owned subsidiary of such company or corporation) as any of the examinees;

(l) Exchange information about certified individuals with the department, the US Nuclear Regulatory Commission, other independent certifying organizations (~~and~~) or agreement states and allow periodic review of its certification program and related records; and

(m) Provide a description to the department of its procedures for choosing examination sites and for providing an appropriate examination environment.

(2) Requirements for certification programs. All certification programs must:

(a) Require applicants for certification to:

(i) Receive training in the topics set forth in WAC 246-243-230 or equivalent NRC or agreement state regulations; and

(ii) Satisfactorily complete a written examination covering these topics;

(b) Require applicants for certification to provide documentation that demonstrates that the applicant has:

(i) Received training in the topics set forth in WAC 246-243-230 or equivalent NRC or agreement state regulations;

(ii) Satisfactorily completed a minimum period of on-the-job training; and

(iii) Received verification by an agreement state or a NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer;

(c) Include procedures to ensure that all examination questions are protected from disclosure;

(d) Include procedures for denying an application, revoking, suspending, and reinstating a certificate;

(e) Provide a certification period of not less than three years nor more than five years;

(f) Include procedures for renewing certifications and, if the procedures allow renewals without examination, require evidence of recent full-time employment and annual refresher training;

(g) Provide a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

(3) Requirements for written examinations.

All examinations must be:

(a) Designed to test an individual's knowledge and understanding of the topics listed in WAC 246-243-230 or equivalent NRC or agreement state requirements;

(b) Written in a multiple-choice format;

(c) Have test items drawn from a question bank containing psychometrically valid questions based on the material in WAC 246-243-230.

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-252-030 Criteria related to disposition of uranium mill tailings or wastes. As used in this section, the term "by-product material" means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

As required by WAC 246-235-110(6), each applicant for a license to possess and use source material in conjunction with uranium or thorium milling, or by-product material at sites formerly associated with such milling, is required to include in a license application proposed specifications relating to the milling operation and the disposition of tailings or waste resulting from such milling activities. This section establishes criteria relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located and site and by-product material ownership. Applications must clearly demonstrate how these criteria have been addressed. The specifications shall be developed considering the expected full capacity of tailings or waste systems and the lifetime of mill operations. Where later expansions of systems or operations may be likely, the amenability of the disposal system to accommodate increased capacities without degradation in long-term stability and other performance factors shall be evaluated.

Licensees or applicants may propose alternatives to the specific requirements in these criteria. The alternative proposals may take into account local or regional conditions, including geology, topography, hydrology, and meteorology. The department may find that the proposed alternatives meet the department's requirements if the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the requirements of the standards promulgated by the United States Environmental Protection Agency in 40 C.F.R. 192, Subparts D and E.

(1) Criterion 1 - In selecting among alternative tailings disposal sites or judging the adequacy of existing tailings sites, the following site features which would contribute to meeting the broad objective of permanent isolation of the tailings and associated contaminants from man and the environment for one thousand years to the extent reasonably achievable, and in any case, for at least two hundred years without ongoing active maintenance shall be considered:

- (a) Remoteness from populated areas;
- (b) Hydrogeologic and other environmental conditions conducive to continued immobilization and isolation of contaminants from groundwater sources; and
- (c) Potential for minimizing erosion, disturbance, and dispersion by natural forces over the long term.

The site selection process must be an optimization to the maximum extent reasonably achievable in terms of these features.

In the selection of disposal sites, primary emphasis shall be given to isolation of tailings or wastes, a matter having long-term impacts, as opposed to consideration only of short-term convenience or benefits, such as minimization of transportation or land acquisition costs. While isolation of tailings will be a function of both site characteristics and engineering design, overriding consideration shall be given to siting features given the long-term nature of the tailings hazards.

Tailings shall be disposed in a manner such that no active maintenance is required to preserve the condition of the site.

(2) Criterion 2 - To avoid proliferation of small waste disposal sites, by-product material from in-situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations shall be disposed at existing large mill tailings disposal sites; unless, considering the nature of the wastes, such as their volume and specific activity and the costs and environmental impacts of transporting the wastes to a large disposal site, such off-site disposal is demonstrated to be impracticable or the advantage of on-site burial clearly outweighs the benefits of reducing the perpetual surveillance obligations.

(3) Criterion 3 - The "prime option" for disposal of tailings is placement below grade, either in mines or specially excavated pits (that is, where the need for any specially constructed retention structure is eliminated).

The evaluation of alternative sites and disposal methods performed by mill operators in support of their proposed tailings disposal program (provided in applicants' environmental reports) shall reflect serious consideration of this disposal mode. In some instances, below grade disposal may not be the most environmentally sound approach, such as might be the case if a groundwater formation is relatively close to the surface or not very well isolated by overlying soils and rock. Also, geologic and topographic conditions might make full, below grade burial impracticable; for example, near-surface bedrock could create prominent excavation costs while more suitable alternate sites may be available. Where full below grade burial is not practicable, the size of the retention structures, and the size and steepness of slopes of associated exposed embankments, shall be minimized by excavation to the maximum extent reasonably achievable or appropriate, given the geologic and hydrogeologic conditions at a site. In these cases, it must be demonstrated that an above-grade disposal program will provide reasonably equivalent isolation of the tailings from natural erosional forces.

(4) Criterion 4 - The following site and design criteria shall be adhered to whether tailings or wastes are disposed of above or below grade:

- (a) Upstream rainfall catchment areas must be minimized to decrease erosion potential and the size of the probable maximum flood which could erode or wash out sections of the tailings disposal area.
- (b) Topographic features shall provide good wind protection.

(c) Embankment and cover slopes shall be relatively flat after final stabilization to minimize erosion potential and to provide conservative factors of safety assuring long-term stability. The broad objective should be to contour final slopes to grades which are as close as possible to those which would be provided if tailings were disposed of below grade; this could, for example, lead to slopes of about ten horizontal to one vertical (10h:1v) or less steep. In general, slopes should not be steeper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impracticable should be provided, and compensating factors

and conditions which make such slopes acceptable should be identified.

(d) A fully self-sustaining vegetative cover shall be established or rock cover employed to reduce wind and water erosion to negligible levels.

Where a full vegetative cover is not likely to be self-sustaining due to climatic conditions, such as in semi-arid and arid regions, rock cover shall be employed on slopes of the impoundment system. The NRC will consider relaxing this requirement for extremely gentle slopes such as those which may exist on the top of the pile.

The following factors shall be considered in establishing the final rock cover design to avoid displacement of rock particles by human and animal traffic or by natural processes, and to preclude undercutting and piping:

(i) Shape, size, composition, gradation of rock particles (excepting bedding material, average particle size shall be at least cobble size or greater);

(ii) Rock cover thickness and zoning of particles by size; and

(iii) Steepness of underlying slopes.

(e) Individual rock fragments (~~shall~~) must be dense, sound, and resistant to abrasion, and free from defects that would tend to unduly increase their destruction by water and frost actions. Weak, friable, or laminated aggregate (~~shall~~) may not be used. Shale, rock laminated with shale, and cherts (~~shall~~) may not be used.

Rock covering of slopes may (~~not be required~~) be unnecessary where top covers are very thick (on the order of ten meters or greater); impoundment slopes are very gentle (on the order of 10h:1v or less); bulk cover materials have inherently favorable erosion resistance characteristics; and there is negligible drainage catchment area upstream of the pile, and (~~there is~~) good wind protection as described in (a) and (b) of this subsection (Criterion 4).

(f) Impoundment surfaces shall be contoured to avoid areas of concentrated surface runoff or abrupt or sharp changes in slope gradient. In addition to rock cover on slopes, areas toward which surface runoff might be directed shall be well protected with substantial rock cover (riprap). In addition to providing for stability of the impoundment systems itself, the overall stability, erosion potential, and geomorphology of surrounding terrain shall be evaluated to assure that there are no processes, such as gully erosion, which would lead to impoundment instability.

(g) The impoundment (~~shall~~) may not be located near a capable fault that could cause a maximum credible earthquake larger than that which the impoundment could reasonably be expected to withstand. As used in this criterion, the term "capable fault" has the same meaning as defined in Section III (g) of Appendix A of 10 C.F.R. Part 100. The term "maximum credible earthquake" means that earthquake which would cause the maximum vibratory ground motion based upon an evaluation of earthquake potential considering the regional and local geology and seismology and specific characteristics of local subsurface material.

(h) The impoundment, where feasible, should be designed to incorporate features which will promote deposition of suspended particles. For example, design features which promote deposition of sediment suspended in any run-

off which flows into the impoundment area might be utilized; the object of such a design feature would be to enhance the thickness of cover over time.

(5) Criterion 5 - Criteria 5(a) through 5(g) and new Criterion 13 incorporate the basic groundwater protection standards imposed by the United States Environmental Protection Agency in 40 C.F.R. Part 192, Subparts D and E (48 FR 45926; October 7, 1983) which apply during operations and prior to the end of closure. Groundwater monitoring to comply with these standards is required by Criterion 7.

(a) The primary groundwater protection standard is a design standard for surface impoundments used to manage uranium and thorium by-product material. Surface impoundments (except for an existing portion) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, groundwater, or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil, groundwater, or surface water) during the active life of the facility, provided that impoundment closure includes removal or decontamination of all waste residues, contaminated containment system components (liners), contaminated subsoils, and structures and equipment contaminated with waste and leachate. For impoundments that will be closed with the liner material left in place, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility.

(b) The liner required by (a) of this subsection must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the wastes or leachate.

(c) The applicant or licensee will be exempted from the requirements of (a) of this subsection if the department finds, based on a demonstration by the applicant or licensee, that alternate design and operating practices, including the closure plan, together with site characteristics will prevent the migration of any hazardous constituents into groundwater or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuation capacity and thickness of the liners and soils present between the impoundment and groundwater or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

(d) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave actions; rainfall; run-on; from malfunctions of level controllers, alarms, and other equipment; and human error.

(e) When dikes are used to form the surface impoundment, the dikes must be designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the impoundment.

(f) Uranium and thorium by-product materials must be managed to conform to the following secondary groundwater protection standard: Hazardous constituents entering the groundwater from a licensed site must not exceed the specified concentration limits in the uppermost aquifer beyond the point of compliance during the compliance period. Hazardous constituents are those constituents identified by the department pursuant to (g) of this subsection. Specified concentration limits are those limits established by the department as indicated in (j) of this subsection. The department will also establish the point of compliance and compliance period on a site specific basis through license conditions and orders. The objective in selecting the point of compliance is to provide the earliest practicable warning that the impoundment is releasing hazardous constituents to the groundwater. The point of compliance must be selected to provide prompt indication of groundwater contamination on the hydraulically downgradient edge of the disposal area. The department must identify hazardous constituents, establish concentration limits, set the compliance period, and adjust the point of compliance, if needed, when the detection monitoring established under criterion 7 indicates leakage of hazardous constituents from the disposal area.

(g) A constituent becomes a hazardous constituent subject to (j) of this subsection when the constituent:

(i) Is reasonably expected to be in or derived from the by-product material in the disposal area;

(ii) Has been detected in the groundwater in the uppermost aquifer; and

(iii) Is listed in WAC 246-252-050 Appendix A.

(h) The department may exclude a detected constituent from the set of hazardous constituents on a site specific basis if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to exclude constituents, the department will consider the following:

(i) Potential adverse effect on groundwater quality, considering:

(A) The physical and chemical characteristics of the waste in the licensed site, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(i) In making any determinations under (h) and (k) of this subsection about the use of groundwater in the area around the facility, the department will consider any identification of underground sources of drinking water and exempted aquifers made by the United States Environmental Protection Agency.

(j) At the point of compliance, the concentration of a hazardous constituent must not exceed:

(i) The department approved background concentration of that constituent in the groundwater;

(ii) The respective value given in the table in subsection (5)(l) of this section if the constituent is listed in the table and if the background level of the constituent is below the value listed; or

(iii) An alternate concentration limit established by the department.

(k) Conceptually, background concentrations pose no incremental hazards and the drinking water limits in (j)(i) of this subsection state acceptable hazards but these two options may not be practically achievable at a specific site. Alternate concentration limits that present no significant hazard may be proposed by licensees for department consideration. Licensees must provide the basis for any proposed limits including consideration of practicable corrective actions, that limits are

as low as reasonably achievable, and information on the factors the department must consider.

The department will establish a site specific alternate concentration limit for a hazardous constituent as provided in (j) of this subsection if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will apply its as low as reasonably achievable criterion in this chapter. The department will also consider the following factors:

(i) Potential adverse effects on groundwater quality, considering:

(A) The physical and chemical characteristics of the waste in the licensed site including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(I) MAXIMUM VALUES FOR GROUNDWATER PROTECTION:

Constituent or Property	Maximum Concentration
	Milligrams per liter
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7 -epoxy-1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis(p-methoxyphenylethane)	0.1
Toxaphene (C ₁₀ H ₁₀ Cl ₆ , Technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01
	Picocuries per liter
Combined radium - 226 and radium - 228	5
Gross alpha - particle activity (excluding radon and uranium when producing uranium by-product material or thorium when producing thorium by-product material)	15

(m) If the groundwater protection standards established under (f) of this subsection are exceeded at a licensed site, a corrective action program must be put into operation as soon as is practicable, and in no event later than eighteen months after the department finds that the standards have been exceeded. The licensee shall submit the proposed corrective action program and supporting rationale for department approval prior to putting the program into operation, unless otherwise directed by the department. The objective of the program is to return hazardous constituent concentration levels in groundwater to the concentration limits set as standards. The licensee's proposed program must address removing the hazardous constituents that have entered the groundwater at the point of compliance or treating them in place. The program must also address removing or treating in place any hazardous constituents that exceed concentration limits in groundwater between the point of compliance and the downgradient facility property boundary. The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the groundwater protection standard. The department will determine when the licensee may terminate corrective action measures based on data from the groundwater monitoring program and other

information that provide reasonable assurance that the groundwater protection standard will not be exceeded.

(n) In developing and conducting groundwater protection programs, applicants and licensees shall also consider the following:

(i) Installation of bottom liners (where synthetic liners are used, a leakage detection system must be installed immediately below the liner to ensure major failures are detected if they occur. This is in addition to the groundwater monitoring program conducted as provided in Criterion 7. Where clay liners are proposed or relatively thin, in-situ clay soils are to be relied upon for seepage control, tests must be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests must be run for a sufficient period of time to reveal any effects if they are going to occur (in some cases deterioration has been observed to occur rather rapidly after about nine months of exposure)).

(ii) Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment.

(iii) Dewatering of tailings by process devices or in-situ drainage systems (at new sites, tailings must be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head of seepage, unless tests show tailings are not amenable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom must be graded to assure that the drains are at a low point. The drains must be protected by suitable filter materials to assure that drains remain free running. The drainage system must also be adequately sized to assure good drainage).

(iv) Neutralization to promote immobilization of hazardous constituents.

(o) Where groundwater impacts are occurring at an existing site due to seepage, action must be taken to alleviate conditions that lead to excessive seepage impacts and restore groundwater quality. The specific seepage control and groundwater protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications must be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, must be established to assure the specifications are met.

(p) In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:

(i) The chemical and radioactive characteristics of the waste solutions.

(ii) The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and solutions. This includes detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be determined. This information must be gathered from borings and field survey methods taken within the proposed impoundment area and in surrounding areas where contaminants might migrate

to groundwater. The information gathered on boreholes must include both geologic and geophysical logs in sufficient number and degree of sophistication to allow determining significant discontinuities, fractures, and channeled deposits of high hydraulic conductivity. If field survey methods are used, they should be in addition to and calibrated with borehole logging. Hydrologic parameters such as permeability may not be determined on the basis of laboratory analysis of samples alone; a sufficient amount of field testing (e.g., pump tests) must be conducted to assure actual field properties are adequately understood. Testing must be conducted to allow estimating chemi-sorption attenuation properties of underlying soil and rock.

(iii) Location, extent, quality, capacity and current uses of any groundwater at and near the site.

(q) Steps must be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable methods include lining or compaction of ore storage areas.

(6) Criterion 6 - (a) In disposing of waste by-product material, licensees shall place an earthen cover (or approved alternative) over tailings or wastes at the end of milling operations and shall close the waste disposal area in accordance with a design¹ which provides reasonable assurance of control of radiological hazards to:

(i) Be effective for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years; and

(ii) Limit releases of Radon-222 from uranium by-product materials, and Radon-220 from thorium by-product materials, to the atmosphere so as not to exceed an average² release rate of 20 picocuries per square meter per second (pCi/m²s) to the extent practicable throughout the effective design life determined pursuant to (a)(i) of this subsection (this criterion). In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances may not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. The effects of any thin synthetic layer may not be taken into account in determining the calculated radon exhalation level. If nonsoil materials are proposed as cover materials, it must be demonstrated that these materials will not crack or degrade by differential settlement, weathering, or other mechanism, over long-term intervals.

(b) As soon as reasonably achievable after emplacement of the final cover to limit releases of Radon-222 from uranium by-product material and prior to placement of erosion protection barriers or other features necessary for long-term control of the tailings, the licensees shall verify through appropriate testing and analysis that the design and construction of the final radon barrier is effective in limiting releases of Radon-222 to a level not exceeding 20 pCi/m²s averaged over the entire pile or impoundment using the procedures described in 40 C.F.R. part 61, appendix B, Method 115, or another method of verification approved by NRC as being at least as effective in demonstrating the effectiveness of the final radon barrier.

(c) When phased emplacement of the final radon barrier is included in the applicable reclamation plan, the verification of Radon-222 release rates required in (b) of this subsection

(this criterion) must be conducted for each portion of the pile or impoundment as the final radon barrier for that portion is emplaced.

(d) Within ninety days of the completion of all testing and analysis relevant to the required verification in (b) and (c) of this subsection (this criterion), the uranium mill licensee shall report to the department the results detailing the actions taken to verify that levels of release of Radon-222 do not exceed 20 pCi/m²s when averaged over the entire pile or impoundment. The licensee shall maintain records until termination of the license documenting the source of input parameters including the results of all measurements on which they are based, the calculations or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. These records shall be kept in a form suitable for transfer to the custodial agency at the time of transfer of the site to DOE or a state for long-term care if requested.

(e) Near surface cover materials (i.e., within the top three meters) may not include waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils. This is to ensure that surface radon exhalation is not significantly above background because of the cover material itself.

(f) The design requirements in this criterion for longevity and control of radon releases apply to any portion of a licensed or disposal site unless such portion contains a concentration of radium in land, averaged over areas of 100 square meters, which, as a result of by-product material, does not exceed the background level by more than:

(i) 5 picocuries per gram (pCi/g) of radium-226, or, in the case of thorium by-product material, radium-228, averaged over the first 15 centimeters (cm) below the surface; and

(ii) 15 pCi/g of radium-226, or, in the case of thorium by-product material, radium-228, averaged over 15-cm thick layers more than 15 cm below the surface.

(g) By-product material containing concentrations of radionuclides other than radium in soil, and surface activity on remaining structures, must not result in a total effective dose equivalent (TEDE) exceeding the dose from cleanup of radium contaminated soil to the standard (benchmark dose) contained in (f) of this subsection, and must be at levels which are as low as is reasonably achievable (ALARA). If more than one residual radionuclide is present in the same 100 square meter area, the sum of the ratios for each radionuclide of concentration present to the concentration limit will not exceed "1" (unity). A calculation of the potential peak annual TEDE within 1000 years to the average member of the critical group that would result from applying the radium standard, not including radon, on the site must be submitted for approval. The use of decommissioning plans with benchmark doses which exceed 100 mrem/yr, before application of ALARA, requires the approval of the department. This requirement for dose criteria does not apply to sites that have decommissioning plans for soil and structures approved before June 11, 1999.

(h) The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas

are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

- 1 In the case of thorium by-product materials, the standard applies only to design. Monitoring for radon emissions from thorium by-product materials after installation of an appropriately designed cover is not required.
- 2 This average applies to the entire surface of each disposal area over a period of at least one year, but a period short compared to 100 years. Radon will come from both by-product materials and from covering materials. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from by-product materials to the atmosphere.

Criterion 6A - (a) For impoundments containing uranium by-product materials, the final radon barrier must be completed as expeditiously as practicable considering technological feasibility after the pile or impoundment ceases operation in accordance with a written, department-approved reclamation plan. (The term as expeditiously as practicable considering technological feasibility as specifically defined in WAC 246-252-010 includes factors beyond the control of the licensee.) Deadlines for completion of the final radon barrier and, if applicable, the following interim milestones must be established as a condition of the individual license: Wind-blown tailings retrieval and placement on the pile and interim stabilization (including dewatering or the removal of free-standing liquids and recontouring). The placement of erosion protection barriers or other features necessary for long-term control of the tailings must also be completed in a timely manner in accordance with a written, approved reclamation plan.

(b) The department may approve a licensee's request to extend the time for performance of milestones related to emplacement of the final radon barrier if, after providing an opportunity for public participation, the department finds that the licensee has adequately demonstrated in the manner required in subsection (6)(b) of this section (Criterion 6) that releases of Radon-222 do not exceed an average of 20 pCi/m²s. If the delay is approved on the basis that the radon releases do not exceed 20 pCi/m²s, a verification of radon levels, as required by subsection (6)(b) of this section (Criterion 6), must be made annually during the period of delay. In addition, once the department has established the date in the reclamation plan for the milestone for completion of the final radon barrier, the department may extend that date based on cost if, after providing an opportunity for public participation, the department finds that the licensee is making good faith efforts to emplace the final radon barrier, the delay is consistent with the definitions of available technology, and the radon releases caused by the delay will not result in a significant incremental risk to the public health.

(c) The department may authorize by license amendment, upon licensee request, a portion of the impoundment to accept uranium by-product material or such materials that are similar in physical, chemical, and radiological characteristics to the uranium mill tailings and associated wastes already in the pile or impoundment from other sources, during the clo-

sure process. No such authorization will be made if it results in a delay or impediment to emplacement of the final radon barrier over the remainder of the impoundment in a manner that will achieve levels of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. The verification required in subsection (6)(b) of this section (Criterion 6) may be completed with a portion of the impoundment being used for further disposal if the department makes a final finding that the impoundment will continue to achieve a level of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. In this case, after the final radon barrier is complete except for the continuing disposal area:

- (i) Only by-product material will be authorized for disposal;
- (ii) The disposal will be limited to the specified existing disposal area; and
- (iii) This authorization will only be made after providing opportunity for public participation.

Reclamation of the disposal area, as appropriate, must be completed in a timely manner after disposal operations cease in accordance with subsection (6)(a) of this section (Criterion 6); however, these actions are not required to be complete as part of meeting the deadline for final radon barrier construction.

(7) Criterion 7 - At least one full year prior to any major site construction, a preoperational monitoring program must 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 must be conducted to complete the following:

- (a) To measure or evaluate compliance with applicable standards and regulations;
- (b) To evaluate performance of control systems and procedures;
- (c) To evaluate environmental impacts of operation; and
- (d) To detect potential long-term effects.

The licensee shall establish a detection monitoring program needed for the department to set the site-specific groundwater protection standards in Criterion 5 of this section. For all monitoring under this paragraph, the licensee or applicant will propose for department approval as license conditions, which constituents are to be monitored on a site-specific basis. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under Criterion 5. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once

groundwater protection standards have been established pursuant to Criterion 5, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in groundwater continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

(8) Criterion 8 - Milling operations shall be conducted so that all airborne effluent releases are reduced to as low as is reasonably achievable. The primary means of accomplishing this shall be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that off-site exposure limits are met, but only after all practicable measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of off-site radiation exposure (aside from radon exposure) are dusting from dry surfaces of the tailings disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations. During operations and prior to closure, radiation doses from radon emissions from surface impoundments shall be kept as low as is reasonably achievable. Checks shall be made and logged hourly of all parameters (e.g., differential pressure and scrubber water flow rate) which determine the efficiency of yellowcake stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action shall be taken when performance is outside of prescribed ranges. Effluent control devices shall be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack.

Drying and packaging operations shall terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable.

Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All such cessations, corrective actions, and restarts shall be reported to the department in writing, within ten days of the subsequent restart.

To control dusting from tailings, that portion not covered by standing liquids shall be wetted or chemically stabilized to prevent or minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be relaxed if tailings are effectively sheltered from wind, such as may be the case where they are disposed of below grade and

the tailings surface is not exposed to wind. Consideration shall be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments since this will help in controlling particulate and radon emissions during operation. To control dustings from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators shall develop written operating procedures specifying the methods of control which will be utilized.

Milling operations producing or involving thorium by-product material shall be conducted in such a manner as to provide reasonable assurance that the annual dose equivalent does not exceed twenty-five millirems to the whole body, seventy-five millirems to the thyroid, and twenty-five millirems to any other organ of any member of the public as a result of exposures to the planned discharge of radioactive materials, Radon-220 and its daughters excepted, to the general environment.

Uranium and thorium by-product materials shall be managed so as to conform to the applicable provisions of Title 40 of the Code of Federal Regulations, Part 440, Ore Mining and Dressing Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards, Subpart C, Uranium, Radium, and Vanadium Ores Subcategory, as codified on January 1, 1983.

The licensee shall establish a detection monitoring program needed to establish the groundwater protection standards in subsection (5)(f) of this section. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under subsection (5)(f) of this section. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to subsection (5)(f) of this section, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in groundwater continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The department must be immediately notified of any failure in a tailings or waste retention system (~~which~~) that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

(9) Criterion 9 - (a) Pursuant to chapter 70.121 RCW, and except as otherwise provided, financial surety arrangements must be established by each mill operator before the commencement of operations to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements must be based on department-approved cost estimates in a department-approved plan, or a proposed revision to the plan submitted to the department for approval, if the proposed revision contains a higher cost estimate for:

(i) Decontamination and decommissioning of mill buildings and the milling site to levels which allow unrestricted use of these areas upon decommissioning; and

(ii) The reclamation of tailings or waste areas in accordance with technical criteria delineated in this section.

(b) Each cost estimate must contain:

(i) A detailed cost estimate for decontamination, decommissioning, and reclamation, in an amount reflecting:

(A) The cost of an independent contractor to perform the decontamination, decommissioning, and reclamation activities; and

(B) An adequate contingency factor.

(ii) An estimate of the amount of radioactive contamination in on-site subsurface material;

(iii) Identification of and justification for using the key assumptions contained in the decommissioning cost estimate; and

(iv) A description of the method of assuring funds for decontamination, decommissioning, and reclamation.

(c) The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. The plan must include a signed original of the financial instrument obtained to satisfy the surety arrangement requirements of this criterion (unless a previously submitted and approved financial instrument continues to cover the cost estimate for decommissioning). The surety arrangement must also cover the cost estimate and the payment of the charge for long-term surveillance and control required by subsection (10) of this section.

(d) To avoid unnecessary duplication and expense, the department may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other federal or state agencies or local governing bodies for decommissioning, decontamination, reclamation, and long-term site surveillance and control, provided such arrangements are considered adequate to satisfy

these requirements and that the portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge is clearly identified and committed for use in accomplishing these activities.

(e) The licensee's surety mechanism will be reviewed annually by the department to assure, that sufficient funds would be available for completion of the reclamation plan if the work had to be performed by an independent contractor.

(f) The amount of surety liability should be adjusted to recognize any increases or decreases resulting from:

- (i) Inflation;
- (ii) Changes in engineering plans;
- (iii) Activities performed;
- (iv) Spills, leakage or migration of radioactive material producing additional contamination in on-site subsurface material that must be remediated to meet applicable remediation criteria;
- (v) Waste inventory increasing above the amount previously estimated;
- (vi) Waste disposal costs increasing above the amount previously estimated;
- (vii) Facility modifications;
- (viii) Changes in authorized possession limits;
- (ix) Actual remediation costs that exceed the previous cost estimate;
- (x) On-site disposal; and
- (xi) Any other conditions affecting costs.

(g) Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability must be retained until final compliance with the reclamation plan is determined.

(h) The appropriate portion of surety liability retained until final compliance with the reclamation plan is determined will be at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance would be provided with a surety instrument which is written for a specified time (for example five years) and which must be automatically renewed unless the surety notifies the department and the licensee with reasonable time (for example ninety days) before the renewal date of their intention not to renew. In such a situation the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief time to allow at least sixty days for the department to collect.

(i) Proof of forfeiture must not be necessary to collect the surety. In the event that the licensee cannot provide an acceptable replacement surety within the required time, the surety shall be automatically collected before its expiration. The surety instrument must provide for collection of the full face amount immediately on demand without reduction for any reason, except for trustee fees and expenses provided for in a trust agreement, and that the surety will not refuse to make full payment. The conditions described previously would have to be clearly stated on any surety instrument

which is not open-ended, and must be agreed to by all parties. Financial surety arrangements generally acceptable to the department are:

- (i) Trust funds;
- (ii) Surety bonds;
- (iii) Irrevocable letters of credit; and
- (iv) Combinations of the financial surety arrangements or other types of arrangements as may be approved by the department. If a trust is not used, then a standby trust must be set up to receive funds in the event the department exercises its right to collect the surety. The surety arrangement and the surety or trustee, as applicable, must be acceptable to the department. Self-insurance, or any arrangement which essentially constitutes self-insurance (for example, a contract with a state or federal agency), will not satisfy the surety requirement because this provides no additional assurance other than that which already exists through license requirements.

(10) Criterion 10 - (a) A minimum charge of two hundred fifty thousand dollars (1978 United States dollars) accrued as specified in WAC 246-235-086(4) to cover the costs of long-term surveillance shall be paid by each mill operator to the agency prior to the termination of a uranium or thorium mill license. If site surveillance or control requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in (a) of this subsection (e.g., if fencing is determined to be necessary), variance in funding requirements may be specified by the department. The total charge to cover the costs of long-term surveillance shall be such that, with an assumed one percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover the annual costs of site surveillance. The charge will be adjusted annually prior to actual payments to recognize inflation. The inflation rate to be used is that indicated by the change in the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics. Contributions by a licensee to the long-term care trust fund pursuant to chapter 70.121 RCW shall be transferred to cover the costs assessed under this criterion.

(11) Criterion 11 - These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

Any uranium or thorium milling license or tailings license shall contain such terms and conditions as NRC determines necessary to assure that prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

Title to the by-product material licensed pursuant to WAC 246-252-030 and land, including any interests therein (other than land owned by the United States or by the state of Washington) which is used for the disposal of any such by-product material, or is essential to ensure the long-term stability of such disposal site, shall be transferred to the United States or the state of Washington. In view of the fact that physical isolation must be the primary means of long-term control, and government land ownership is a desirable supplementary measure, ownership of certain severable subsurface interests (for example, mineral rights) may be determined to be unnecessary to protect the public health and

safety and the environment. In any case, the applicant/operator must demonstrate a serious effort to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either a NRC general or specific license prohibiting the disruption and disturbance of the tailings. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived. For licenses issued before November 8, 1981, NRC may take into account the status of the ownership of such land, and interests therein, and the ability of a licensee to transfer title and custody thereof to the United States or the state. If NRC, subsequent to title transfer, determines that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a state will not endanger the public health, safety, welfare or environment, NRC may permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions provided in these criteria. If NRC permits such use of such land, it will provide the person who transferred such land with the right of first refusal with respect to such use of such land.

Material and land transferred to the United States or a state in accordance with this criterion must be transferred without cost to the United States or a state other than administrative and legal costs incurred in carrying out such transfer.

The provisions of this part, respecting transfer of title and custody to land and tailings and wastes, do not apply in the case of lands held in trust by the United States for any Indian tribe, or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of by-product material, as defined in this section, the licensee shall enter into arrangements with NRC as may be appropriate to assure the long-term surveillance of such lands by the United States.

(12) Criterion 12 - The final disposition of tailings or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation. As a minimum, annual site inspections must be conducted by the government agency retaining ultimate custody of the site where tailings or wastes are stored, to confirm the integrity of the stabilized tailings or waste systems, and to determine the need, if any, for maintenance or monitoring. Results of the inspection must be reported to NRC within sixty days following each inspection. NRC may require more frequent site inspections if, on the basis of a site-specific evaluation, such a need appears necessary, due to the features of a particular tailings or waste disposal system.

(13) Criterion 13 - Secondary groundwater protection standards required by Criterion 5 of this section are concentration limits for individual hazardous constituents. The list of constituents found in Appendix A of this chapter, chapter 246-252 WAC, identifies the constituents for which standards must be set and complied with if the specific constituent is reasonably expected to be in or derived from the by-product material and has been detected in groundwater. For purposes of this criterion, the property of gross alpha activity will be treated as if it is a hazardous constituent. Thus, when

setting standards under subsection (5)(j) of this section, the department will also set a limit for gross alpha activity.

Chapter 246-237 WAC

RADIATION PROTECTION—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

NEW SECTION

WAC 246-237-001 Purpose and scope. (1) This chapter has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated Category 1 or Category 2 quantity of radioactive material listed in WAC 246-237-900 Appendix A: Table 1—Category 1 and Category 2. These requirements provide reasonable assurance of the security of Category 1 or Category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this chapter authorizes possession of licensed material.

(2) WAC 246-237-021 through 246-237-057 apply to any person who, under the rules in this chapter, possesses or uses at any site an aggregated Category 1 or Category 2 quantity of radioactive material.

(3) WAC 246-237-071 through 246-237-081 apply to any person who, under the rules of this chapter:

(a) Transports or delivers to a carrier for transport in a single shipment, a Category 1 or Category 2 quantity of radioactive material; or

(b) Imports or exports a Category 1 or Category 2 quantity of radioactive material. The provisions in this chapter apply only to the domestic portion of the transport.

NEW SECTION

WAC 246-237-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section and in WAC 246-220-010 apply throughout this chapter unless the context clearly indicates otherwise:

(1) "**Access control**" means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

(2) "**Act**" means the Atomic Energy Act of 1954, including any amendments thereto.

(3) "**Aggregated**" means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a Category 2 quantity of radioactive material.

(4) "**Agreement state**" means any state with which the Atomic Energy Commission or the NRC has entered into an effective agreement under subsection 274b of the act. Nonagreement state means any other state.

(5) "**Approved individual**" means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with WAC 246-237-021

through 246-237-033 and who has completed the training required by WAC 246-237-043(3).

(6) **"Background investigation"** means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

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

(8) **"By-product 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 using special nuclear material;

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "by-product material" within this definition;

(c)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that:

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(d) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The NRC, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

(9) **"Carrier"** means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

(10) **"Category 1 quantity of radioactive material"** means a quantity of radioactive material meeting or exceeding the Category 1 threshold in Table 1 of WAC 246-237-900 Appendix A: Table 1—Category 1 and Category 2. This is determined by calculating the ratio of the total activity of each radionuclide to the Category 1 threshold for that radionuclide and adding the ratios together. If the sum equals or exceeds 1, the quantity would be considered a Category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

(11) **"Category 2 quantity of radioactive material"** means a quantity of radioactive material meeting or exceeding the Category 2 threshold but less than the Category 1 threshold in Table 1 of WAC 246-237-900 Appendix A:

Table 1—Category 1 and Category 2. This is determined by calculating the ratio of the total activity of each radionuclide to the Category 2 threshold for that radionuclide and adding the ratios together. If the sum equals or exceeds 1, the quantity would be considered a Category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

(12) **"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).

(13) **"Diversion"** means the unauthorized movement of radioactive material subject to this chapter to a location different from the material's authorized destination inside or outside of the site at which the material is used or stored.

(14) **"Escorted access"** means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

(15) **"FBI"** means the federal bureau of investigation.

(16) **"Fingerprint orders"** means the orders issued by the NRC or the legally binding requirements issued by agreement states that require fingerprints and criminal history records checks for individuals with unescorted access to Category 1 and Category 2 quantities of radioactive material or safeguards information-modified handling.

(17) **"Government agency"** means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

(18) **"License"** means, except where otherwise specified, a license for radioactive material issued pursuant to the regulations in chapters 246-232, 246-233, 246-235, 246-240, 246-243, or 246-244 WAC.

(19) **"License issuing authority"** means the licensing agency (the department, NRC, or an agreement state) that issued the license.

(20) **"LLEA (local law enforcement agency)"** means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed Category 1 or Category 2 quantity of radioactive material is used, stored, or transported.

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

(22) **"Mobile device"** means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

(23) **"Movement control center"** means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies, and can request and coordinate appropriate aid.

(24) **"No-later-than arrival time"** means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than six hours after the estimated arrival time for shipments of Category 2 quantities of radioactive material.

(25) **"NRC"** means the U.S. Nuclear Regulatory Commission.

(26) **"Person"** means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than NRC or the Department of Energy, any state or any political subdivision of, or any political entity within, a state, any foreign government or nation, or any political subdivision of any such government or nation, or other entity, and any legal successor, representative, agent or agency of the foregoing.

(27) **"Reviewing official"** means the individual who makes the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the Category 1 or Category 2 quantities of radioactive materials that are possessed by the licensee.

(28) **"Sabotage"** means deliberate damage, with malevolent intent, to a Category 1 or Category 2 quantity of radioactive material, a device that contains a Category 1 or Category 2 quantity of radioactive material, or the components of the security system.

(29) **"Safe haven"** means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

(30) **"Security zone"** means any temporary or permanent area determined and established by the licensee for the physical protection of Category 1 or Category 2 quantities of radioactive material.

(31) **"State"** means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(32) **"Telemetric position monitoring system"** means a data transfer system that captures information by instrumentation or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

(33) **"Trustworthiness and reliability"** are characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to Category 1 or Category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

(34) **"Unescorted access"** means solitary access to an aggregated Category 1 or Category 2 quantity of radioactive material or the devices that contain the material.

(35) **"United States"** means when used in a geographical sense includes Puerto Rico and all territories and possessions of the United States.

NEW SECTION

WAC 246-237-011 Specific exemptions. (1) The department may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the rules in this chapter as 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.

(2) Any licensee's activities are exempt from the requirements of WAC 246-237-021 through 246-237-057 to the extent that its activities are included in a security plan required by 10 C.F.R. Part 73.

(3) A licensee who possesses radioactive waste that contains Category 1 or Category 2 quantities of radioactive material is exempt from the requirements of WAC 246-237-021 through 246-237-081, except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than two thousand kg (four thousand four hundred nine pounds) is not exempt from the requirements of this chapter. The licensee shall implement the following requirements to secure the radioactive waste:

(a) Use continuous physical barriers which allow access to the radioactive waste only through established access control points;

(b) Use a locked door or gate with monitored alarm at the access control point;

(c) Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and

(d) Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains Category 1 or Category 2 quantities of radioactive material.

NEW SECTION

WAC 246-237-021 Personnel access authorization requirements for Category 1 or Category 2 quantities of radioactive material. (1) General.

(a) Each licensee who possesses an aggregated quantity of radioactive material at or above the Category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this chapter.

(b) An applicant for a new license and each licensee who would become newly subject to the requirements of this chapter, upon application for modification of its license, shall implement the requirements of this chapter, as appropriate, before taking possession of an aggregated Category 1 or Category 2 quantity of radioactive material.

(c) Any licensee who has not previously implemented the security orders or been subject to the provisions of this

chapter shall implement the provisions of this chapter before aggregating radioactive material to a quantity that equals or exceeds the Category 2 threshold.

(2) General performance objective. The licensee's access authorization program must ensure that the individuals specified in subsection (3)(a)(i) and (ii) of this section are trustworthy and reliable.

(3) Applicability.

(a) Licensees shall subject the following individuals to an access authorization program:

(i) Any individual whose assigned duties require unescorted access to Category 1 or Category 2 quantities of radioactive material or to any device that contains the radioactive material; and

(ii) Reviewing officials.

(b) Licensees need not subject the categories of individuals listed in WAC 246-237-029(1) to the investigation elements of the access authorization program.

(c) Licensees shall approve for unescorted access to Category 1 or Category 2 quantities of radioactive material only those individuals with job duties which require unescorted access to Category 1 or Category 2 quantities of radioactive material.

(d) Licensees may include individuals needing access to safeguards information-modified handling under 10 C.F.R. Part 73 in the access authorization program under WAC 246-237-021 through 246-237-033.

NEW SECTION

WAC 246-237-023 Access authorization program requirements. (1) Granting unescorted access authorization.

(a) Licensees shall implement the requirements of this chapter for granting initial or reinstated unescorted access authorization.

(b) Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by WAC 246-237-043(3) before being allowed unescorted access to Category 1 or Category 2 quantities of radioactive material.

(2) Reviewing officials. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to Category 1 or Category 2 quantities of radioactive materials possessed by the licensee.

(a) Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide, under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, federal or state agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every ten years in accordance with WAC 246-237-025(2).

(b) Reviewing officials must be permitted to have unescorted access to Category 1 or Category 2 quantities of radioactive materials or access to safeguards information or safe-

guards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

(c) Reviewing officials cannot approve other individuals to act as reviewing officials.

(d) A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(i) The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(ii) The individual is subject to a category listed in WAC 246-237-029(1).

(3) Informed consent.

(a) Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals who meet the requirements of WAC 246-237-025(2). A signed consent must be obtained prior to any reinvestigation.

(b) The subject individual may withdraw their consent at any time. Licensees shall inform the individual that:

(i) If an individual withdraws their consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew their consent; and

(ii) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

(4) Personal history disclosure. Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this chapter is sufficient cause for denial or termination of unescorted access.

(5) Determination basis.

(a) The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this chapter.

(b) The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this chapter and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.

(c) The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

(d) The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.

(e) Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

(6) Procedures. Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

(7) Right to correct and complete information.

(a) Prior to any final adverse determination, licensees shall provide each individual subject to this chapter with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of one year from the date of the notification.

(b) If, after reviewing their criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the FBI, Criminal Justice Information Services Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 C.F.R. 16.30 through 16.34. In the latter case, the FBI will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least ten days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for their review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

(8) Records.

(a) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

(b) The licensee shall retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

(c) The licensee shall retain the list of persons approved for unescorted access authorization for three years after the list is superseded or replaced.

NEW SECTION

WAC 246-237-025 Background investigations. (1)

Initial investigation. Before allowing an individual unescorted access to Category 1 or Category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the seven years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation must include at a minimum:

(a) Fingerprinting and an FBI identification and criminal history records check in accordance with WAC 246-237-027;

(b) Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who they claim to be. A licensee shall review official identification documents (driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with WAC 246-237-031. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;

(c) Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent seven years before the date of application;

(d) Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;

(e) Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family including, but not limited to, the individual's spouse,

parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this chapter must be limited to whether the individual has been and continues to be trustworthy and reliable;

(f) The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (for example, seek references not supplied by the individual); and

(g) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after ten business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.

(2) Grandfathering.

(a) Individuals who have been determined to be trustworthy and reliable for unescorted access to Category 1 or Category 2 quantities of radioactive material under the fingerprint orders may continue to have unescorted access to Category 1 and Category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.

(b) Individuals who have been determined to be trustworthy and reliable under the provisions of 10 C.F.R. Part 73 or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to Category 1 and Category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 C.F.R. Part 73 or a security order. Security order, in this context, refers to any order that was issued by the department that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk-significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

(3) Reinvestigations. Licensees shall conduct a reinvestigation every ten years for any individual with unescorted access to Category 1 or Category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with WAC 246-237-027. The reinvestigations must be completed within ten years of the date on which these elements were last completed.

NEW SECTION

WAC 246-237-027 Requirements for criminal history records checks of individuals granted unescorted access to Category 1 or Category 2 quantities of radioactive material. (1) General performance objective and requirements.

(a) Except for those individuals listed in WAC 246-237-029 and those individuals grandfathered under WAC 246-237-025(2), each licensee subject to the provisions of this

chapter shall fingerprint each individual who is to be permitted unescorted access to Category 1 or Category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to Category 1 or Category 2 quantities of radioactive materials for that individual.

(b) The licensee shall notify each affected individual that their fingerprints will be used to secure a review of their criminal history record, and shall inform them of the procedures for revising the record or adding explanations to the record.

(c) Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to Category 1 or Category 2 quantities of radioactive materials if:

(i) The individual returns to the same facility that granted unescorted access authorization within three hundred sixty-five days of the termination of their unescorted access authorization; and

(ii) The previous access authorization was terminated under favorable conditions.

(d) Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to Category 1 or Category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this chapter, or the fingerprint orders, or 10 C.F.R. 73. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of WAC 246-237-031(3).

(e) Licensees shall use information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to Category 1 or Category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

(2) Prohibitions.

(a) Licensees may not base a final determination to deny an individual unescorted access authorization to Category 1 or Category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

(i) An arrest more than one year old for which there is no information of the disposition of the case; or

(ii) An arrest which resulted in dismissal of the charge or an acquittal.

(b) Licensees may not use information received from a criminal history records check obtained under this chapter in a manner which would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

(3) Procedures for processing of fingerprint checks.

(a) For the purpose of complying with this chapter, licensees shall use an appropriate method to submit to the U.S. Nuclear Regulatory Commission, Director, Division of

Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05B32M, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNR000Z), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to Category 1 or Category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, by calling 1-630-829-9565, or by e-mail to FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <http://www.nrc.gov/site-help/e-submittals.html>.

(b) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 301-415-7513.) Combined payment for multiple applications is acceptable. The NRC publishes the amount of the fingerprint check application fee on the NRC's public web site. (To find the current fee amount, go to the electronic submittals page at <http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems.)

(c) The NRC will forward to the submitting licensee all data received from the FBI as a result of the licensee's application for criminal history records checks.

NEW SECTION

WAC 246-237-029 Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials. (1) Fingerprinting, and the identification and criminal history records checks required by WAC 246-237-025, 246-237-027 and Section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to Category 1 or Category 2 quantities of radioactive materials:

(a) An employee of the NRC or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;

(b) A Member of Congress;

(c) An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;

(d) The governor of a state or their designated state employee representative;

(e) Federal, state, or local law enforcement personnel;

(f) State Radiation Control Program Directors and State Homeland Security Advisors or their designated state employee representatives;

(g) Agreement state employees conducting security inspections on behalf of the NRC under an agreement executed under Section 274.i. of the Atomic Energy Act;

(h) Representatives of the International Atomic Energy Agency engaged in activities associated with the U.S./International Atomic Energy Agency Safeguards Agreement who have been certified by the NRC;

(i) Emergency response personnel who are responding to an emergency;

(j) Commercial vehicle drivers for road shipments of Category 1 and Category 2 quantities of radioactive material;

(k) Package handlers at transportation facilities such as freight terminals and railroad yards;

(l) Any individual who has an active federal security clearance, provided that they make available the appropriate documentation. Written confirmation from the agency/employer which granted the federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material; and

(m) Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to Category 1 or Category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

(2) Fingerprinting, and the identification and criminal history records checks required by WAC 246-237-025, 246-237-027 and Section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last five years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that they make available the appropriate documentation. Written confirmation from the agency or employer who reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material. These programs include, but are not limited to:

(a) National Agency Check;

(b) Transportation Worker Identification Credentials (TWIC) under 49 C.F.R. Part 1572;

(c) Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 C.F.R. Part 555;

(d) Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 C.F.R. Part 73;

(e) Hazardous Material security threat assessment for hazardous material endorsement to commercial driver's license under 49 C.F.R. Part 1572; and

(f) U.S. Customs and Border Protection's Free and Secure Trade (FAST) program.

NEW SECTION**WAC 246-237-031 Protection of information.** (1)

Each licensee who obtains background information on an individual under this chapter shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

(2) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, their representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to Category 1 or Category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.

(3) The personal information obtained on an individual from a background investigation may be provided to another licensee:

(a) Upon the individual's written request to the licensee holding the data to disseminate the information contained in their file; and

(b) The recipient licensee verifies information such as name, date of birth, Social Security number, gender, and other applicable physical characteristics.

(4) The licensee shall make background investigation records obtained under this chapter available for examination by an authorized representative of the department to determine compliance with the applicable rules and laws.

(5) The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

NEW SECTION**WAC 246-237-033 Access authorization program review.** (1) Each licensee shall be responsible for the continuing effectiveness of the access authorization program.

Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this chapter and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically, at least annually, review the access program content and implementation.

(2) The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition or conditions, and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

(3) Review records must be maintained for three years.

NEW SECTION

WAC 246-237-041 Security program. (1) Applicability.

(a) Each licensee who possesses an aggregated Category 1 or Category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of this chapter.

(b) An applicant for a new license, and each licensee who would become newly subject to the requirements of this chapter, upon application for modification of its license, shall implement the requirements of this chapter, as appropriate, before taking possession of an aggregated Category 1 or Category 2 quantity of radioactive material.

(c) Any licensee who has not previously implemented the security orders or been subject to the provisions of WAC 246-237-041 through 246-237-057 shall provide written notification to the department at least ninety days before aggregating radioactive material to a quantity that equals or exceeds the Category 2 threshold.

(2) General performance objective. Each licensee shall establish, implement, and maintain a security program designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to Category 1 or Category 2 quantities of radioactive material.

(3) Program features. Each licensee's security program must include the program features, as appropriate, described in WAC 246-237-043 through 246-237-055.

NEW SECTION

WAC 246-237-043 General security program requirements. (1) Security plan.

(a) Each licensee identified in WAC 246-237-041(1) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this chapter. The security plan must, at a minimum:

(i) Describe the measures and strategies used to implement the requirements of this chapter; and

(ii) Identify the security resources, equipment, and technology used to satisfy the requirements of this chapter.

(b) The security plan must be reviewed and approved by the individual with overall responsibility for the security program.

(c) A licensee shall revise its security plan as necessary to ensure the effective implementation of department requirements. The licensee shall ensure that:

(i) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and

(ii) The affected individuals are instructed on the revised plan before the changes are implemented.

(d) The licensee shall retain a copy of the current security plan as a record for three years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

(2) Implementing procedures.

(a) The licensee shall develop and maintain written procedures that document how the requirements of this chapter and the security plan will be met.

(b) The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.

(c) The licensee shall retain a copy of the current procedure as a record for three years after the procedure is no longer needed. Superseded portions of the procedure must be retained for three years after the record is superseded.

(3) Training.

(a) Each licensee shall conduct training to ensure those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:

(i) The licensee's security program and procedures to secure Category 1 or Category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;

(ii) The responsibility to report promptly to the licensee any condition which causes or may cause a violation of department requirements;

(iii) The responsibility of the licensee to report promptly to the LLEA and licensee any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material; and

(iv) The appropriate response to security alarms.

(b) In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of Category 1 or Category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of Category 1 or Category 2 quantities of radioactive material.

(c) Refresher training must be provided at a frequency not to exceed twelve months and when significant changes have been made to the security program. This training must include:

(i) Review of the training requirements of this subsection and any changes made to the security program since the last training;

(ii) Reports on any relevant security issues, problems, and lessons learned;

(iii) Relevant results of department inspections; and

(iv) Relevant results of the licensee's program review and testing and maintenance.

(d) The licensee shall maintain records of the initial and refresher training for three years from the date of the training. The training records must include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

(4) Protection of information.

(a) Licensees authorized to possess Category 1 or Category 2 quantities of radioactive material shall limit access to, and unauthorized disclosure of, their security plan, imple-

menting procedures, and the list of individuals who have been approved for unescorted access.

(b) Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.

(c) Before granting an individual access to the security plan or implementing procedures, licensees shall:

(i) Evaluate an individual's need to know the security plan or implementing procedures; and

(ii) If the individual has not been authorized for unescorted access to Category 1 or Category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in WAC 246-237-025 (1)(b) through (g).

(d) Licensees need not subject the following individuals to the background investigation elements for protection of information:

(i) The categories of individuals listed in WAC 246-237-029 (1)(a) through (m); or

(ii) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in WAC 246-237-025 (1)(b) through (g), has been provided by the security service provider.

(e) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.

(f) Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.

(g) When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in nonremovable electronic form must be password protected.

(h) The licensee shall retain as a record for three years after the document is no longer needed:

(i) A copy of the information protection procedures; and

(ii) The list of individuals approved for access to the security plan or implementing procedures.

NEW SECTION

WAC 246-237-045 LLEA coordination. (1) A licensee subject to this chapter shall coordinate, to the extent practicable, with a LLEA for responding to threats to the licensee's

facility, including any necessary armed response. The information provided to the LLEA must include:

(a) A description of the facilities and the Category 1 and Category 2 quantities of radioactive materials along with a description of the licensee's security measures which have been implemented to comply with this chapter; and

(b) A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of material.

(2) The licensee shall notify the department within three business days if:

(a) The LLEA has not responded to the request for coordination within sixty days of the coordination request; or

(b) The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

(3) The licensee shall document its efforts to coordinate with the LLEA. The documentation must be kept for three years.

(4) The licensee shall coordinate with the LLEA at least every twelve months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

NEW SECTION

WAC 246-237-047 Security zones. (1) Licensees shall ensure that all aggregated Category 1 and Category 2 quantities of radioactive material are used or stored within licensee-established security zones. Security zones may be permanent or temporary.

(2) Temporary security zones must be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

(3) Security zones must, at a minimum, allow unescorted access only to approved individuals through:

(a) Isolation of Category 1 and Category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the Category 1 or Category 2 quantities of radioactive material within a security zone; or

(b) Direct control of the security zone by approved individuals at all times; or

(c) A combination of continuous physical barriers and direct control.

(4) For Category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.

(5) Individuals not approved for unescorted access to Category 1 or Category 2 quantities of radioactive material must be escorted by an approved individual when in a security zone.

NEW SECTION

WAC 246-237-049 Monitoring, detection, and assessment. (1) Monitoring and detection.

(a) Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.

(b) Monitoring and detection must be performed by:

(i) A monitored intrusion detection system that is linked to an on-site or off-site central monitoring facility;

(ii) Electronic devices for intrusion detection alarms that will alert nearby facility personnel;

(iii) A monitored video surveillance system;

(iv) Direct visual surveillance by approved individuals located within the security zone; or

(v) Direct visual surveillance by a licensee designated individual located outside the security zone.

(c) A licensee subject to this chapter shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:

(i) For Category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability must be provided by:

(A) Electronic sensors linked to an alarm;

(B) Continuously monitored video surveillance; or

(C) Direct visual surveillance.

(ii) For Category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

(2) Assessment. Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

(3) Personnel communications and data transmission. For personnel, and automated or electronic systems, supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

(a) Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

(b) Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.

(4) Response. Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radio-

active material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

NEW SECTION

WAC 246-237-051 Maintenance and testing. (1) Each licensee subject to this chapter shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this part must be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing must be performed at least annually, not to exceed twelve months.

(2) The licensee shall maintain records of the maintenance and testing activities for three years.

NEW SECTION

WAC 246-237-053 Requirements for mobile devices. Each licensee who possesses mobile devices containing Category 1 or Category 2 quantities of radioactive material must:

(1) Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and

(2) For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of the ignition key to meet this requirement.

NEW SECTION

WAC 246-237-055 Security program review. (1) Each licensee shall be responsible for the continuing effectiveness of their security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this chapter and that comprehensive actions are taken to correct any noncompliance which is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically, at least annually, review the security program content and implementation.

(2) The results of the review, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition or conditions, and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition or conditions, including reassessment of the deficient areas where indicated.

(3) The licensee shall maintain the review documentation for three years.

NEW SECTION

WAC 246-237-057 Reporting of events. (1) The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a Category 1 or Category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the department. In no case shall the notification to the department be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

(2) The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than four hours after notifying the LLEA, the licensee shall notify the department.

(3) The initial telephonic notification required by subsection (1) of this section must be followed within a period of thirty days by a written report submitted to the department. The report must include sufficient information for department analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

NEW SECTION

WAC 246-237-071 Additional requirements for transfer of Category 1 and Category 2 quantities of radioactive material. A licensee transferring a Category 1 or Category 2 quantity of radioactive material to a licensee of the department, the NRC, or an agreement state shall meet the license verification provisions listed in this section instead of those listed in WAC 246-232-080(4):

(1) Any licensee transferring Category 1 quantities of radioactive material to a licensee of the department, the NRC, or an agreement state, prior to conducting such transfer, shall verify with the department, the NRC's license verification system, or the license issuing authority that the transferee's license authorizes receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

(2) Any licensee transferring Category 2 quantities of radioactive material to a licensee of the department, the NRC, or an agreement state, prior to conducting such transfer, shall verify with the department, the NRC's license verification system, or the license issuing authority that the transferee's license authorizes receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

(3) In an emergency where the licensee cannot reach the department or the license issuing authority, and the NRC license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is autho-

ized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision or amendment number, issuing agency, expiration date and, for a Category 1 shipment, the authorized address. The licensee shall keep a copy of the certification. The certification must be confirmed by use of NRC's license verification system or by contacting the department or the license issuing authority by the end of the next business day.

(4) The transferor shall keep a copy of the verification documentation as a record for three years.

NEW SECTION

WAC 246-237-073 Applicability of physical protection of Category 1 and Category 2 quantities of radioactive material during transit. (1) For shipments of Category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in WAC 246-237-075 (1) and (5); 246-237-077; 246-237-079 (1)(a), (2)(a), and (3); and 246-237-081 (1), (3), (5), (7), and (8).

(2) For shipments of Category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in WAC 246-237-075 (2) through (5); 246-237-079 (1)(b), (c), (2)(b), and (3); and 246-237-081 (2), (4), (6), (7), and (8). For those shipments of Category 2 quantities of radioactive material which meet the criteria of WAC 246-231-140(2), the shipping licensee shall also comply with the advance notification provisions of WAC 246-231-140.

(3) The shipping licensee shall be responsible for meeting the requirements of this chapter unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this chapter.

(4) Each licensee that imports or exports Category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in WAC 246-237-075 (1)(b) and (5); 246-237-077; 246-237-079 (1)(a), (2)(a), and (3); and 246-237-081 (1), (3), (5), (7), and (8) for the domestic portion of the shipment.

(5) Each licensee that imports or exports Category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in WAC 246-237-079 (1)(b), (c), and (2)(b); and 246-237-081 (2), (4), (6), (7), and (8) for the domestic portion of the shipment.

NEW SECTION

WAC 246-237-075 Preplanning and coordination of shipment of Category 1 or Category 2 quantities of radioactive material. (1) Each licensee who plans to transport, or deliver to a carrier for transport, licensed material that is a Category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:

(a) Preplan and coordinate shipment arrival and departure times with the receiving licensee;

(b) Preplan and coordinate shipment information with the governor or the governor's designee of any state through which the shipment will pass to:

(i) Discuss the state's intention to provide law enforcement escorts; and

(ii) Identify safe havens; and

(c) Document the preplanning and coordination activities.

(2) Each licensee who plans to transport, or deliver to a carrier for transport, licensed material which is a Category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.

(3) Each licensee who receives a shipment of a Category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

(4) Each licensee, who transports or plans to transport a shipment of a Category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to subsection (2) of this section, shall promptly notify the receiving licensee of the new no-later-than arrival time.

(5) The licensee shall retain a copy of the documentation for preplanning and coordination, and any revision thereof, as a record for three years.

NEW SECTION

WAC 246-237-077 Advance notification of shipment of Category 1 quantities of radioactive material. As specified in subsections (1) and (2) of this section, each licensee shall provide advance notification to the department and the governor of a state, or the governor's designee, of the shipment of licensed material in a Category 1 quantity, through or across the boundary of the state, before transport, or delivery to a carrier for transport, of the licensed material outside the confines of the licensee's facility or other place of use or storage.

(1) Procedures for submitting advance notification.

(a) The notification must be made to the department and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC's web site at <http://nrc-stp.ornl.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, State, Tribal and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001. Notifications to the department must be made to the attention of the Director, Office of Radiation Protection.

(b) A notification delivered by mail must be postmarked at least seven days before transport of the shipment commences at the shipping facility.

(c) A notification delivered by any means other than mail must reach the department at least four days before transport

of the shipment commences and must reach the office of the governor or the governor's designee at least four days before transport of a shipment within or through the state.

(2) Information to be furnished in advance notification of shipment. Each advance notification of shipment of Category 1 quantities of radioactive material must contain the following information, if available at the time of notification:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the Category 1 radioactive material;

(b) The license numbers of the shipper and receiver;

(c) A description of the radioactive material contained in the shipment, including the radionuclides and quantities;

(d) The point of origin of the shipment and the estimated time and date when shipment will commence;

(e) The estimated time and date the shipment is expected to enter each state along the route;

(f) The estimated time and date of arrival of the shipment at the destination; and

(g) A point of contact, with a telephone number, for current shipment information.

(3) Revision notice.

(a) The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the state or the governor's designee and to the department.

(b) A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with subsections (2) and (3)(a) of this section. The licensee shall also immediately notify the department of any such changes.

(4) Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the department and to the governor of each state or to the governor's designee previously notified. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification which is being canceled.

(5) Records. The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for three years.

(6) Protection of information. State officials, state employees, and other individuals, whether or not licensees of the department, NRC, or an agreement state who receive schedule information of the kind specified in subsection (2) of this section shall protect that information against unauthorized disclosure as specified in WAC 246-237-043(4).

NEW SECTION

WAC 246-237-079 Requirements for physical protection of Category 1 and Category 2 quantities of radioactive material during shipment. (1) Shipments by road.

(a) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a Category 1 quantity of radioactive material shall:

(i) Ensure that movement control centers are established that maintain position information from a remote location. These control centers must monitor shipments twenty-four hours a day, seven days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.

(ii) Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.

(iii) Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center must provide positive confirmation of the location, status, and control over the shipment. The movement control center must be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(iv) Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a twenty-four hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

(v) Develop written normal and contingency procedures to address:

(A) Notifications to the communication center and law enforcement agencies;

(B) Communication protocols. Communication protocols must include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;

(C) Loss of communications; and

(D) Responses to an actual or attempted theft or diversion of a shipment.

(vi) Each licensee who makes arrangements for the shipment of Category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

(b) Each licensee who transports Category 2 quantities of radioactive material shall maintain constant control or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.

(c) Each licensee who delivers to a carrier for transport, in a single shipment, a Category 2 quantity of radioactive material shall:

(i) Use carriers who have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control or surveillance, the package

tracking system must allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.

(ii) Use carriers who maintain constant control or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(iii) Use carriers who have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

(2) Shipments by rail.

(a) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a Category 1 quantity of radioactive material shall:

(i) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement pre-planned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(ii) Ensure that periodic reports to the communications center are made at preset intervals.

(b) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a Category 2 quantity of radioactive material shall:

(i) Use carriers who have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control or surveillance, the package tracking system must allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.

(ii) Use carriers who maintain constant control or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(iii) Use carriers who have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

(3) Investigations. Each licensee who makes arrangements for the shipment of Category 1 quantities of radioactive material shall immediately conduct an investigation upon discovery that a Category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of Category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

NEW SECTION

WAC 246-237-081 Reporting requirements. (1) The shipping licensee shall notify the appropriate LLEA and the

department within one hour of its determination that a shipment of Category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by WAC 246-237-079(3), the shipping licensee will provide agreed upon updates to the department on the status of the investigation.

(2) The shipping licensee shall notify the department within four hours of its determination that a shipment of Category 2 quantities of radioactive material is lost or missing. If, after twenty-four hours of the determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the department.

(3) The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a Category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the department upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of Category 1 radioactive material.

(4) The shipping licensee shall notify the department as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a Category 2 quantity of radioactive material.

(5) The shipping licensee shall notify the department and the LLEA as soon as possible upon recovery of any lost or missing Category 1 quantities of radioactive material.

(6) The shipping licensee shall notify the department as soon as possible upon recovery of any lost or missing Category 2 quantities of radioactive material.

(7) The initial telephonic notification required by subsections (1) through (4) of this section must be followed within a period of thirty days by a written report submitted to the department by an appropriate method. A written report is not required for notifications of suspicious activities required by subsections (3) and (4) of this section. In addition, the licensee shall provide a copy of the written report to the department. The report must set forth the following information:

(a) A description of the licensed material involved, including kind, quantity, chemical and physical form;

(b) A description of the circumstances under which the loss or theft occurred;

(c) A statement of disposition, or probable disposition, of the licensed material involved;

(d) Actions that have been taken, or will be taken, to recover the material; and

(e) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

(8) Subsequent to filing the written report, the licensee shall also report any additional substantive information about the loss or theft to the department within thirty days after the licensee learns of such information.

NEW SECTION

WAC 246-237-101 Form of records. Each record required by this chapter must be legible throughout the retention period specified by department rule. The record may be the original or a reproduced copy or a microform, provided the copy or microform is authenticated by authorized personnel and 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 of 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 246-237-103 Record retention. Licensees shall maintain records required by this chapter for the period specified by the appropriate rule. If a retention period is not otherwise specified, these records must be retained until the department terminates the facility's license. All records

related to this chapter may be destroyed upon department termination of the facility license.

NEW SECTION

WAC 246-237-105 Inspections. (1) Each licensee shall afford the department, at all reasonable times, opportunity to inspect Category 1 or Category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.

(2) Each licensee shall make available to the department for inspection, upon reasonable notice, records kept by the licensee pertaining to receipt, possession, use, acquisition, import, export, or transfer of Category 1 or Category 2 quantities of radioactive material.

NEW SECTION

WAC 246-237-900 Appendix A: Table 1—Category 1 and Category 2 thresholds. Terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values provided for practical usefulness only.

Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides

The "sum of fractions" methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this chapter.

I. If multiple sources of the same radionuclide or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides must be determined to verify whether the activity at the location is less than the Category 1 or Category 2 thresholds of Table 1,

as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this chapter apply.

II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation. Cal-

culations must be performed in metric values (TBq) and the numerator and denominator values must be in the same units.

R_1 = total activity for radionuclide 1

R_2 = total activity for radionuclide 2

R_N = total activity for radionuclide n

AR_1 = activity threshold for radionuclide 1

AR_2 = activity threshold for radionuclide 2

AR_N = activity threshold for radionuclide n

$$\sum_1^n \left[\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \frac{R_n}{AR_n} \right] \geq 1.0$$

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 16-10-094

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

[Filed May 3, 2016, 4:08 p.m.]

The department of licensing, home inspector program, request[s] the withdrawal of the proposed rule making (CR-102) filed as WSR 16-01-184 for chapters 308-408, 308-408A, 308-408B, and 308-408C WAC (filed on December 22, 2015).

Damon Monroe
Rules Coordinator

WSR 16-10-100

PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed May 4, 2016, 9:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-071.

Title of Rule and Other Identifying Information: Chapter 16-752 WAC, Noxious weed seed and plant quarantine, the agency is clarifying language and proposing to add additional species to the noxious weed seed and plant quarantine. These species include: Butterfly bush (*Buddleja davidii*), except for accepted sterile cultivars; yellow archangel (*Lamiastrum galeobdolon*); lesser celandine (*Ficaria verna*); all nonnative hawkweed species and hybrids (nonnative *Hieracium spp.*); Senegal tea plant (*Gymnocoronis spilanthoides*); and Australian water clover (*Marsilea mutica*).

Hearing Location(s): Washington State Department of Agriculture (WSDA), Natural Resources Building, 1111 Washington Street S.E., Conference Room 205, Olympia, WA 98504-2560, on June 9, 2016, at 10:00 a.m.

Date of Intended Adoption: June 23, 2016.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail wsdarules

comments@agr.wa.gov, fax (360) 902-2094, by June 9, 2016.

Assistance for Persons with Disabilities: Contact Deanna Painter by June 2, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal adds butterfly bush (*Buddleja davidii*), except for accepted sterile cultivars; yellow archangel (*Lamiastrum galeobdolon*); lesser celandine (*Ficaria verna*); all nonnative hawkweed species and hybrids (nonnative *Hieracium spp.*); Senegal tea plant (*Gymnocoronis spilanthoides*); and Australian water clover (*Marsilea mutica*) to the noxious weed seed and plant quarantine, prohibiting their sale and distribution in Washington state. Regulated status also applies to all synonyms of these botanical names and interspecies hybrids if both parents are regulated species. Adding these species to the quarantine to ensure these plants are not being sold through the nursery trade may be critical to their exclusion or control.

In addition to adding species, WSDA is adding language clarifying the fees charged for compliance agreements and defining what are "regulated articles."

Reasons Supporting Proposal: The purpose of the noxious weed seed and plant quarantine is to prevent the establishment or spread of noxious weeds within the state by prohibiting their sale and movement. The noxious weed quarantine prohibits the sale of certain plant species that are determined to be invasive, nonnative, and harmful to our local ecosystems or disrupt agricultural production. Many of the quarantined species were introduced as ornamentals through the horticulture trade. Most of the listed species in the quarantine are also listed in chapter 16-750 WAC, the state noxious weed list, as a Class A or Class B noxious weed, requiring mandatory control by county weed boards. However, designation as a noxious weed on the state noxious weed list doesn't prohibit its sale, allowing consumers to buy a plant species that's prohibited by their county weed board. Prohibiting the sale of plants designated under the state noxious weed list for mandatory control will support the efforts of county weed boards to control noxious weeds.

Statutory Authority for Adoption: RCW 17.10.074, 17.24.011, 17.24.041, and chapter 34.05 RCW.

Statute Being Implemented: RCW 17.10.074, 17.24.011, and 17.24.041.

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

Name of Proponent: Washington state noxious weed control board and Washington state department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Cindy Cooper, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-2062.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Regarding butterfly bush, yellow archangel, lesser celandine and nonnative hawkweeds, analysis of the economic effects of the proposed rule amendments demonstrates that the changes will not be more than a minor cost to small business in the regulated industry because alternative noninvasive species are readily available and, therefore, a small business economic impact

statement is not required. However, failure to adopt these changes has potential to have a large negative economic impact on the state due to the cost of eliminating these species if they were to become established. WSDA consulted department of ecology experts, and nursery industry experts that serve on the nursery advisory committee to determine that *Gymnocroronis spilanthoides* and *Marsilea mutica* are not commonly sold in the nursery trade and therefore their listing has no economic impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.-328 (5)(a)(i).

May 4, 2016
Brad White
Assistant Director

AMENDATORY SECTION (Amending WSR 14-07-040, filed 3/12/14, effective 4/12/14)

WAC 16-752-600 Establishing the noxious weed seed and plant quarantine. Washington agriculture, environmental quality and natural resources, including waters and wetlands, are threatened by nonnative, aggressive species of noxious weeds. A number of these noxious weeds are transported and sold within the state of Washington both as nursery plants and as seeds in packets of flower seeds or "wildflower mixes." Subsequent "escape" of these ornamentals has been a documented source of a number of infestations and has resulted in large public and private expenditures by landowners and land managers, weed boards, and weed districts and the department of agriculture to achieve the control mandated in chapter 17.10 RCW. The director of agriculture, pursuant to the powers provided in chapters 17.10 and 17.24 RCW, finds that regulation of the sale of these seed packets and plants as "regulated articles" is necessary to protect Washington agriculture and natural resources and to prevent public and private costs of control.

((Note: For rules prescribing the limits of prohibited and restricted noxious weed seeds as contaminants in certified seed, see WAC 16-300-010 through 16-300-025.))

AMENDATORY SECTION (Amending WSR 14-07-040, filed 3/12/14, effective 4/12/14)

WAC 16-752-610 Regulated articles. All plants, plant parts, and seeds in packets, blends, and "wildflower mixes" of the following listed species are designated as regulated articles under the terms of this noxious weed seed and plant quarantine. This list is comprised of the most recent and accepted scientific and common names of the quarantine plant species. Regulated status also applies to all synonyms of these botanical names and interspecies hybrids if both parents are regulated species:

Scientific Name	Common Names
<i>Abutilon theophrasti</i>	velvetleaf
<i>Alliaria petiolata</i>	garlic mustard
<i>Amorpha fruticosa</i>	indigobush, lead plant

Scientific Name	Common Names
<i>Anchusa officinalis</i>	common bugloss, alkanet, anchusa
<i>Anthriscus sylvestris</i>	wild chervil
<i>Arundo donax</i> (except variegated cultivars)	giant reed
<i>Brachypodium sylvaticum</i>	false brome
<u><i>Buddleia davidii</i></u> (except accepted sterile cultivars)	<u>butterfly bush</u>
<i>Butomus umbellatus</i>	flowering rush
<i>Cabomba caroliniana</i>	fanwort
<i>Carduus acanthoides</i>	plumeless thistle
<i>Carduus nutans</i>	musk thistle, nodding thistle
<i>Carduus pycnocephalus</i>	Italian thistle
<i>Carduus tenuiflorus</i>	slenderflower thistle
<i>Centaurea calcitrapa</i>	purple starthistle
<i>Centaurea diffusa</i>	diffuse knapweed
<i>Centaurea jacea</i>	brown knapweed, rayed knapweed, brown centaury horseknobs, hardheads
<i>Centaurea jacea x nigra</i>	meadow knapweed
<i>Centaurea stoebe</i>	spotted knapweed
<i>Centaurea macrocephala</i>	bighead knapweed
<i>Centaurea nigra</i>	black knapweed
<i>Centaurea nigrescens</i>	Vochin knapweed
<i>Chaenorrhinum minus</i>	dwarf snapdragon
<i>Clematis orientalis</i>	oriental clematis
<i>Crassula helmsii</i>	Australian swamp stonecrop
<i>Crupina vulgaris</i>	common crupina
<i>Cyperus rotundus</i>	purple nutsedge
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	wild carrot, Queen Anne's lace
<i>Echium vulgare</i>	blueweed, blue thistle, blue devil, viper's bugloss, snake flower
<i>Egeria densa</i>	Brazilian elodea
<i>Epilobium hirsutum</i>	hairy willow herb
<i>Euphorbia esula</i>	leafy spurge
<i>Euphorbia oblongata</i>	eggleaf spurge
<u><i>Ficaria verna</i></u>	<u>lesser celandine</u>
<i>Galega officinalis</i>	goatsrue

Scientific Name	Common Names	Scientific Name	Common Names
<i>Genista monspessulana</i>	French broom	<i>Lythrum virgatum</i>	wand loosestrife
<i>Geranium lucidum</i>	shiny geranium	<i>Marsilea mutica</i>	<u>Australian water clover</u>
<i>Glossostigma dianthrum</i>	mud mat	<i>Mirabilis nyctaginea</i>	wild four o'clock, umbrella-wort
<i>Glyceria maxima</i>	reed sweetgrass, tall manna grass	<i>Murdannia keisak</i>	marsh dew flower, Asian spider-wort
<i>Gymnocoronis spilanthoides</i>	<u>Senegal tea plant</u>	<i>Myriophyllum aquaticum</i>	parrotfeather
<i>Helianthus ciliaris</i>	Texas blueweed	<i>Myriophyllum heterophyllum</i>	variable-leaf milfoil
<i>Heracleum mantegazzianum</i>	giant hogweed, giant cow parsnip	<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Hibiscus trionum</i>	Venice mallow, flower-of-an-hour, bladder ketmia, modesty, shoo-fly	<i>Najas minor</i>	slender-leaved naiad, brittle naiad
((<i>Hieracium aurantiacum</i>	orange hawkweed, orange paintbrush, red daisy flameweed, devil's weed, grim the collier	<i>Nymphoides peltata</i>	yellow floating heart
<i>Hieracium caespitosum</i>	yellow hawkweed, yellow paintbrush, devil's paintbrush, yellow devil, field hawkweed, king devil	<i>Onopordum acanthium</i>	Scotch thistle
<i>Hieracium floribundum</i>	yellow devil hawkweed	<i>Polygonum cuspidatum</i>	Japanese knotweed
<i>Hieracium pilosella</i>	mouseear hawkweed	<i>Polygonum</i>	Himalayan knotweed
<i>Hieracium sabaudum</i>	European hawkweed))	<i>polystachyum</i>	
<u><i>Hieracium</i> spp. All nonnative species and hybrids</u>	<u>nonnative hawkweeds</u>	<i>Polygonum sachalinense</i>	giant knotweed
<i>Hydrilla verticillata</i>	hydrilla	<i>Polygonum x bohemicum</i>	Bohemian knotweed, Japanese and giant knotweed hybrid
<i>Hydrocharis morsus-ranae</i>	European frog-bit	<i>Proboscidea louisianica</i>	unicorn-plant
<i>Impatiens glandulifera</i>	policeman's helmet	<i>Pueraria montana var. lobata</i>	kudzu
<i>Isatis tinctoria</i>	dyers' woad	<i>Sagittaria graminea</i>	grass-leaved arrowhead
<i>Kochia scoparia</i>	kochia, summer-cyprus, burning-bush, fireball, Mexican fireweed	<i>Sagittaria platyphylla</i>	delta arrowhead
<i>Lagarosiphon major</i>	African elodea	<i>Salvia aethiopis</i>	Mediterranean sage
<u><i>Lamiastrum galeobdolon</i></u>	<u>yellow archangel</u>	<i>Salvia pratensis</i>	meadow clary
<i>Lepidium latifolium</i>	perennial pepperweed	<i>Salvia sclarea</i>	clary sage
<i>Leucanthemum vulgare</i>	oxeye daisy, white daisy, white-weed, field daisy, marguerite, poorland flower	<i>Schoenoplectus mucronatus</i>	ricefield bulrush
<i>Linaria dalmatica</i> spp. <i>dalmatica</i>	Dalmatian toadflax	<i>Senecio jacobaea</i>	tansy ragwort
<i>Ludwigia hexapetala</i>	water primrose	<i>Silybum marianum</i>	milk thistle
<i>Ludwigia peploides</i>	floating primrose-willow	<i>Solanum elaeagnifolium</i>	silverleaf nightshade
<i>Lysimachia vulgaris</i>	garden loosestrife	<i>Solanum rostratum</i>	buffaloburr
<i>Lythrum salicaria</i>	purple loosestrife	<i>Soliva sessilis</i>	lawnweed
		<i>Sorghum halepense</i>	johnsongrass
		<i>Spartina alterniflora</i>	smooth cordgrass
		<i>Spartina anglica</i>	common cordgrass
		<i>Spartina densiflora</i>	dense-flowered cordgrass
		<i>Spartina patens</i>	salt meadow cordgrass
		<i>Spartium junceum</i>	Spanish broom

Scientific Name	Common Names
<i>Stratiotes aloides</i>	water soldier
<i>Tamarix ramosissima</i>	saltcedar
<i>Thymelaea passerina</i>	spurge flax
<i>Torilis arvensis</i>	hedgearsley
<i>Trapa natans</i>	water chestnut, bull nut
<i>Trapa bicornus</i>	water caltrap, devil's pod, bat nut
<i>Ulex europaeus</i>	gorse, furze
<i>Utricularia inflata</i>	swollen bladderwort
<i>Zygophyllum fabago</i>	Syrian bean-caper

((This list is comprised of the most recent and accepted scientific and common names of the quarantine plant species. Regulated status also applies to all synonyms of these botanical names and interspecies hybrids if both parents are regulated species.))

AMENDATORY SECTION (Amending WSR 14-07-040, filed 3/12/14, effective 4/12/14)

WAC 16-752-640 Compliance agreements. The director may allow activities prohibited under this chapter by compliance agreement. Such compliance agreement shall specify the terms and conditions under which such activities are allowed. A fee may be charged for these services under ((chapter 16-470)) WAC 16-401-027 or 16-470-912 and 16-470-921.

WSR 16-10-102
PROPOSED RULES
DEPARTMENT OF HEALTH
(Veterinary Board of Governors)
[Filed May 4, 2016, 10:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-20-049.

Title of Rule and Other Identifying Information: WAC 246-933-350 Release of a veterinary prescription, the veterinary board of governors (board) is proposing to adopt a new rule to require veterinarians to provide clients a written prescription on request. Alternatively, if requested, the veterinarian must call, fax, or electronically send the prescription to a licensed pharmacy.

Hearing Location(s): Courtyard Richland Columbia Point, Riverside Hall, 480 Columbia Point Drive, Richland, WA 99352, on June 20, 2016, at 10:00 a.m.

Date of Intended Adoption: June 20, 2016.

Submit Written Comments to: Lorelei Walker, Program Manager, Department of Health, Veterinary Board of Governors, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <https://fortress.wa.gov/doh/policyreview/>, fax (360) 236-2901, by June 6, 2016.

Assistance for Persons with Disabilities: Contact Lorelei Walker by June 6, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules require veterinarians to provide clients a written prescription for prescribed medications on request. Alternatively, if requested, the veterinarian must call, fax, or electronically send the prescription to a licensed pharmacy in Washington state. The proposed rules will provide pet owners flexibility and cost savings when obtaining medications for their pets.

Reasons Supporting Proposal: Honoring a client's request for a prescription in lieu of dispensing is a provision of the American Veterinary Medicine Association (AVMA) Principals of Veterinary Medical Ethics. More than thirty states have adopted rules to require veterinarians to release prescriptions to clients upon request. The cost savings and options for accessing medications may allow pet owners, humane societies, and rescue groups with budget limitations to provide better care for their pets.

Statutory Authority for Adoption: RCW 18.92.030.

Statute Being Implemented: RCW 18.92.030.

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

Name of Proponent: Department of health, veterinary board of governors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SECTION 1: Describe the proposed rule, including a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

The board is proposing a new section, WAC 246-933-350, that would require veterinarians to provide clients a written prescription on request. Alternatively, if requested, the veterinarian would be required to call, fax, or electronically send the prescription to a licensed pharmacy in Washington state.

Honoring a client's request for a prescription in lieu of dispensing is a provision of the AVMA Principals of Veterinary Medical Ethics. More than thirty states have adopted rules to require veterinarians to release prescriptions to clients upon request.

The proposed rules would provide pet owners flexibility and cost savings opportunities when obtaining medications for their pets. The cost savings and options for accessing medications will allow pet owners, humane societies and rescue groups with budget restrictions to provide better treatment for the pets in their care.

SECTION 2: Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

2013 County Business Patterns - Washington - Major Industries

Threshold calculation

NAICS code	NAICS code description	Total establishments	Paid employees	Annual payroll (\$1,000)	Average annual payroll (\$1,000)	1% of Average annual payroll
541940	Veterinary Services	769	8,409	278,869	362,638	3,626

Number of establishments by employment-size class

NAICS code	Industry code description	Total establishments	1-4	5-9	10-19	20-49	50-99	100-249	250-499	500-999	1000 or more
541940	Veterinary Services	769	216	231	223	89	7	3	0	0	0

SECTION 3: Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

There are minimal costs associated with requiring veterinarians to release prescriptions to clients upon request. When asked by the client, veterinarians would need to take the time to write the prescription and give it to the client or, if they choose, call or fax the prescription to the pharmacy of the client's choice. If the veterinary facility were to fill the prescription, appropriate veterinary staff would need to retrieve the drug, give it to the client, and keep records of drugs ordered and dispensed. There should not be a significant cost difference between the two scenarios.

Veterinary facilities may lose revenue by complying with the proposed rule. Potential lost revenue is difficult to determine, as there are a number of variables that contribute to whether a client would fill their prescription at the veterinary clinic or at a pharmacy. Factors could include:

- Client preferences for convenience of filling the prescription at the veterinary clinic versus cost-savings of filling the prescription at a pharmacy.
- Client confidence in obtaining a pet prescription through a pharmacy rather than the veterinary practice.
- Whether the drug is available through veterinary clinic only, or is widely available at pharmacies.
- The degree to which the veterinary clinic already offers clients written prescriptions in accordance with best practices. Honoring a client's request for a prescription in lieu of dispensing is a provision of the AVMA Principals of Veterinary Medical Ethics.

SECTION 4: Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.

The department has determined the proposed rule will not impose more than minor costs on businesses in the industry.

When asked by the client, veterinarians would need to take the time to write the prescription and give it to the client or, if they choose, call or fax the prescription to the pharmacy

of the client's choice. If the veterinary facility were to fill the prescription, appropriate veterinary staff would need to retrieve the drug, give it to the client, and keep records of drugs ordered and dispensed. There should not be a significant cost difference between the two scenarios.

The Oregon Veterinary Medical Association conducted a membership survey in 2012 related to veterinary prescriptions and retail pharmacies. At the time, Oregon did not require a veterinarian to release a prescription to the client upon request. Oregon received responses from twenty-one percent of the veterinary practices across the state. Ninety-five percent of respondents reported that they honor a client's request to have a prescription filled outside of the veterinary practice. Ninety-three percent said that they do not charge a fee when the client fills the prescription outside of the veterinary practice.

Based on these responses from the Oregon survey, most veterinary practices currently release prescriptions. Anecdotal evidence and comments received during the rule drafting process indicate that this is a common practice for private veterinary practices in Washington too. This rule would not impose additional costs for businesses that already follow this practice.

Comments received during the rule-making process also indicate that corporate veterinary practices are much more likely to impose policies that require the client fill their prescription at the clinic. These policies will need to be amended, and there is a minor cost associated with this.

SECTION 5: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the ten percent of businesses that are the largest businesses required to comply with the proposed rule.

Although potential lost revenue is difficult to determine because of multiple variables, the rule may have a disproportionate impact on small businesses. As outlined in section 2, seven hundred fifty-nine of the seven hundred sixty-nine veterinary businesses are small, employing fewer than fifty people. Small businesses serve the vast majority of patients, including issuing prescriptions. Since results of the Oregon study indicated most veterinary practices currently release prescriptions, and anecdotal evidence indicates that this is

also true in Washington, this rule is expected to have a minimal impact on most small businesses.

SECTION 6: If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced provide a clear explanation of why.

The proposed rule adds minimal costs and therefore does not have a disproportionate impact on small businesses.

SECTION 7: Describe how small businesses were involved in the development of the proposed rule.

The small businesses potentially impacted by this rule are small veterinary clinics owned by licensed veterinarians. The Washington State Veterinary Medical Association (WSVMA) is a major representative of the veterinarians who own their practices. The board has worked closely with WSVMA in the development of the rule, and WSVMA does not have major concerns with the potential lost revenue to veterinarians. The board notified interested parties about the rule making and asked for comments. The board has not received any comments from veterinarians regarding potential lost revenue with the potential implementation of this rule.

SECTION 8: Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

The department does not anticipate any jobs created or lost as a result of compliance with the proposed rule.

A copy of the statement may be obtained by contacting Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-4947, fax (360) 236-2901, e-mail loralei.walker@doh.wa.gov. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-4947, fax (360) 236-2901, e-mail loralei.walker@doh.wa.gov.

May 4, 2016
Kathy J. Schmitt
Deputy Director
Health Professions
and Facilities

NEW SECTION

WAC 246-933-350 Release of a veterinary prescription. (1) If requested by the client, a veterinarian must provide a written prescription for any medication prescribed by that veterinarian under a valid veterinarian-client-patient relationship.

(2) As an alternative to a written prescription, if requested by the client, the veterinarian must call or fax the prescription or send the prescription by electronic means to any pharmacy of the client's choosing that is licensed to do business in the state of Washington.

WSR 16-10-103

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed May 4, 2016, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-23-081.

Title of Rule and Other Identifying Information: WAC 16-301-490 through 16-301-580, crucifer seed quarantine.

Hearing Location(s): Department of Agriculture, 21 North First Avenue, Conference Room 238, Yakima, WA 98902, on June 16, 2016, at 11:00 a.m.

Date of Intended Adoption: June 30, 2016.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., June 16, 2016.

Assistance for Persons with Disabilities: Contact the agency receptionist by calling TTY 1-800-833-6388 or 711 no later than June 2, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will change the process for the field inspection of trial grounds, and is being pursued both as a result of the recent change to the crucifer quarantine to include eastern Washington, as well as a result of a petition for rule making received on this topic. In addition, changes to the rule language will increase clarity and readability.

Reasons Supporting Proposal: To keep black leg out of Washington, the department has adopted permanent rules adding eastern Washington to the regulated area of the crucifer quarantine, and requiring testing of all crucifer seed lots. As a result of these changes to the crucifer quarantine, it has become necessary to change the trial ground process to make it applicable to eastern Washington production practices.

Statutory Authority for Adoption: RCW 15.49.005 and 17.24.041 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.49 RCW, Seeds.

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

Name of Proponent: Michael Hubbard, Hubbard Agricultural Science, Inc., private.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Victor Shaul, Yakima, (509) 249-6950.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Only three entities currently run affected trials in Washington state. Two are large commercial companies and one is a university. No businesses that meet the definition of a small business under RCW 19.85.020(3) are impacted by the proposed rule.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency in RCW 34.05.328 (5)(a)(i).

May 4, 2016
Jason Ferrante
Assistant Director

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-301-490 Establishing a crucifer seed quarantine for black leg, black rot, and dormant seed. The production of crucifer vegetable seed is an important industry in Washington state. The economic well-being of that industry is threatened by the introduction of crucifer seed infected with certain bacterial and fungal pathogens. In addition, certain crucifer species produce dormant seed that, if present in a seed lot will persist into subsequent cropping years. The resulting "volunteer" plants have the potential to become established as weeds in Washington state.

The director has determined that a quarantine is needed to protect the Washington crucifer vegetable seed (~~(industry)~~), biofumigant and oil seed industries from the introduction of seed from areas known to be infected with (~~(certain pathogens)~~) black leg of crucifers and black rot and from the introduction of crucifer seed containing dormant seed. The quarantine will provide the seed growers in this state with sources of crucifer seed that have been tested and proven to be free from (~~(harmful pathogens and, when appropriate,)~~) black leg and black rot and free from dormant seed.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-495 Definitions. Definitions for some terms in (~~(this chapter)~~) WAC 16-301-490 through 16-301-580 can be found in chapter 15.49 RCW and chapter 16-301 WAC. In addition, the following definitions apply to (~~(this chapter)~~) these sections and take precedence over conflicting definitions found elsewhere:

"Appropriate pathological testing methods" includes seed testing methods approved for the specific target pathogens (*Phoma lingam* and *Xanthomonas campestris pv. campestris* for black leg and black rot, respectively) by the United States National Seed Health System or the International Seed Health Initiative (ISHI-Veg) of the International Seed Federation.

"Approved treatment methods" includes hot water, hot chlorine or any other method(~~(s)~~) that can eliminate the presence of regulated pathogens.

"Crucifer" means all plants in the family Brassicaceae (also known as Cruciferae) and specifically includes all *Brassica* species, *Raphanus sativus* - Radish, *Sinapis alba* and other mustards.

"Crucifer production" means any planting of crucifer seed or seedlings for the purpose of producing seed, oil, commercial vegetables or cover crops.

"Crucifer seed" includes any part of a plant capable of propagation including, but not necessarily limited to, seeds, roots, and transplants.

"Crucifer weed" means any crucifer plant that appears unintentionally in a different crucifer crop or crop growing area, as in the case of volunteers or after planting seed contaminated with other crucifer species.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Dormant seed" means viable true seed that displays a delay in or lack of germination when provided favorable germination conditions for the type of seed in question.

"Owner" means the person having legal ownership, possession or control over a regulated article covered by this chapter including, but not limited to, the owner, shipper, consignee, grower, seed dealer, landowner or their agent.

"Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

"Phytosanitary inspection program" means the seed field inspection program administered by the seed program of the department under the authority in RCW 15.49.370 and WAC 16-301-240.

"Regulated area" means those geographic areas that are protected from (~~(the introduction of specified plant pests)~~) regulated diseases by the provisions of this quarantine.

"Regulated article" means, with the exception of the exemptions listed in WAC 16-301-525(~~((4))~~) (1), all crucifer seed; seedlings; roots; transplants intended for seed production, oil production, commercial vegetable production or cover crop use; and crop residue remaining from the harvest of infected crucifer plants.

"Seed lot" means a designated quantity of seed that is uniquely identified by a lot number.

"Seed program" means the Washington state department of agriculture seed program.

"Trial ground" means a specific parcel of land approved by the director through the phytosanitary inspection program for experimental or limited production or increase of crucifer seed and for planting seed lots whose quantity of seed is insufficient to allow for pathological testing.

"True seed" means a mature fertilized ovule consisting of an embryo, with or without an external food reserve enclosed by a seed coat.

"Volunteer" means a crucifer plant that germinates in a crop year subsequent to the crop year it was planted.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-505 Regulated crucifer diseases (~~(regulated by this chapter)~~) and pathogens. (1) **"Regulated diseases"** means those bacterial and fungal diseases of crucifers listed in this section and any new variations or strains of these diseases.

(2) **"Regulated pathogens"** means those bacterial and fungal organisms identified as the causal agents for the diseases listed in this section.

(3) The following bacterial and fungal diseases of crucifers, and any new strains or variations of these diseases are regulated by this chapter:

<u>Disease Common Name</u>	<u>Pathogen Cause Scientific Name</u>
Black leg of crucifers	<i>Phoma lingam</i>
Black rot	<i>Xanthomonas campestris pv. campestris</i>

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-515 Crucifer seed quarantine—~~((Quarantined))~~ **Quarantine area.** (1) The quarantine area for the crucifer seed quarantine includes all Washington state counties except Adams, Asotin, Benton, Chelan, Clallam, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Island, Kittitas, Klickitat, Lewis, Lincoln, Okanogan, Pend Oreille, Skagit, Snohomish, Spokane, Stevens, Walla Walla, Whatcom, Whitman, and Yakima counties.

~~((2) ((Regulated articles imported into Washington state must comply with the regulations of this chapter before transport into a regulated area.))~~ (2) No additional requirements apply within the quarantine area but all regulated articles transported into a regulated area must comply with the regulations of this chapter.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-525 Crucifer seed quarantine exemptions within the regulated areas~~((—Exemptions))~~. ~~((This))~~ In the regulated areas, the crucifer seed quarantine does not apply to:

~~((1) ((Experiments or trial grounds of the United States Department of Agriculture;~~

~~((2) Experiments or trial grounds of a university such as but not limited to the University of Idaho or Washington State University research stations; or~~

~~((3) Trial grounds of any person, firm or corporation that are approved by the director and established in accordance with WAC 16-301-550;~~

~~((4))~~ Shipments, movements, or transportation of:

(a) Prepackaged crucifer seed in packages of 1/2 ounce or less if the seeds are free of regulated diseases as required in WAC 16-301-530 and 16-301-531; or

(b) Vegetable seedlings offered for sale for home garden use in the regulated areas if the seedlings are free of regulated diseases as required in WAC 16-301-530 and 16-301-531.

~~((5))~~ (2) Research, variety development, variety maintenance or other crucifer production where the entire crop cycle is confined within a building or greenhouse;

~~((6) Seed lots with a maximum weight of five pounds that were in inventory prior to January 1, 2007)).~~

NEW SECTION

WAC 16-301-528 Seed dormancy testing in the western Washington regulated area. Any crucifer seed whose primary uses are for any nonvegetable use in the western Washington regulated area must be tested for the presence of dormant seed.

This testing must be done by either a single or paired germination test that demonstrates freedom from dormant seed.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-530 Planting crucifer seed in the western Washington regulated area—Requirements. (1)(a) It

is a violation of this chapter to ~~((plant or))~~ establish crucifer seed that is infected with any regulated disease in the western Washington regulated area.

(b) Any crucifer seed ~~((of a *Brassica*, *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family))~~ planted or established in the western Washington regulated area whose primary use is for any nonvegetable use must be tested for the presence of dormant seed as required by WAC 16-301-510.

(2) Any person who plans to ship, move, or transport any crucifer seed intended for planting purposes into or within the western Washington regulated area must file a Notice of Intent/Quarantine Compliance form with the seed program before planting or offering the seed for sale.

(3) The Notice of Intent/Quarantine Compliance form filed with the seed program must be accompanied by a copy of the:

(a) Laboratory analysis or some other proof (such as a phytosanitary certificate based upon laboratory testing issued from the state or country of production) demonstrating that the lot is free of regulated diseases; and

(b) Seed analysis certificate(s) showing that the lot is free from dormant seed, if required under WAC 16-301-510.

(4) It is a violation of this chapter for any crucifer seed intended for seed production, oil production, commercial vegetable production or cover crop use to be offered for sale within or into the western Washington regulated area unless accompanied by documentation verifying quarantine compliance.

(a) For small packages such as heat sealed envelopes and tins, quarantine compliance may be placed on a sales invoice or other documentation that is provided to the purchaser of seed. Language must be approved by the seed program.

(b) Larger containers must bear a label issued by the seed program indicating that the seed is in compliance with this chapter.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-531 Planting crucifer seed in the eastern Washington regulated area—Requirements. (1)(a) It is a violation of this chapter to plant ~~((or establish))~~ crucifer seed that is infected with ~~((any regulated disease))~~ black leg of crucifers (*Phoma lingam*) in the eastern Washington regulated area.

(b) Any crucifer seed ~~((of a *Brassica*, *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family))~~ to be planted in the eastern Washington regulated area must be laboratory tested and found to be free from black leg of crucifers (*Phoma lingam*).

(2) Any crucifer seed ~~((of a *Brassica*, *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family))~~ to be planted in the eastern Washington regulated area must be tagged with a tag issued by the department indicating that the seed has met the requirements of this chapter.

NEW SECTION

WAC 16-301-534 Transporting regulated articles into a regulated area—Requirements. Regulated articles imported into Washington state must comply with the testing and treatment regulations of this chapter before transport into a regulated area.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-540 Crucifer transplants grown in greenhouses in the regulated areas—Requirements. (1) All crucifer transplants produced in greenhouses in the regulated areas must be subjected to pest control procedures that reduce the presence of diseases or insects that may inhibit identifying regulated diseases.

(2) The interiors of greenhouses in the regulated areas used to produce crucifer transplants must be free of crucifer weeds.

(3) A one hundred meter buffer((s)), free of crucifer weeds, must surround ((aH)) each greenhouse((s)) in the regulated areas used to produce crucifer transplants.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-545 Crucifer seed lots that test positive for any regulated disease—Requirements. (1) If a crucifer seed lot tests positive for any regulated disease, the infected seed lot may be treated with an approved ((seed)) treatment method.

(2) After treatment, the seed lot must be tested for the presence of regulated diseases using appropriate pathological testing methods.

(3) If the pathological testing yields negative test results, the seed lot will be considered in compliance with this chapter.

(4) It is a violation of this chapter to plant seed in the regulated areas that tests positive for any regulated disease subsequent to any approved treatment method.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-550 Planting seed in the western Washington regulated area—Protocols when certain documentation is unavailable. When no documentation exists verifying that a crucifer seed lot is free from regulated diseases, the following protocols must be followed before the seed is planted in the western Washington regulated area:

(1) A crucifer seed lot will be classified as a suspect seed lot if the seed lot lacks the documentation verifying that the lot complies with the crucifer seed quarantine requirements of this chapter.

(2) Suspect seed lots must:

(a) Not be offered for sale in the western Washington regulated area.

(b) Be treated by an approved treatment method.

(c) Be sown in a greenhouse and the seedlings must pass inspection by seed program inspectors before transplanting to the field.

(3) Any greenhouse operation used to grow crucifer seedlings for transplant must:

(a) Physically separate suspect seed lots from other crucifer production within that greenhouse.

(b) Monitor and document the location and identity of each suspect seed lot during production.

(4) It is a violation of this chapter for seedlings from a suspect seed lot to be topped, clipped, chopped or undergo any other treatment to toughen them or reduce their size.

(5) All seedlings from a suspect seed lot that exhibit symptoms of regulated diseases must be physically separated from asymptomatic transplants in that lot.

(6) Before shipping seedlings from a suspect seed lot, the seedlings must be inspected by department seed program inspectors for the presence of regulated diseases.

(a) If no symptoms of regulated diseases are detected during this inspection, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the western Washington regulated area.

(b) If seedlings display symptoms of regulated diseases, laboratory testing for the diseases is mandatory.

(c) If seedlings from a suspect seed lot test negative for regulated pathogens or diseases after appropriate pathological testing, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the western Washington regulated area.

(d) If the presence of a regulated disease is confirmed by laboratory testing, all seedlings from a suspect seed lot may be subject to a quarantine order or destruction order under WAC 16-301-570.

(7) Any crucifer seed production fields, plant beds, or greenhouse production that will be planted with or receives production from suspect seed lots that are determined to be free from regulated diseases under subsection (6) of this section must be entered into the Washington state phytosanitary inspection program as required under WAC ((16-301-235)) 16-301-240.

(8)(a) It is a violation of this chapter to plant seedlings from a suspect seed lot that tests positive for any regulated disease in the western Washington regulated area.

(b) Any suspect seed lot testing positive for any regulated disease may be subject to a quarantine order or a destruction order under WAC 16-301-570.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-301-555 ((Approved)) Requirements for the establishment of trial grounds. (1) If a crucifer seed lot has not been tested to determine if it is ((disease)) free of the regulated diseases as required in WAC 16-301-530 and 16-301-531, and the quantity of seed in the lot is too small for pathology testing to be practical, it must be planted in ((aH)) a trial ground ((that meets the requirements of the seed program)).

(2) Trial grounds may be established for the purposes of, but not limited to, variety maintenance, variety development or other related research.

~~(3)(a) ((The seed program must approve a trial ground before it is established.))~~ Trial grounds must be inspected by the department under the phytosanitary inspection program.

~~(b) ((Failure to obtain approval of a trial ground before it is established is a violation of this chapter and may subject the trial ground to a destruction order under WAC 16-301-570.))~~ Due dates for trial ground inspection applications are as follows:

(i) For western Washington:

(A) Fall plantings application due date is April 15th; and

(B) Spring plantings application due date is June 1st;

(ii) For eastern Washington:

(A) Fall plantings application due date is April 15th; and

(B) Spring plantings application due date is twenty-one days after planting.

(4)(a) Trial grounds must be isolated from crucifer seed production (~~(erops)~~) fields according to the standards set in "(Seed Field Minimum Isolation Distances) Isolating Seed Fields in the Columbia Basin of Washington" published by the Washington State University (WSU) ((eoperative)) Extension or the standards established by the department, whichever distances are greater. In addition, any trial grounds located in the Columbia Basin Irrigation Project crucifer seed production zone must meet all the requirements of that zone including, but not limited to, minimum isolation distances.

(b) Copies of this publication can be obtained by contacting a WSU extension office.

~~(5) ((A person may plant crucifer seed in an approved trial ground after notifying the seed program, in writing, of their intent to plant for research purposes only. The notification will include an assurance that the person planting crucifer seed in an approved trial ground will comply with the inspection procedures in WAC 16-301-560, the isolation requirements prescribed by the WSU extension publication "Seed Field Minimum Isolation Distances," and any other requirements established by the director.~~

~~(6))~~ The maximum planting in a trial ground is:

(a) One pound per variety for crucifer seed; and

(b) One-half acre for crucifer transplants.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-301-560 Inspection requirements for trial grounds. (1) ~~((Applications for the phytosanitary field inspection of a trial ground must be submitted to the department before September 1 of the year the trial ground is established.~~

~~(2))~~ A minimum of two phytosanitary field inspections of a trial ground must be conducted by the department. These inspections must take place at a minimum:

(a) During the seedling stage; and

(b) At the bloom stage.

~~((3))~~ (2) The phytosanitary field inspection application must include:

(a) A detailed varietal planting plan;

(b) A description of the exact location of the trial ground;

(c) For seed not treated with a fungicide that controls black leg disease, the manner in which the trial ground will be isolated from other known crucifer production; ((and))

(d) The distance by which the trial ground is isolated from other known crucifer production; and

(e) The method by which volunteers will be controlled in the following year.

(3) The person responsible for the trial ground must monitor the trial ground at a frequency of at least twice monthly. The responsible person must maintain records of these inspections and must make these records available to the department upon request.

If regulated diseases are identified, the responsible person must notify the department within twenty-four hours.

(4) If the field inspections by the department or the person responsible for the trial ground detect any suspect symptoms of regulated pathogens, and identification is confirmed by pathology testing, the trial ground is subject to destruction in whole or in part upon the order of the director.

(a) Infected plant residue must be promptly destroyed by chopping and incorporating it into the soil or by other means approved by the director.

(b) As a further precaution, the department recommends that, to the extent practical, crop residue be destroyed even when a regulated disease is not detected.

(c) The department will consult with pathologists, university personnel and appropriate subject matter experts in determining control measures and appropriate mitigation activities to prevent the spread of regulated diseases from the trial ground site. Such recommendations may be, but are not limited to, foliar applications of fungicides.

(5) A disinfectant must be applied to the:

(a) Machinery used in the production of the crucifer crop;

(b) Footwear of all persons entering the trial grounds; and

(c) Footwear of all persons before traveling from a trial ground to other crucifer fields.

(6) The department will conduct at least one inspection of the trial ground location the following year to ensure control of volunteer crucifer plants has been achieved.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-301-570 Penalties for violating the crucifer seed quarantine. (1) When the director determines that crucifer seed or a crucifer production area is infected with a regulated disease, the director may issue a quarantine order or notice of destruction. A violation of this chapter may also result in either a quarantine order or notice of destruction as determined by the director and the rules regulating the crucifer seed quarantine. Any costs associated with complying with a notice of destruction or quarantine order is the sole responsibility of the owner and not the responsibility of the department.

(2) The director may issue a notice of destruction:

(a) The notice of destruction will identify the property or seed lot affected.

(b) The notice of destruction will order the destruction of regulated articles or prescribe the terms of entry, inspection, partial destruction and/or treatment of regulated articles.

(c) The notice of destruction may prescribe control measures or other requirements needed to prevent the infection of adjacent properties with a regulated disease.

(d) To ensure that the affected parties comply with the measures required to eliminate a disease caused by regulated pathogens, the director will notify the owner and seed company representatives, if known, regarding the methods of destruction to be used, the extent of the destruction and the safeguards being implemented to prevent the spread of the disease.

(3) The director may order the quarantine of any regulated article or planting area. The director will:

- (a) Determine the quarantine conditions;
- (b) Determine if a quarantine extension is warranted; and
- (c) Prescribe sanitary precautions that will prevent the spread of the suspected regulated disease.

(4) To prevent the spread of the suspected regulated disease, persons entering the quarantined area must follow the sanitary precautions in WAC 16-301-560(5). Entry into the quarantined area is restricted to:

- (a) The owner;
 - (b) Department employees;
 - (c) University personnel or other plant pathology specialists; and/or
 - (d) Persons authorized in writing by the director.
- (5) Fields placed under a quarantine order:
- (a) Must enter the Washington state phytosanitary inspection program as required under WAC ~~((16-301-235))~~ 16-301-240 with all inspection costs borne by the owner.

(b) May be subject to additional inspection, control, isolation, or destruction requirements if the director determines they are needed to prevent the spread of regulated pathogens.

(6) Any owner violating the requirements of this crucifer seed quarantine is subject to the civil and/or criminal penalties as established in chapters 15.49 and/or 17.24 RCW.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-301-575 Identification of diseased crucifer seeds and infected fields. (1) So that timely investigations may be made, all interested parties, including owners, seed company representatives, and university extension personnel are encouraged to promptly report any suspected infected crucifer fields to the seed program.

(2) The owner of any crucifer crop infected with a regulated pathogen must ~~((be reported))~~ report the infection to the seed program within seventy-two hours after the regulated pathogen is discovered.

(3)(a) The seed program may conduct inspections and tests to determine infection of any crucifer seed or production with a regulated disease.

(b) If a WSDA plant services program plant pathologist and a qualified plant pathologist representing a commercial company or owner disagree over the presence of a regulated disease, the company or owner may request a third-party laboratory verification test for a regulated pathogen. A univer-

sity plant pathologist may recommend the type of third-party laboratory verification test. The third-party laboratory may not be affiliated with either WSDA or the owner of the seed. The verification test must use accepted scientific and professional techniques and will be at the seed owner's expense.

(c) The affected planting area will be placed under quarantine for at least thirty days or until verification testing is completed.

AMENDATORY SECTION (Amending WSR 15-20-035, filed 9/28/15, effective 10/29/15)

WAC 16-301-580 Diseased crucifer seeds and infected fields—Regulations. (1) When the director determines that a field is infected with a regulated pathogen and threatens to infect other fields, the director may issue a notice of destruction prescribing control measures or other requirements needed to prevent the infection of adjacent properties.

(2) Unless the crop is within two weeks of harvest, any crucifer crop within a regulated area that is infected with a regulated pathogen may be subject to immediate destruction, in part or in total. The owner is responsible for the expenses incurred to destroy a diseased crucifer crop.

(3) The following requirements apply to crops that are within two weeks of harvest:

(a) Residues must be destroyed or incorporated into the ground immediately after harvest;

(b) Harvested seed must be isolated from other seed lots until it is treated with ~~((hot water and/or chlorine seed))~~ an approved treatment((s)) method;

(c) Harvest equipment must be steam cleaned before entering any other fields; and

(d) WSDA personnel in consultation with WSU extension personnel must monitor these postharvest activities.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-301-510 Seed dormancy testing.

WAC 16-301-533 Requirements for planting crucifer seed in the eastern Washington regulated area.

WSR 16-10-106

PROPOSED RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed May 4, 2016, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-17-076.

Title of Rule and Other Identifying Information: New WAC 246-918-185 Training in suicide assessment, treatment, and management for allopathic physician assistants.

Hearing Location(s): Red Lion Wenatchee, 1225 North Wenatchee Avenue, Chelan Room, Wenatchee, WA 98512 [98801], on June 22, 2016, at 3:30 p.m.

Date of Intended Adoption: June 22, 2016.

Submit Written Comments to: Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by June 15, 2016.

Assistance for Persons with Disabilities: Contact Daidria Pittman by June 15, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The medical quality assurance commission (commission) had begun rule making after the legislature passed chapter 71, Laws of 2014 (ESHB 2315). This bill requires allopathic physician assistants (among other professions) to complete a one-time, six hour training in suicide assessment, treatment, and management. Chapter 249, Laws of 2015 (ESHB 1424) revised the requirement date and the proposed rule incorporates that change as well. The proposed rule also incorporates an allowance in ESHB 1424 for the commission to define licensed physicians who are exempt from the training.

Reasons Supporting Proposal: The proposed rules implement suicide prevention training as required in ESHB 2315 as well as ESHB 1424. It is the legislative intent that these rules will help lower the suicide rate in Washington by requiring allopathic physician assistants to complete training in suicide assessment, treatment, and management as part of their continuing education requirements.

Statutory Authority for Adoption: RCW 18.71.017.

Statute Being Implemented: RCW 43.70.442 and 18.71.-080.

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

Name of Proponent: Medical quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Daidria Pittman, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2727; Implementation and Enforcement: Melanie de Leon, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2755.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-2727, fax (360) 236-2795, e-mail <http://www3.doh.wa.gov/policyreview/>.

April 30, 2016
Melanie de Leon
Executive Director

NEW SECTION

WAC 246-918-185 Training in suicide assessment, treatment, and management. (1) A licensed physician assistant must complete a one-time training in suicide assessment, treatment, and management. The training must be at

least six hours in length and may be completed in one or more sessions.

(2) The training must be completed by the end of the first full continuing education reporting period after January 1, 2016, or during the first full continuing education period after initial licensure, whichever occurs later. The commission accepts training completed between June 12, 2014, and January 1, 2016, that meets the requirements of RCW 43.70.442 as meeting the one-time training requirement.

(3) Until July 1, 2017, the commission must approve the training. The commission will approve an empirically supported training in suicide assessment, suicide treatment, and suicide management that meets the requirements of RCW 43.70.442.

(4) Beginning July 1, 2017, the training must be on the model list developed by the department of health under RCW 43.70.442. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017.

(5) The hours spent completing training in suicide assessment, treatment, and management count toward meeting applicable continuing education requirements in the same category specified in WAC 246-918-180.

(6) The commission may exempt a licensed physician assistant from the training requirements of this section if the physician assistant has only brief or limited patient contact, or no patient contact. Brief or limited patient contact or no patient contact means the physician assistant:

(a) Engages exclusively in analysis and interpretation of laboratory or imaging studies that do not require direct patient interaction;

(b) Engages exclusively in research or administrative activities that do not involve direct patient interaction; or

(c) Is not engaged in the direct delivery of patient care.

WSR 16-10-108

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed May 4, 2016, 10:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-08-070.

Title of Rule and Other Identifying Information: Chapter 246-843 WAC, Nursing home administrators, the board of nursing home administrators is proposing to revise rules for examination, training, licensure, continuing education requirements and definition of sexual misconduct to ensure clear, up-to-date standards for nursing home administrators (NHA).

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Room 153, Olympia, WA 98501, on June 17, 2016, at 9:00 a.m.

Date of Intended Adoption: June 17, 2016.

Submit Written Comments to: Kendra Pitzler, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by June 14, 2016.

Assistance for Persons with Disabilities: Contact Kendra Pitzler by June 10, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to clarify, streamline, and modernize rules to meet current industry standards and comply with RCW 43.70.041. The proposal also updates the definition of sexual misconduct to establish clearer standards of conduct for NHA per Executive Order 06-03. Anticipated effects include: (1) Removing barriers for applicants by streamlining examination and training program requirements; (2) allowing returning military to apply equivalent training and experience towards licensing requirements including experience obtained in veterans homes; (3) aligning training program and continuing education requirements with national standards to attract more qualified applicants; and (4) providing clearer standards of conduct for NHAs to protect nursing home patients and the public.

Reasons Supporting Proposal: Most NHA rules were revised in [the] early 2000s. The proposal will meet current industry standards and will respond to RCW 43.70.041 requiring the department to review all chapters to reduce unnecessary regulatory burdens without compromising public health and safety. The proposal updates sexual misconduct rules for consistency in its enforcement activities to comply with Executive Order 06-03. By clarifying and streamlining standards, the proposal removes potential barriers to applicants seeking licensure to allow more qualified applicants to become licensed.

Statutory Authority for Adoption: RCW 18.52.061 and 18.130.050.

Statute Being Implemented: Chapter 18.52 RCW, RCW 18.130.040, 18.130.062, and 43.70.041.

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

Name of Proponent: Board of nursing home administrators, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kendra Pitzler, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4723.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kendra Pitzler, Department of Health, P.O. Box 47852, Olympia, WA 98501, phone (360) 236-4723, fax (360) 236-2901, e-mail kendra.pitzler@doh.wa.gov.

May 3, 2015 [2016]
Harry Aubert, Chair
Board of Nursing
Home Administrators

AMENDATORY SECTION (Amending WSR 12-14-051, filed 6/28/12, effective 7/29/12)

WAC 246-843-010 General definitions. ((Forms used in these rules have the following meanings:

~~(1) "On-site, full-time administrator" is an individual in active administrative charge of one nursing home facility or collocated facilities, as licensed under chapter 18.51 RCW, a minimum of four days and an average of forty hours per week. An "on-site, full-time administrator" in nursing homes with small resident populations, in rural areas, or in nursing homes with small resident populations when the nursing home has converted some of its licensed nursing facility bed capacity for use as assisted living or enhanced assisted living services under chapter 74.39A RCW is an individual in active administrative charge of one nursing home facility, or collocated facilities, as licensed under chapter 18.51 RCW:~~

~~(a) A minimum of four days and an average of twenty hours per week at facilities with one to thirty nursing home beds; or~~

~~(b) A minimum of four days and an average of thirty hours per week at facilities with thirty-one to forty-nine nursing home beds.~~

~~(2) "Active administrative charge" is direct participation in the operating concerns of a nursing home. Operating concerns include, but are not limited to, interaction with staff and residents, liaison with the community, liaison with regulatory agencies, pertinent business and financial responsibilities, planning and other activities as identified in the most current job analysis published by the National Association of Boards of Examiners for Long Term Care Administrators.~~

~~(3) "Person" means an individual and does not include the terms firm, corporation, institutions, public bodies, joint stock associations, and other such entities.~~

~~(4) "Nursing home administrator-in-training" means an individual in an administrator-in-training program approved by the board.~~

~~(5) "Secretary" means the secretary of the department of health or the secretary's designee.~~

~~(6) "Collocated facilities" means more than one licensed nursing facility situated on a contiguous or adjacent property, whether or not there are intersecting streets. Other criteria to qualify as a collocated facility would be determined by the nursing home licensing agency under chapter 18.51 RCW.~~

~~(7) "Recognized institution of higher learning" means an accredited degree granting institution in the United States or outside the United States that is listed in the directory of accredited institutions of postsecondary education published by the American Council on Education.)~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Active administrative charge" means direct participation in the operating concerns of a nursing home. Operating concerns include, but are not limited to, interaction with staff and residents, liaison with the community, liaison with regulatory agencies, pertinent business and financial responsibilities, planning and other activities as identified in the most current job analysis published by the National Association of Boards of Examiners for Long Term Care Administrators.

(2) "Administrator-in-training" means an individual in a nursing home administrator-in-training (AIT) program approved by the board.

(3) "Collocated facilities" means more than one licensed nursing facility situated on a contiguous or adjacent property,

whether or not there are intersecting streets. Other criteria to qualify as a collocated facility would be determined by the nursing home licensing agency under chapter 18.51 RCW.

(4) "Department" means the department of health.

(5) "On-site, full-time administrator" means an individual in active administrative charge of one nursing home facility or collocated facilities, as licensed under chapter 18.51 RCW, a minimum of four days and an average of forty hours per week. An "on-site, full-time administrator" in nursing homes with small resident populations, in rural areas, or in nursing homes with small resident populations when the nursing home has converted some of its licensed nursing facility bed capacity for use as assisted living or enhanced assisted living services under chapter 74.39A RCW is an individual in active administrative charge of one nursing home facility, or collocated facilities, as licensed under chapter 18.51 RCW:

(a) A minimum of four days and an average of twenty hours per week at facilities with one to thirty nursing home beds; or

(b) A minimum of four days and an average of thirty hours per week at facilities with thirty-one to forty-nine nursing home beds.

(6) "Person" means an individual and does not include the terms firm, corporation, institutions, public bodies, joint stock associations, and other such entities.

(7) "Recognized institution of higher learning" is a degree granting institution that is:

(a) Accredited by an organization recognized by the council for higher education accreditation (CHEA) and is included in the CHEA list recognized accrediting organizations; or

(b) Accredited by an organization recognized by the United States Department of Education (USDOE) and is included in the USDOE Database of Accredited Postsecondary Institutions and Programs; or

(c) A foreign institution with a program that the board has found to be the equivalent of programs approved by CHEA or by the USDOE. The transcript must also be evaluated and found to be valid and the academic program the equivalent of programs approved by CHEA or the USDOE, by:

(i) An organization that is a current member of the National Association of Credential Evaluation Services (NACES); or

(ii) An organization that is a current member of the Association of International Credential Evaluators, Inc. (AICE).

(8) "Secretary" means the secretary of the department of health or the secretary's designee.

AMENDATORY SECTION (Amending WSR 00-01-072, filed 12/13/99, effective 1/13/00)

WAC 246-843-070 Examination. (1) The (board approves subjects of examination for license. The scope, content, form, and character of examination shall be the same for all candidates taking the examination.

(2) The examination consists of) applicant for nursing home administrator licensure must take:

(a) The National Association of ((Boards of Examiners for Long-Term)) Long Term Care Administrator((s)) Boards (NAB) ((national)) nursing home administrator examination((-

(3) Subjects for examination may include, but not be limited to: Resident care management, personnel management, financial management, environmental management, and governance and management.

(4) Examinations shall be given at least semiannually at times and places designated by the department); or

(b) If the applicant was licensed prior to 1986, the examination offered by professional examination services (PES).

(2) An applicant for a nursing home administrator license must earn a scaled score of one hundred thirteen on the examination.

(3) The applicant shall be notified about their examination score in writing.

(a) The board and the department shall not disclose the applicant's score to anyone other than the applicant, unless requested to do so in writing by the candidate.

(b) The board shall keep a permanent record of the result of the examination for each applicant.

AMENDATORY SECTION (Amending WSR 00-01-072, filed 12/13/99, effective 1/13/00)

WAC 246-843-071 Application. ((1) An applicant must pay applicable fees and submit an application for initial credential on forms approved by the secretary. Refer to chapter 246-12 WAC, Part 2.

(2) Applications shall be completed in every respect prior to the examination date.)) Applicants for licensure as a nursing home administrator must meet the following requirements:

(1) Be at least twenty-one years old.

(2) Complete an application for licensure provided by the department that includes all information and payment of fees as required in chapter 246-12 WAC, Part 2 and WAC 246-843-990.

(3) Submit documentation of successful completion of a baccalaureate degree from a recognized institution of higher learning.

(4) Submit verification of successful completion of seven hours of AIDS education and training as required in chapter 246-12 WAC, Part 8.

(5) Satisfy training requirements by:

(a) Successfully completing an AIT program as described in WAC 246-843-090 and 246-843-091; or

(b) Meeting the requirements for an AIT exemption described in WAC 246-843-093; or

(c) Meeting the endorsement requirements described in WAC 246-843-230; or

(d) Meeting the requirements for returning to active status described in WAC 246-843-180.

(6) Successfully pass the examination as described in WAC 246-843-070.

(7) If an applicant is required to take an administrator-in-training program, the applicant may concurrently earn their degree but must submit proof of enrollment in a degree program at a recognized institution of higher learning. The tran-

script showing successful completion of the degree, sent directly from the institution, must be received before the applicant is approved to take the examination.

AMENDATORY SECTION (Amending WSR 00-01-070, filed 12/13/99, effective 1/13/00)

WAC 246-843-090 Administrator-in-training program. ~~((An applicant shall be approved to take an examination for licensure as a nursing home administrator after submitting evidence satisfactory to the board that the applicant meets the following requirements:~~

~~(1) Be at least twenty-one years old.~~

~~(2) Complete an application for licensure provided by the division of health professions quality assurance, department of health that includes all information and fees requested. Refer to chapter 246-12 WAC, Part 2.~~

~~(3) Submit documentation of a minimum of a baccalaureate degree from a recognized institution of higher learning.~~

~~(4) Completed an)) To qualify for a nursing home administrator license, an applicant must successfully complete a board approved nursing home administrator-in-training (AIT) program as described below:~~

~~((a) A one thousand five hundred hour AIT program in a nursing home; or~~

~~(b) A one thousand hour AIT program for individuals with a minimum of two years experience as a department manager in a state licensed nursing home or hospital with supervisory and budgetary responsibility; or~~

~~(c) A five hundred hour AIT program in a nursing home for individuals with a minimum of two years experience in the last five years with supervisory and budgetary responsibility in one of the following positions or their equivalent:~~

~~Hospital administrator;~~

~~Assistant administrator in a state licensed nursing home or hospital;~~

~~Director of a hospital based skilled nursing facility;~~

~~Director of a subacute or transitional care unit;~~

~~Director of the department of nursing in a state licensed nursing home;~~

~~Health care consultant to the long term care industry;~~

~~Director of community based long term care service.~~

~~(5)) (1) The AIT program ((shall be)) must:~~

~~(a) Be under the guidance and supervision of a qualified preceptor;~~

~~(b) Be designed to provide for individual learning experiences and instruction based upon the person's academic background, training, and experience;~~

~~(c) Provide for a broad range of experience with a close working relationship between preceptor and AIT. A sponsoring facility of less than fifty beds will be considered for an AIT program only if there is a board approved plan to broaden the AIT experience with an equal percentage of experience in a larger facility;~~

~~(d) Be described in a prospectus signed by the preceptor. The prospectus shall include a description of the rotation through departments ((and is to)). The prospectus must be ((submitted to the board for approval before beginning an AIT program. Changes in the AIT program shall be immediately reported in writing to the board. The board may with-~~

~~draw approval or alter conditions under which approval was given if the board finds that the approved program has not been or is not being followed.~~

~~(6)) approved by the board before the AIT program start date.~~

~~(2) The AIT program prospectus shall include the following components:~~

~~(a) A minimum of ninety percent of the required AIT program hours are spent in a rotation through each department of a resident occupied nursing home licensed under chapter 18.51 RCW((;)) or a Washington state veterans home established under chapter 72.36 RCW.~~

~~(b) The remaining ten percent of the AIT program will include:~~

~~(i) A written project assignment including at least one problem-solving assignment to improve the nursing home or nursing home procedures. A description of the project ((is to)) must be submitted in writing to the board ((for approval)) and approved before ((beginning)) the AIT program start date. The description of the project should indicate the definition of the project and method of approach such as data gathering. A project report that includes possible alternatives, conclusions, and final recommendations to improve the facility or procedure is to be submitted to the board for approval at least ten days before the scheduled end date of the AIT program;~~

~~((e)) (ii) Planned reading and writing assignments as designated by the preceptor; and~~

~~((d)) (iii) Other planned learning experiences including learning about other health and social services agencies in the community.~~

~~((7)) (3) The AIT program must be approved by the board before the AIT may begin the program.~~

~~(4) Quarterly written reports to the board shall include a detailed outline of AIT activities during the reporting period. Reports shall be submitted by both the AIT and preceptor.~~

~~((8) The program shall provide for a broad range of experience with a close working relationship between preceptor and trainee. Toward that end, no program shall be approved if the facility has a capacity of fewer than fifty beds. Exceptions to this general rule may be granted by the board in unusual circumstances.)) (5) Changes in the AIT program, including a change of preceptor, facility or topic, shall be immediately reported in writing to the board. A request for change must be in writing and explain why the change is needed. The request must be co-signed by the AIT and the approved preceptor. In cases where the preceptor is no longer available, the request may be signed by the governing body. Only two changes will be allowed.~~

~~(6) A site visit by a board member will take place before the program is considered complete.~~

~~(7) The board may withdraw approval or alter conditions under which approval was given if the board finds that the approved program has not been or is not being followed.~~

NEW SECTION

WAC 246-843-091 Length of AIT program. An applicant must complete a one thousand five hundred hour AIT program. The program length may be reduced based on the following:

(1) A one thousand hour AIT program may be granted for individuals with a minimum of:

(a) Two years' experience as a department manager in a state licensed nursing home or hospital with demonstrated supervisory and budgetary responsibility;

(b) Five years' experience working in a nursing home; or

(c) A four year degree program in health administration or nursing.

(2) A five hundred hour AIT program may be granted for individuals with a minimum of two years' experience in the last five years with demonstrated supervisory and budgetary responsibility in one of the following positions or their equivalent:

(a) Hospital administrator;

(b) Assistant administrator in a state licensed nursing home or hospital;

(c) Director of a hospital based skilled nursing facility;

(d) Director of a subacute or transitional care unit;

(e) Director of the department of nursing in a state licensed nursing home;

(f) Health care consultant to the long-term care industry;

(g) Director of community-based long-term care service;

(h) Director or regional director of rehabilitation services in a skilled nursing facility.

(3) A five hundred hour program may be granted for individuals with a master's degree in health administration or nursing.

(4) At the discretion of the board, veterans who have military experience equal to the civilian classifications and time limits in subsections (2) and (3) of this section are eligible for a reduced AIT as described in subsections (2) and (3) of this section.

AMENDATORY SECTION (Amending WSR 00-01-070, filed 12/13/99, effective 1/13/00)

WAC 246-843-093 Exemption. No AIT program is required for:

(1) An individual with a minimum of five ~~((years))~~ years' experience in the last seven years with extensive supervisory and budgetary responsibility in one of the following positions or their equivalent:

(a) Hospital administrator;

(b) Assistant administrator in a hospital or state licensed nursing home;

(c) Director of a hospital based skilled nursing facility;

~~((or))~~

(d) Director of a subacute or transitional care unit; or

(e) Regional director of rehabilitation services in a skilled nursing facility.

(2) Veterans who have military experience equal to the civilian classifications and time limits listed in subsection (1)(a) through (e) of this section.

(3) An individual who has worked as a licensed nursing home administrator for a minimum of ~~((five))~~ two years, in

the past ~~((ten years, and whose license did not expire more than three years prior to application date))~~ five years.

~~((3))~~ (4) An individual who graduated ~~((from a))~~ with a baccalaureate or graduate degree in long-term care ~~((program in a college approved))~~ administration from a program accredited by the National Association of ~~((Boards of Examiners for Long-Term))~~ Long Term Care Administrator~~((s))~~ Boards (NAB).

~~((4))~~ (5) An individual who graduated from a degree program in a recognized educational institution that included a one thousand hour practical experience (practicum) in a nursing home. This practical experience shall be structured to allow a student a majority of time in a systematic rotation through each department of a resident-occupied nursing home. The practical experience shall include planned readings, writing, and project assignments. The practical experience shall include regular contact with the administrator of the facility in which the practical experience was completed.

AMENDATORY SECTION (Amending WSR 00-01-070, filed 12/13/99, effective 1/13/00)

WAC 246-843-095 Preceptors for administrator-in-training programs. The preceptor shall submit a statement to the board describing his or her qualifications and an agreement to perform the duties of a preceptor.

(1) Qualifications of preceptor:

(a) The preceptor shall be employed as a licensed nursing home administrator for an accumulation of at least three years.

(b) The preceptor shall be employed full time as the nursing home administrator in the facility where the administrator-in-training is trained.

(c) The preceptor shall have an unrestricted license.

~~((d) The preceptor shall participate in and successfully complete any preceptor workshop or other training deemed necessary by the board.)~~

(2) Duties of the preceptor:

(a) The preceptor shall take the time necessary and have at least a weekly face-to-face conference with the AIT about the activities of the AIT relative to the training program and the nursing home.

(b) The preceptor shall evaluate the AIT and submit quarterly reports to the board on the progress of the AIT program.

(3) A preceptor ~~((shall supervise no more than two AITs at the same time))~~ is limited to the supervision of only one AIT unless the preceptor has prior approval from the board.

AMENDATORY SECTION (Amending WSR 00-01-074, filed 12/13/99, effective 1/13/00)

WAC 246-843-130 Continuing education ~~((courses))~~ requirements. ~~((A course provided to satisfy the continuing education requirement of licensed nursing home administrators shall meet the following conditions before being approved by the board:))~~

(1) A request for approval shall be submitted on forms provided by the department at least one day prior to the start of the course;

(2) Such course of study shall consist of a minimum of one hour of organized instruction with the exception of board approved self-study courses;

(3) Such course of study may include the following general subject areas or their equivalents, and shall be oriented to the nursing home administrator and reasonably related to the administration of nursing homes:

- (a) Resident management;
- (b) Personnel management;
- (c) Financial management;
- (d) Environmental management;
- (e) Governance and management;

(f)) (1) A licensed nursing home administrator must demonstrate completion of thirty-six hours of continuing education every two years and comply with chapter 246-12 WAC, Part 7.

(2) Continuing education approved by the National Continuing Education Review Service (NCERS) is acceptable for continuing education credit.

(3) Continuing education that is not approved by NCERS must meet the following requirements:

(a) The basic methods of continuing education learning are seminars, teleconferencing or webinars that includes audio or video presentations with a live moderation or self-study programs.

(b) Continuing education courses shall consist of a minimum of one hour of instruction. Hours are based upon clock hours and are calculated in half hour increments. College courses are rated at fifteen hours per each semester unit and ten hours per each quarter credit.

(c) Continuing education must relate to nursing home administration, be designed to promote continued knowledge and skills with nursing home administration standards, and improve and enhance professional competencies. Continuing education must fit within the following subjects:

- (i) Resident centered care;
- (ii) Human resources;
- (iii) Finance;
- (iv) Environment;
- (v) Leadership and management;
- (vi) Suicide prevention;
- (vii) Cultural competency training;
- (viii) Laws relating to Washington state nursing homes((;)).

(d) The continuing education provider must offer a certificate of completion that lists the number of clock hours. To receive full credit, attendees must attend the full program. The maximum number of hours allowed for continuing education is seven hours per day.

(4) Continuing education credit of two hours per month may be granted to a preceptor for an administrator-in-training program.

(5) Continuing education credit of a maximum of two hours per month may be granted for serving as a board member for the board of nursing home administrators.

(6) Within one hundred eighty days after becoming licensed, a nursing home administrator((s)) shall attend ((an))

a board approved course on laws relating to nursing homes in Washington. The board will grant retroactive credit to those licensees who obtain the required training as administrators-in-training under WAC 246-843-090. The ((board will approve)) state law training course((s-based-on-the-following criteria:

A)) consists of a minimum of a six-hour program, with formal training objectives, that covers the ((following subjects: The)) requirements of chapter 18.52 RCW and essential areas of laws that apply to nursing homes regulated by the department of social and health services under chapter 388-97 WAC to include:

((*) (a) Resident services, medical and social;

((*) (b) Resident rights, including resident decision making, informed consent, advance directives and notices to residents;

((*) (c) Enforcement;

((*) (d) Criminal history inquiries;

((*) (e) Differences between federal and state law.

((5) Such course of study shall issue certificates of attendance or other evidence satisfactory to the board.))

AMENDATORY SECTION (Amending WSR 02-23-070, filed 11/19/02, effective 2/17/03)

WAC 246-843-180 Expired license. (1) To return to active status ((when the license has expired for three years or less)), the practitioner must meet the requirements of WAC 246-12-040 ((2)(a) or (b)).

(2) ((To return to active status when the license has expired for over three years but less than five years, the practitioner must meet the requirements of WAC 246-12-040 (2)(e):

(3) To return to active status when)) If the license has been expired for five years or more, the practitioner must also meet the following requirements:

(a) If the practitioner has been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must((:

(i) Meet the requirements of WAC 246-12-040 (2)(e); and

((ii)) provide proof of active practice; or

(b) If the practitioner has not been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must((:

(i) Meet the requirements of WAC 246-12-040 (2)(e); and

((ii)) successfully complete the current licensing examination.

AMENDATORY SECTION (Amending WSR 12-14-051, filed 6/28/12, effective 7/29/12)

WAC 246-843-205 Standards of conduct. Licensed nursing home administrators shall be on-site full time as defined in WAC 246-843-010((+)) (5) and in active administrative charge of the licensed nursing home, as licensed under chapter 18.51 RCW, in which they have consented to serve as administrator.

AMENDATORY SECTION (Amending WSR 00-01-072, filed 12/13/99, effective 1/13/00)

WAC 246-843-230 Endorsement. (1) The board may endorse a nursing home administrator currently licensed in another state if that state requires qualifications substantially equivalent to qualifications required by RCW 18.52.071 and WAC 246-843-090. To obtain a license by endorsement the applicant must:

- (a) Pay applicable application fee;
 - (b) Submit an application on forms approved by the secretary;
 - (c) Submit a verification form from all states in which currently or previously licensed that verifies the applicant:
 - (i) Was or is currently licensed;
 - (ii) Has not had a nursing home administrator license revoked or suspended; and
 - (iii) Has passed ~~((the))~~ a national examination allowed under WAC 246-843-070;
 - (d) Submit a certified transcript of baccalaureate or higher degree, mailed to the department directly from ~~((the college or university))~~ a recognized institution of higher learning;
 - (e) ~~((Have completed))~~ Submit documentation of completion of seven clock hours of AIDS education and training ~~((Refer to))~~ as required in chapter 246-12 WAC, Part 8.
- (2) Applicants who are:
- (a) ~~((Certified by the American College of Health Care Administrators (ACHCA) may submit verification of ACHCA certification in lieu of college degree transcript.~~
 - ~~((b))~~ Currently certified by the American College of Health Care Administrators (ACHCA) are exempt from taking the current NAB national examination.
 - ~~((c))~~ (b) Currently licensed as a nursing home administrator in another state and who have previously passed the national examination are exempt from taking the current NAB national examination.

AMENDATORY SECTION (Amending WSR 15-02-034, filed 12/30/14, effective 1/30/15)

WAC 246-843-231 Temporary practice permits. (1) **Temporary practice permits for applicants seeking licensure for interim placement at specific facilities.**

- (a) A temporary practice permit may be issued to an applicant who meets the following conditions:
 - (i) Holds an unrestricted active license in another state;
 - (ii) Is not subject to denial of a license or issuance of a conditional or restricted license; and
 - (iii) There are no violations identified in the Washington criminal background check and the applicant meets all other licensure conditions including receipt by the department of health of a completed Federal Bureau of Investigation (FBI) fingerprint card.
- (b) The temporary practice permit allows the applicant to work in the state of Washington as a nursing home administrator during the time specified on the permit. The temporary practice permit grants the applicant a license to practice within the full scope of practice as a nursing home administrator with the following conditions:

- (i) A temporary practice permit is valid only for the specific nursing home for which it is issued unless otherwise approved by the board;

- (ii) A temporary permit holder shall consult with a Washington state licensed nursing home administrator with whom they have a written agreement for consultation.

- (c) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when one of the following occurs:

- (i) The permit holder departs from the nursing home, unless otherwise approved by the board;

- (ii) One hundred eighty days after the temporary practice permit is issued.

- (d) To receive a temporary practice permit, the applicant must:

- (i) Submit fees and a completed application for the permit;

- (ii) Submit verification from each state in which the applicant is currently licensed and is in good standing as a nursing home administrator; and

- (iii) Submit a written agreement for consultation with a Washington state licensed nursing home administrator.

(2) **Temporary practice permits for applicants seeking permanent licensure.**

- (a) A temporary practice permit may be issued to an applicant who meets the following conditions:

- (i) Holds an unrestricted, active license in another state that has substantially equivalent licensing standards to those in Washington;

- (ii) Is not subject to denial of a license or issuance of a conditional or restricted license; and

- (iii) There are no violations identified in the Washington criminal background check and the applicant meets all other licensure conditions including receipt by the department of health of a completed Federal Bureau of Investigation (FBI) fingerprint card.

- (b) The temporary practice permit allows the applicant to work in the state of Washington as a nursing home administrator during the time specified on the permit. The temporary practice permit grants the applicant a license to practice within the full scope of practice as a nursing home administrator with the following conditions:

- (c) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when one of the following occurs:

- (i) The department of health issues a license after it receives the national background check report if the report is negative and the applicant otherwise meets the requirements for license;

- (ii) A notice of decision on application is mailed to the applicant, unless the notice of decision on application specifically extends the duration of the temporary practice permit; or

- (iii) One hundred eighty days after the temporary practice permit is issued.

- (d) To receive a temporary practice permit, the applicant must:

- (i) Submit fees and a completed application for licensure as a nursing home administrator;

(ii) Meet all requirements and qualifications for the license, except the results from a fingerprint-based national background check;

(iii) Provide verification of having an active unrestricted license as a nursing home administrator from another state that has substantially equivalent licensing standards in Washington; and

(iv) Submit the fingerprint card and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

((STANDARDS OF SEXUAL MISCONDUCT))

AMENDATORY SECTION (Amending WSR 07-08-005, filed 3/22/07, effective 4/22/07)

WAC 246-843-270 Definitions ((for)) related to sexual misconduct. The definitions in this section apply throughout this section and through WAC 246-843-280 unless the context clearly requires otherwise:

(1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(3) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of the nursing home administrator.

(4) "Nursing home administrator" means an individual applying for a credential or credentialed as a nursing home administrator under chapter 18.52 RCW.

(5) "Patient" or "client" means an individual who receives health care in a nursing home under the administrative charge of the nursing home administrator.

AMENDATORY SECTION (Amending WSR 07-08-005, filed 3/22/07, effective 4/22/07)

WAC 246-843-280 Sexual misconduct. (1) A nursing home administrator shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part (~~((except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the nursing home administrator's scope of practice))~~);

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing of a romantic or sexual nature;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals (~~((without using gloves))~~);

(g) Not allowing a patient or client privacy to dress or undress (~~((except as may be necessary in emergencies or custodial situations))~~);

(h) Not providing the patient or client a gown or draping (~~((except as may be necessary in emergencies))~~);

(i) Dressing or undressing in the presence of the patient, client or key party;

(j) Removing patient or client's clothing or gown or draping (~~((without consent, emergent medical necessity or being in a custodial setting))~~);

(k) Encouraging masturbation or other sex act in the presence of the nursing home administrator;

(l) Masturbation or other sex act by the nursing home administrator in the presence of the patient, client or key party;

(m) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(n) Soliciting a date with a patient, client or key party;

(o) Discussing the sexual history, preferences or fantasies of the nursing home administrator;

(p) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(q) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(r) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(s) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(t) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(3) A nursing home administrator shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the nursing home administrator's sexual needs.

~~((3))~~ (4) A nursing home administrator shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.

~~((4))~~ (5) After the two-year period of time described in subsection ~~((3))~~ (4) of this section, a nursing home adminis-

trator shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the nursing home administrator; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

~~((5))~~ (6) When evaluating whether a nursing home administrator is prohibited from engaging, or attempting to engage, in sexual misconduct, the board of ~~(examiners for)~~ nursing home administrators will consider factors~~(s)~~ including, but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the nursing home administrator-patient relationship;

(b) Transfer of care to another nursing home administrator;

(c) Duration of the nursing home administrator-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the nursing home administrator and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the nursing home administrator;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

~~((6))~~ (7) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

~~((7))~~ (8) These rules do not prohibit:

(a) ~~(Providing health care services in case of emergency where the services cannot or will not be provided by another nursing home administrator;~~

~~(b))~~ Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to nursing home administrators; or

~~((e))~~ (b) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the nursing home administrator where there is no evidence of, or potential for, exploiting the patient or client.

AMENDATORY SECTION (Amending WSR 02-23-070, filed 11/19/02, effective 2/17/03)

WAC 246-843-330 Inactive license. (1) A practitioner may obtain an inactive license. Refer to the requirements of chapter 246-12 WAC, Part 4.

(2) To return to active status from inactive status if the license has been on inactive status for less than five years, the practitioner must meet the requirements of ~~((WAC 246-12-110))~~ chapter 246-12 WAC, Part 4.

(3) To return to active status from inactive status if the license has been on inactive status for five years or more:

(a) If the practitioner has been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must:

(i) Meet the requirements of ~~((WAC 246-12-110))~~ chapter 246-12 WAC, Part 4; and

(ii) Provide proof of active practice; or

(b) If the practitioner has not been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must:

(i) Meet the requirements of WAC 246-12-110; and

(ii) Successfully complete the current licensing examination.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-843-040 Duties and responsibilities.

WAC 246-843-073 Examination score.

WAC 246-843-150 Continuing education requirements for renewal of active license.

WSR 16-10-110

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed May 4, 2016, 10:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-03-063.

Title of Rule and Other Identifying Information: WAC 246-980-140 Home care aide scope of practice, amending the rule to allow for provision of skills acquisition training.

Hearing Location(s): Town Center 2, 111 Israel Road S.E., Room 145, Tumwater, WA 98501, on June 13, 2016, at 1:00 p.m.

Date of Intended Adoption: June 30, 2016.

Submit Written Comments to: Stacey Saunders, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4901, by June 13, 2016.

Assistance for Persons with Disabilities: Contact Stacey Saunders by May 23, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending WAC 246-980-140 will allow home care aides to provide skills acquisition training to elderly and vulnerable clients to align with recent department of social and health services (DSHS) rule revisions implemented to meet the federal objectives outlined in Washington's formal state plan submitted to the Centers for Medicare and Medicaid Services (CMS). This plan was submitted by DSHS to obtain approval to participate in a Medicaid Title XIX entitlement program, the community first choice options (CFCO) program, and receive an enhanced medicaid match rate.

Reasons Supporting Proposal: ESHB 2746 required DSHS to establish a 1915(k) community first choice (CFC) program. DSHS developed a state plan amendment that was federally approved to provide the new CFC state plan. These WAC changes are for consistency with and in support of DSHS' CFC program.

Statutory Authority for Adoption: RCW 18.88B.021.

Statute Being Implemented: RCW 18.188B.021 [18.88B.021].

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

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

Name of Agency Personnel Responsible for Drafting and Implementation: Stacey Saunders, 111 Israel Road S.E., Tumwater WA 98501, (360) 236-2813; and Enforcement: Shannon Beigert, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4660.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference - without material change - federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

May 3, 2016

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 13-19-087, filed 9/18/13, effective 10/19/13)

WAC 246-980-140 Scope of practice for long-term care workers. (1) A long-term care worker performs activities of daily living or activities of daily living and instrumental activities of daily living. A person performing only instrumental activities of daily living is not acting under the long-term care worker scope of practice.

(a) "Activities of daily living" means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. This may include fall prevention, skin and body care.

(b) "Instrumental activities of daily living" means activities in the home and community including cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) A long-term care worker documents observations and tasks completed, as well as communicates observations on the day they were performed to clients, family, supervisors, and, if appropriate, health care providers.

(3) A long-term care worker may perform medication assistance as described in chapter 246-888 WAC.

(4) A long-term care worker may perform nurse delegated tasks, to include medication administration, if he or she meets and follows the requirements in WAC 246-980-130.

(5) A long-term care work may provide skills acquisition training on instrumental activities of daily living and the following activities of daily living tasks: Dressing, application of deodorant, washing hands and face, hair washing, hair combing and styling, application of makeup, menses care, shaving with an electric razor, tooth brushing or denture care, and bathing tasks excluding any transfers in or out of the bathing area.

WSR 16-10-111

PROPOSED RULES

LIQUOR AND CANNABIS

BOARD

[Filed May 4, 2016, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-056.

Title of Rule and Other Identifying Information: WAC 314-29-020 Group 1 violations against public safety and 314-29-038 Group 5 public safety violations for sports entertainment facility licenses.

Hearing Location(s): Washington State Liquor Control Board, 3000 Pacific Avenue S.E., Board Room, Olympia, WA 98504, on June 15, 2016, at 10:00 a.m.

Date of Intended Adoption: July 13, 2016.

Submit Written Comments to: Karen McCall, P.O. Box 43098, Olympia, WA 98504, e-mail rules@lcb.wa.gov, fax (360) 664-9689, by April 27 [June 15], 2016.

Assistance for Persons with Disabilities: Contact Karen McCall by June 15, 2016, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is part of the board's ongoing chapter review of all of our WAC chapters. Also included in this rule making is a new section to address sports entertainment facility licenses.

Reasons Supporting Proposal: This rule making is part of the board's ongoing chapter review of all of our WAC chapters. Also included in this rule making is a new section to address sports entertainment facility licenses.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: Chapter 66.44 RCW.

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

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not required.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis was not required.

May 4, 2016
Jane Rushford
Chair

AMENDATORY SECTION (Amending WSR 09-13-037, filed 6/10/09, effective 7/11/09)

WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of an administrative violation? (1) A licensee or a mandatory alcohol server training permit holder has twenty days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) **What happens if a licensee or mandatory alcohol server training permit holder does not respond to the administrative violation notice within twenty days?**

(a) If a licensee or permit holder does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(c) When a licensee fails to submit payment of monetary fine proceedings, provisions to collect shall take effect immediately or other actions such as revocation, will be instituted as deemed appropriate by the WSLCB.

(d) An attempt to advise the debtor of the existence of the debt, and twenty-five percent late fee per subsection (2)(b) of this section, will be made notifying that the debt may be assigned to a collection agency for collection if the debt is not paid, and at least thirty days have elapsed from the time notice was attempted.

(e) Failure to address monetary penalties for two or more administrative violations notices in a three-year period will result in license cancellation.

(f) Licensees failing to respond to an administrative violation notice or having outstanding fines shall not be eligible to renew their liquor license.

(g) Failure to address monetary penalties for two or more administrative violations notices in a two-year period will result in license cancellation.

(3) **What are the procedures when a licensee or mandatory alcohol server training permit holder requests a settlement conference?**

(a) If the licensee or permit holder requests a settlement conference, the hearing examiner or captain will contact the licensee or permit holder to discuss the violation.

(b) Both the licensee or permit holder and the hearing examiner or captain will discuss the circumstances surround-

ing the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or captain will prepare a compromise settlement agreement. The hearing examiner or captain will forward the compromise settlement agreement, authorized by both parties, to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee or permit holder, and will become part of the licensing history.

(ii) If the board does not approve the compromise, the licensee or permit holder will be notified of the decision. The licensee or permit holder will be given the option to renegotiate with the hearing examiner or captain, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee or permit holder and the hearing examiner or captain cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or captain will forward a request for an administrative hearing to the board's hearings coordinator.

AMENDATORY SECTION (Amending WSR 09-21-050, filed 10/14/09, effective 11/14/09)

WAC 314-29-020 Group 1 violations against public safety. (1) Group 1 violations are considered the most serious because they present a direct threat to public safety. Violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-29-015(4).

(2) Group 1 violations will be counted sequentially rather than independently by group. For example, if a licensee received a violation for over service on one day and a violation for sale to a minor a week later, the sale to a minor would be treated as a second offense since both violations are in the same violation group.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
<p>Violations involving minors:</p> <p>Sale or service to minor: Sale or service of alcohol to a person under 21 years of age.</p> <p>Minor frequenting a tavern, lounge, or other restricted area. RCW 66.44.270 RCW 66.44.310 WAC 314-11-020 WAC 314-16-150</p>	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
<p>Sale or service to apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person. RCW 66.44.200 WAC 314-16-150</p>	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
<p>Conduct violations:</p> <p>Disorderly conduct by licensee or employee, or permitting on premises.</p> <p>Licensee and/or employee intoxicated on the licensed premises and/or drinking on duty.</p> <p>Criminal conduct: Permitting or engaging in criminal conduct. WAC 314-11-015</p>	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
<p>Lewd conduct: Engaging in or permitting conduct in violation of WAC 314-11-050.</p>	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
<p>Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. RCW 66.28.090 RCW 66.44.370 WAC 314-11-090</p>	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
<p>Condition of suspension violation: Failure to follow any suspension restriction while liquor license is suspended. WAC 314-29-040</p>	Original penalty plus 10 day suspension with no monetary option	Cancellation of license		

NEW SECTION

WAC 314-29-038 Group 5 public safety violations for sports entertainment facility licenses. Sports entertainment facility licenses are unique and different from other on-premises licenses since they are not open on a daily basis, but rather for specific events. Public safety violations are considered the most serious because they present a direct threat to public safety. All other violations and penalties are the same for sports entertainment facility licensees as other liquor licenses.

(1) General public safety violation penalties.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th and Subsequent violation in a two-year window
<p>Violations involving minors: Sale or service to minors outside of WAC 314-29-038(c): Sale or service of alcohol to a person under 21 years of age. Minor frequenting a restricted area. RCW 66.44.270 RCW 66.44.310 WAC 314-11-020 WAC 314-16-150</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.75 per ticket sold, with a mandatory minimum of \$7,000 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine</p>	<p>Cancellation of license</p>
<p>Sale or service to an apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person. RCW 66.44.200 WAC 314-16-150</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.75 per ticket sold, with a mandatory minimum of \$7,000 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine</p>	<p>Cancellation of license</p>
<p>Conduct violations: Disorderly conduct by licensee or employee, or permitting on premises. Licensee and/or employee intoxicated on the licensed premises and/or drinking on duty. Criminal conduct: Permitting or engaging in criminal conduct. WAC 314-11-015</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.75 per ticket sold, with a mandatory minimum of \$7,000 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine</p>	<p>Cancellation of license</p>
<p>Lewd conduct: Engaging in or permitting conduct in violation of WAC 314-11-050.</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.75 per ticket sold, with a mandatory minimum of \$7,000 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine</p>	<p>Cancellation of license</p>
<p>Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. RCW 66.28.090 RCW 66.44.370 WAC 314-11-090</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$0.75 per ticket sold, with a mandatory minimum of \$7,000 fine</p>	<p>Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine</p>	<p>Cancellation of license</p>

(2) If documented ticket sales for an event are unavailable, in order to assess penalties set forth in this section, the facility maximum occupancy will be used for the penalty assessment.

(3) WSLCB youth access compliance checks, in accordance with chapter 314-31 WAC.

License Class	Compliance Threshold	1st Violation	2nd Violation	3rd Violation	4th Violation
Sports and entertainment facility	Events: 1 to 20 points of sale (1st incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Cancel
Sports and entertainment facility	Events: 21 to 45 points of sale (2nd incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Cancel
Sports and entertainment facility	Events: 45 or more points of sale (3rd incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Cancel

* "I" signifies the total cumulative incidents of sales to underage person during an alcohol compliance check.

A point of sale is defined as each different concession stand, or service area (such as a lounge), not each individual cash register.

**WSR 16-10-113
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 4, 2016, 11:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-041.

Title of Rule and Other Identifying Information: Coastal mackerel purse seine fishery, duties of commercial receivers and processors. The Washington department of fish and wildlife (WDFW) is proposing a rule amendment relating to the sale and processing of mackerel from commercial fisheries. The rule amendment will limit the amount of mackerel that commercial receivers and processors can process for purposes other than human consumption. This rule supports maximizing the value of the fish caught.

Hearing Location(s): WDFW Region 6 Office, 48 Devonshire Road, Montesano, WA 98563, on June 9, 2016, at 10:00 a.m.

Date of Intended Adoption: On or after June 15, 2016.

Submit Written Comments to: Lorna Wargo, 48 Devonshire Road, Montesano, WA 98563, e-mail Lorna.Wargo@dfw.wa.gov, fax (360) 249-1229.

Assistance for Persons with Disabilities: Contact Tami Lininger, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to limit the amount of mackerel commercial receivers and processors can process for purposes other than human consumption or bait (also known as "reduction"). As proposed, the amendment will limit the amount of mackerel that can be processed for purposes other than for human consumption to fifteen percent of total weight of mackerel landed for sale per vessel per year. The permanent rule already limits the amount of sardine that commercial receivers

and processors can process for purposes other than for human consumption. The proposed rule applies the same limit to mackerel.

Reasons Supporting Proposal: This proposal reflects the establishment of a new trial purse seine fishery for mackerel in 2016 and the intent to apply the same limits on the reduction of mackerel as exist in rule for sardine. Previously, mackerel could only be landed incidentally in the sardine purse seine fishery; the new fishery, however, will allow targeted fishing for mackerel and the potential for a greater total volume of mackerel caught. The intent of the proposal is to maximize the mackerel catch value by promoting utilization of catch for human consumption over reduction and minimizing wastage of fish not suitable for human consumption.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, 77.12.047.

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

Name of Proponent: Lorna Wargo, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Lorna Wargo, 48 Devonshire Road, Montesano, WA 98563, (360) 249-1221; and Enforcement: Steve Crown, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule:

The proposed rule requires commercial receivers and processors to record on the fish ticket as "reduction" mackerel purchased for purposes other than for human consumption. Reduction refers to the conversion of fish into fish flour, fish-meal, fish scrap, fertilizer, fish oil, other fishery products, or

by-products, for purposes other than human consumption or fishing bait.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: Compliance with the proposed rule will not require professional services.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: Fish tickets (also known as fish landing receipts) are provided by the department of fish and wildlife to commercial receivers and processors at no cost. Fish tickets must be completed for commercial landings of mackerel. The proposed rule does not affect any costs of compliance, it simply requires specific notation of the disposition of purchased mackerel catch when that catch is purchased for reduction.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No, compliance will have no effect on sales or revenue.

5. Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

1. Cost per employee;
 2. Cost per hour of labor; or
 3. Cost per one hundred dollars of sales
- Cost of compliance will be insignificant.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The agency provides printed fish tickets.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: A hearing will be held to review the rules as part of the rule-making process.

8. A List of Industries That Will Be Required to Comply with the Rule: Commercial receivers and processors of mackerel.

A copy of the statement may be obtained by contacting Lorna Wargo, 48 Devonshire Road, Montesano, WA 98563, phone (360) 249-1221, fax (360) 249-1229, e-mail Lorna.Wargo@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These proposals do not affect hydraulics.

May 3, 2016
Scott Bird
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-02-013, filed 12/19/13, effective 1/19/14)

WAC 220-69-240 Duties of commercial purchasers and receivers. (1) It is unlawful for any person originally receiving or buying fresh, iced, or frozen fish or shellfish, whether or not the fish or shellfish was previously delivered in another state, territory, or country, to fail to:

- (a) Be a licensed wholesale fish dealer or fish buyer; and
- (b) Immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving

ticket for each and every purchase or receipt of such commodities.

(i) The original receiver must record each delivery on a separate fish receiving ticket; and

(ii) The original receiver must prepare a fish receiving ticket for purchases of fish or shellfish from fishers who are also fish dealers if the fisher/dealer has not previously completed a fish receiving ticket and provided a copy of the fish receiving ticket or the ticket number as proof.

(2) Failure to be licensed under subsection (1) of this section is punishable under RCW 77.15.620. Failure to properly prepare a fish receiving ticket is punishable under RCW 77.15.630.

(3) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket upon receipt of any portion of a commercial catch. If delivery of the catch takes more than one day, the original receiver must enter the date that the delivery is completed on the fish receiving ticket as the date of delivery. If, for any reason, the delivery vessel leaves the delivery site, the original receiver must immediately enter the date the vessel leaves the delivery site on the fish receiving ticket.

(4) It is unlawful for any original receiver of shellfish to fail to record all shellfish aboard the vessel making the delivery to the original receiver. The poundage of any fish or shellfish that are unmarketable, discards, or weigh backs must be shown on the fish receiving ticket and identified as such, but a zero dollar value may be entered for those fish or shellfish.

(5) Any employee of a licensed wholesale dealer who is authorized to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its plant locations as declared on the license application, is authorized to initiate and sign fish receiving tickets on behalf of his or her employer. The business, firm, and/or licensed wholesale fish dealer the buyers are operating under is responsible for the accuracy and legibility of all documents initiated in its name.

(6) This section does not apply to purchases or receipts made by individuals or consumers at retail.

(7) Subsections (1) through (4) of this section do not apply to persons delivering or receiving fish taken under the Pacific Coast Groundfish Shoreside Individual Fishing Quota (IFQ) Program (50 C.F.R. § 660.140) who are in compliance with the provisions of WAC 220-69-250(5) and who:

(a) Complete electronic fish receiving tickets prior to either processing fish or removing the fish from the delivery site; and

(b) Electronically submit the electronic fish receiving tickets to the National Marine Fisheries Service and the department no later than twenty-four hours after the date the fish are received.

(c) Electronically submit any amendments made to the mandatory information required under WAC 220-69-256 after the initial submission required under (b) of this subsection.

(8) For purposes of this section;

(a) The term "completed" means that scale weights have been recorded for all delivered fish; and

(b) The term "submitted" means that all mandatory information required under WAC 220-69-256 has been entered and timelines under subsection (7)(b) of this section have been met.

(9) Forage fish and mackerel:

(a) It is unlawful for any person receiving forage fish or mackerel to fail to report the forage fish or mackerel on fish receiving tickets initiated and completed on the day the forage fish or mackerel are delivered.

(i) Herring must also be reported on herring harvest logs.

(ii) The harvested amount of forage fish or mackerel must be entered upon the fish ticket when the forage fish are off-loaded from the catcher vessel.

(iii) An estimate of herring, candlefish, anchovy, ~~((ø#))~~ sardine or mackerel caught but not sold due to mortality must be included on the fish ticket as "loss estimate."

(b) In the coastal sardine fishery or coastal mackerel fishery, it is unlawful to purchase, per sardine or mackerel fishery vessel, more than fifteen percent cumulative weight of sardine~~((#))~~ or mackerel for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait during the sardine or mackerel fishery season. Sardine~~((#))~~ and mackerel purchased for these purposes must be included, by weight, on the fish ticket as "reduction."

(c) In any forage fish fishery or in the mackerel purse seine fishery, it is unlawful to purchase anchovy in excess of fifteen percent, by weight, of the total landing weight per vessel, for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products. Anchovy purchased for these purposes must be included, by weight, on the fish ticket as "reduction."

(10) Geoduck: It is unlawful for any person receiving geoduck, whether or not the receiver holds a license as required under Title 77 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual delivery of geoduck from the harvesting vessel onto the shore. This fish receiving ticket must accompany the harvested geoduck from the department of natural resources harvest tract to the point of delivery.

(11) Puget Sound shrimp - Pot gear:

(a) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record 23A-C, 23A-E, 23A-W, or 23A-S on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051.

(b) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26A, to fail to record either 26A-E or 26A-W on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051.

(c) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26B, to fail to record either 26B-1 or 26B-2 on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051.

(d) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from

Catch Areas 20B, 21A, and 22A, to fail to record 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, or 1C-21A on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051.

(12) Puget Sound shrimp - Trawl gear:

(a) It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by trawl gear to fail to report to the department the previous day's purchases by 10:00 a.m. the following morning.

(b) Reports must be made by fax at 360-796-0108 or by text message or e-mail at shrimpreport@dfw.wa.gov.

(c) Reports must include, for each fish receiving ticket prepared:

(i) The buyer name, fisher name, and date of sale;

(ii) The fish receiving ticket number, including the first alphanumeric letter;

(iii) The total number of pounds caught per shrimp species; and

(iv) The Marine Fish-Shellfish Management and Catch Reporting Area where the shrimp was harvested.

(13) Puget Sound crab:

(a) It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken from Puget Sound by nontreaty fishers to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day.

(b) Reports must be made to the Mill Creek Regional Office by fax at 425-338-1066, or by e-mail at crabreport@dfw.wa.gov.

(c) Reports must include:

(i) The dealer's name;

(ii) The dealer's phone number;

(iii) The date of delivery of crab to the original receiver; and

(iv) The total number of pounds of crab caught by nontreaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area.

(14) Salmon and sturgeon:

(a) During any Puget Sound fishery opening that is designated as "quick reporting required," per WAC 220-47-001:

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include:

(A) The dealer or DRE holder name and purchasing location;

(B) The date of purchase;

(C) Each fish receiving ticket number, including the first alphanumeric letter, used on the purchasing date; and

(D) The following catch data for each fish ticket used: The total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Puget Sound reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until

the report arrives at the designated department location. Reports can be submitted via fax at 360-902-2949; via e-mail at psfishtickets@dfw.wa.gov; or via phone at 1-866-791-1279. In fisheries under Fraser Panel Control within Fraser Panel Area Waters (area defined under Art. XV, Annex II, Pacific Salmon Treaty 1985), other reporting requirements not listed in this subsection may be necessary under Subpart F of the International Fisheries Regulations, 50 C.F.R. Ch. III § 300.93.

(b) During any coastal troll fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a DRE holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location; date of purchase; each fish receiving ticket number, including the first alphanumeric letter, used on the purchasing date; and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, coastal troll reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-902-2949; via e-mail at trollfishtickets@dfw.wa.gov; or via phone at 1-866-791-1279.

(c) During any Grays Harbor or Willapa Bay fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a DRE holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location; date of purchase; each fish receiving ticket number, including the first alphanumeric letter, used on the purchasing date; and the following catch data for each fish ticket used:

(A) The total number of days fished;

(B) The gear used;

(C) The catch area fished; and

(D) The species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Grays Harbor and Willapa Bay reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-249-1229; e-mail at harborfishtickets@dfw.wa.gov; or phone at 1-866-791-1280.

(d) During any Columbia River fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon, or for a DRE holder to fail to report all salmon offered, for retail sale.

(ii) The report must include dealer or DRE holder name and purchasing location; date of purchase; each fish receiving ticket number, including the first alphanumeric letter, used on the purchasing date; and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Columbia River reports must be submitted within 5, 8, 12, or 24 hours of closure of the designated fishery.

(A) The department establishes the time frame for submitting reports at the time of adoption of the quick reporting fishery. Adoption and communication of the quick reporting regulations for a given fishery occurs in conjunction with the adoption of the fishery through the Columbia River Compact.

(B) Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-906-6776 or 360-906-6777; via e-mail at crfishtickets@dfw.wa.gov; or via phone at 1-866-791-1281.

(e) Faxing or reporting electronically in portable document format (PDF) a copy of each fish receiving ticket used, within the previously indicated time frames specified per area, satisfies the quick reporting requirement.

(15) Sea urchins and sea cucumbers:

(a) It is unlawful for any wholesale dealer acting in the capacity of an original receiver and receiving sea urchins or sea cucumbers from nontreaty fishers to fail to report to the department each day's purchases by 10:00 a.m. the following day.

(i) Wholesale dealers must report by:

(A) Fax at 360-902-2943;

(B) Toll-free telephone at 866-207-8223; or

(C) Text message or e-mail at seaurchinreport@dfw.wa.gov for sea urchins or seacucumberreport@dfw.wa.gov for sea cucumbers.

(ii) For red sea urchins, the report must specify the number of pounds received from each sea urchin district.

(iii) For green sea urchins and sea cucumbers, the report must specify the number of pounds received from each Marine Fish-Shellfish Management and Catch Reporting Area.

(iv) For sea cucumbers, the report must specify whether the landings were "whole-live" or "split-drained."

(b) It is unlawful for the original receiver of red sea urchins to fail to record on the fish receiving ticket the sea urchin district where the red sea urchins were taken and the name of the port of landing where the sea urchins were landed ashore.

(c) It is unlawful for the original receiver of sea cucumbers to fail to record on the fish receiving ticket whether the sea cucumbers were delivered "whole-live" or "split-drained."

(16) A violation of the documentation or reporting requirements in this section is punishable under RCW

77.15.630, Unlawful fish and shellfish catch accounting—
Penalty.

WSR 16-10-118
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Optometry)
[Filed May 4, 2016, 11:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-11-054.

Title of Rule and Other Identifying Information: WAC 246-851-370 Employed doctors of optometry, franchises and equipment use agreements, the proposed rule amends WAC 246-851-370 by deleting the first sentence relating to the relationship between salary, bonus, or other remuneration of an employed doctor of optometry and the number of patients seen or prescriptions filled.

Hearing Location(s): Department of Health, Creekside Two at Center Point, 20425 72nd Avenue South, Room 307, Kent, WA 98032, on June 13, 2016, at 10 a.m.

Date of Intended Adoption: June 13, 2016.

Submit Written Comments to: Lorelei Walker, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by June 1, 2016.

Assistance for Persons with Disabilities: Contact Lorelei Walker, program manager, by June 1, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of optometry (board) is proposing to amend WAC 246-851-370 Employed doctors of optometry, franchises and equipment use agreements. The first sentence of this rule forbids that an optometrist's salary be contingent upon the number or percentage of exams given or prescriptions filled by the optometrist. The board received a petition for rule making asking the board to consider removing this sentence. The board finds that this language is outdated and does not reflect current practice. Removing the first sentence of the rule will provide clarity.

Reasons Supporting Proposal: The proposed rule eliminates the restriction on compensation based on percentage of exams given while still requiring optometrists remain cognizant of their responsibilities as licensed optometrists. The rule also communicates to the licensees and the public that the optometry license is independent of different types of employment relationships. There are other regulations, such as chapter 19.68 RCW, Rebating by practitioners of healing professions that provide safeguards against prohibited business practices.

Statutory Authority for Adoption: RCW 18.54.070(2).

Statute Being Implemented: RCW 18.54.070(2).

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

Name of Proponent: Department of health, board of optometry, governmental.

Name of Agency Personnel Responsible for Drafting: Brett Lorentson, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4611; Implementation and Enforcement: Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Lorelei Walker, Department of Health, Veterinary Board of Governors, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4947, fax (360) 236-2901, e-mail Lorelei.Walker@doh.wa.gov.

May 3, 2016
Kathy J. Schmitt
Deputy Director
Office of Health
Professions and Facilities

AMENDATORY SECTION (Amending WSR 91-06-025, filed 2/26/91, effective 3/29/91)

WAC 246-851-370 Employed doctors of optometry, franchises and equipment use agreements. (~~The salary, bonus or other remuneration of a doctor of optometry who is employed for professional optometric services, shall not be dependent upon the percentage or number of patients who obtain visual examinations or who have prescriptions filled.~~) The employed optometrist, acting in the capacity of consultant, advisor or staff doctor of optometry, the optometrist who has acquired a franchise relating to the practice of optometry, and the optometrist who has a professional equipment use agreement/contract, shall at all times remain cognizant of his or her professional responsibilities and with demeanor, decorum and determination retain his or her right of independent professional judgment and title in all situations and circumstances. If at any time the right of independent professional judgment or title is abridged it shall be incumbent upon the optometrist to resign or correct his or her position as consultant, advisor or staff doctor of optometry, or to resign from or correct a franchise and/or equipment use agreement/contract relationship.

WSR 16-10-120
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed May 4, 2016, 11:33 a.m.]

Supplemental Notice to WSR 16-04-126.

Preproposal statement of inquiry was filed as WSR 15-24-136 on December 2, 2015.

Title of Rule and Other Identifying Information: The department is proposing revisions to proposed WAC 232-28-357 2015-2017 Deer general seasons and definitions.

Hearing Location(s): Natural Resource[s] Building, 1111 Washington Street S.E., Olympia, WA 98501, on June 10-11, 2016, at 8:15 a.m.

Date of Intended Adoption: On or after June 10, 2016.

Submit Written Comments to: Online http://wdfw.wa.gov/about/regulations/hunting_regulations, Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by June 9, 2016.

Assistance for Persons with Disabilities: Contact Tami Lininger by May 27, 2016, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to retain general season deer hunting opportunity for 2016. In addition, the purpose of the proposal is to balance the hunting opportunity between user groups. The proposal also increases hunting opportunity when deer populations allow, and reduces the opportunity when declining deer numbers warrant a change. Current proposed changes will reduce antlerless deer hunting opportunity for archery and muzzleloader hunters in several game management units in northeastern Washington.

Reasons Supporting Proposal: This proposal provide[s] recreational deer hunting opportunity and protects deer from overharvest. The proposal continues general deer hunting season opportunities for 2016 in most game management units, but reduces archery and muzzleloader antlerless deer hunting opportunity in several northeastern game management units as a conservative management strategy due to population uncertainty created by a blue tongue disease outbreak in 2015. These changes were not proposed earlier, but ongoing information sharing necessitated additional proposed changes.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090, 77.32.155.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090, 77.32.155.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Robert Everett, Natural Resources Building, Olympia, (360) 902-2515; and Enforcement: Steven Crown, Natural Resources Building, Olympia, (360) 902-2936.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules apply to recreational hunting and do not affect small business.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not involve hydraulics.

May 4, 2016
Scott Bird
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-10-059, filed 4/30/15, effective 5/31/15)

WAC 232-28-357 2015-2017 Deer general seasons and definitions. It is unlawful to fail to comply with the bag, possession, and season limits described below. Violations of this section are punishable under RCW 77.15.410((-)) Unlawful hunting of big game—Penalty.

Bag Limit: One (1) deer per hunter during the license year except where otherwise permitted by department rule.

Hunting Method: Hunters must select one of the hunting methods: Modern firearm, archery, or muzzleloader.

Any Buck Deer Seasons: Open only to the taking of deer with visible antlers (buck fawns illegal).

Antler Point: To qualify as an antler point, the point must be at least one inch long, measured on the longest side.

Antler Restrictions: APPLIES TO ALL HUNTERS DURING ANY GENERAL SEASON AND DESIGNATED SPECIAL PERMIT SEASONS. Buck deer taken in antler restricted game management units (GMUs) must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Eye guards are antler points when they are at least one inch long.

3-point Minimum GMUs: All mule deer in 100, 200, and 300 series GMUs; white-tailed deer in GMUs 127, 130, 133, 136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, 186, and black-tailed deer in GMU 578.

Permit-only Units: The following GMUs require a special permit to hunt deer: 157 (Mill Creek Watershed), 290 (Desert), 329 (Quilomene), 371 (Alkali), and 485 (Green River).

GMUs Closed to Deer Hunting: 490 (Cedar River) and 522 (Loo-wit).

Types of deer that a person may legally hunt in Washington:

Black-tailed Deer: Any member of black-tailed/mule deer (species *Odocoileus hemionus*) found west of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to the Klickitat River; south down Klickitat River to the Columbia River.

Mule Deer: Any member of black-tailed/mule deer (species *Odocoileus hemionus*) found east of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to the Klickitat River; south down Klickitat River to the Columbia River.

White-tailed Deer: Any white-tailed deer (member of the species *Odocoileus virginianus*), except the Columbian whitetail deer (species *Odocoileus virginianus leucurus*).

MODERN FIREARM DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid modern firearm deer tag for the area hunted.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow, crossbow, or muzzleloader, but only during modern firearm seasons.

Hunt Season	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
HIGH BUCK HUNTS					
	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Mount Baker, Glacier Peak, Pasayten, Olympic Peninsula, and Henry Jackson Wilderness Areas and Lake Chelan Recreation Area	3 pt. min.
GENERAL SEASON					
Western Washington Black-tailed Deer	Oct. 17-31	Oct. 15-31	Oct. 14-31	407, 418, 426, 437, 448, 450, 454, 460, 466, 501 through 520, 524 through 556, 560, 568, 572, 574, 601 through 621, 624 (except Deer Area 6020), 627 through 654, 658 through 699	Any buck
				410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 564, 655, Deer Area 6020	Any deer
				578	3 pt. min.
Eastern Washington White-tailed Deer	Oct. 17-30	Oct. 15-28	Oct. 14-27	101, 105, 108, 111, 113, 124	Any white-tailed buck
	Oct. 17-27	Oct. 15-25	Oct. 14-24	203 through 284	Any white-tailed buck
	Oct. 17-27	Oct. 15-25	Oct. 14-24	127 through 154, 162 through 186 (except Deer Area 1040)	White-tailed, 3 pt. min.
	Oct. 17-27	Oct. 15-25	Oct. 14-24	373, 379, 381	Any white-tailed deer
Eastern Washington White-tailed Deer in GMUs 117 and 121	Oct. 17-30	Oct. 15-28	Oct. 14-27	117, 121	Any white-tailed buck
Eastern Washington Mule Deer	Oct. 17-27	Oct. 15-25	Oct. 14-24	101 through 154, 162 through 169, 172 (except Deer Area 1040), 175 through 186, 203 through 284, 328, 330 through 368, 372, 373, 379, 381, 382, 388	Mule deer, 3 pt. min.
					((Mule deer, 3 pt. min.))
LATE GENERAL SEASON					
Western Washington Black-tailed Deer	Nov. 19-22	Nov. 17-20	Nov. 16-19	407, 454, 466, 501 through 520, 524 through 560, 568, 572, 601 through 621, 624 (except Deer Area 6020), 627 through 654, 658 through 699	Any buck
	Nov. 19-22	Nov. 17-20	Nov. 16-19	410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 564, 655, Deer Area 6020	Any deer
Eastern Washington White-tailed Deer	Nov. 7-19	Nov. 5-19	Nov. 11-19	105, 108, 111, 113, 124	Any white-tailed buck
Eastern Washington White-tailed Deer in GMUs 117 and 121	Nov. 7-19	Nov. 5-19	Nov. 11-19	117, 121	Any white-tailed buck
HUNTERS 65 AND OVER, DISABLED, OR YOUTH GENERAL SEASONS					
Eastern Washington White-tailed Deer	Oct. 17-30	Oct. 15-28	Oct. 14-27	((401, 105, 108, 111, 113,)) 124	Any white-tailed deer
		Oct. 20-23	Oct. 19-22	101, 105, 108, 111, 113, 117, 121	Any white-tailed deer
	Nov. 7-19	Nov. 5-19	Nov. 11-19	Deer Area 1050	Any white-tailed deer

Hunt Season	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
	Nov. 7-19	Nov. 5-19	Nov. 11-19	Deer Areas 1060, 1070, 1080	White-tailed, antlerless only
	Oct. 17-27	Oct. 15-25	Oct. 14-24	127 through 142, 145, 149, 154, Deer Area 1010, and 178	White-tailed, 3 pt. min. or antlerless
((HUNTERS 65 AND OVER AND DISABLED					
Eastern Washington White-tailed Deer	Oct. 17-30	Oct. 15-28	Oct. 14-27	117, 121	Antlerless white-tailed deer
YOUTH GENERAL SEASONS					
Eastern Washington White-tailed Deer in GMUs 117 and 121	Oct. 17-30	Oct. 15-28	Oct. 14-27	117, 121	Any white-tailed deer))

ARCHERY DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid archery deer tag for the area hunted.

Special Notes: Archery tag holders can only hunt during archery seasons with archery equipment (WAC 232-12-054).

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
EARLY ARCHERY GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Sept. 1-30	Sept. 1-30	Sept. 1-29	407 through 426, 437, 448, 450, 454, 466, 501, 504, 505, 524, 554, 564, 568, 621 through 636, 648 through 652, 654 through 673, 684	Any deer
				460, 503, 574, 601 through 618, 638, 642, 653, 681 and 699	Any buck
				578	3 pt. min.
	Sept. 1-27	Sept. 1-25	Sept. 1-24	510, 513, 516, 520, 556 506, 530, 550, 560, 572	Any deer Any buck
Eastern Washington Mule Deer	Sept. 1-30	Sept. 1-30	Sept. 1-29	105 through 121, 166, 169, 172 (except Deer Area 1040), 175, 181, 243, 334	3 pt. min.
				124 through 142, 145, 149, 186, 244 through 247, 249, 250, 260, 372, 373, 379, 381, 382, 388, Deer Area 3334	3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	154, 162, 163, 178	3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	((162, 163,)) 251, 328, 335, 336, 340, 346, 352, 356, 360, 364, 368	3 pt. min.
	Sept. 1-15	Sept. 1-15	Sept. 1-15	101, 204 through 242, 248, 254, 262, 266, 269, 272, 278, 284	3 pt. min.
Sept. 16-30	Sept. 16-30	Sept. 16-29	101, 204 through 242, 248, 254, 262, 266, 269, 272, 278, 284	3 pt. min. or antlerless	
Eastern Washington White-tailed Deer	Sept. 1-30	Sept. 1-30	Sept. 1-29	101, 105, 108, 111, 113, 117, 121	((Any white-tailed deer)) <u>White-tailed, any buck</u>
				124, 204 through 250, 254 through 284, 373, 379, 381	Any white-tailed deer
	Sept. 1-30	Sept. 1-30	Sept. 1-29	127 through 149, 166, 172 (except Deer Area 1040), 181, 186	White-tailed, 3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	154, 162, 163, 178	White-tailed, 3 pt. min. or antlerless
	Sept. 1-27	Sept. 1-25	Sept. 1-24	169, 175	White-tailed, 3 pt. min.
((Eastern Washington White-tailed Deer in GMUs 117 and 121	Sept. 1-30	Sept. 1-30	Sept. 1-29	117, 121	Any white-tailed deer))

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
LATE ARCHERY GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	437, 466, 510 through 520, 524((-556))	Any deer
	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	448, 460, 506, 530, 560, 572, 601, 603 through 618, 638, 642, 681, and 699	Any buck
	Nov. 25 - Dec. 31	Nov. 23 - Dec. 31	Nov. 22 - Dec. 31	407, 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, 505, 564, 624, 627, 636, 648, 652, 654, 655, 660 through 672	Any deer
Eastern Washington Mule Deer	Nov. 21-30	Nov. 21-30	Nov. 21-30	209, 215, 233, 243, 250	3 pt. min.
	Nov. 25 - Dec. 8	Nov. 23 - Dec. 8	Nov. 22 - Dec. 8	336, 342, 346, 352, 364, 388, Deer Area 3682	3 pt. min.
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178, 272, 278, 373, <u>Deer Area 3372</u>	3 pt. min. or antlerless
	Dec. 9-31	Dec. 9-31	Dec. 9-31	Deer Area 1021	Antlerless only
Eastern Washington White-tailed Deer	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	101	Any white-tailed deer
		<u>Nov. 21-30</u>	<u>Nov. 21-30</u>	<u>204, 209</u>	<u>Any white-tailed deer</u>
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	124	Any white-tailed deer
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	127	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178, 272, 278	White-tailed, 3 pt. min. or antlerless
	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	((105, 108, 204, 209,)) 215, 233, 243, 373	Any white-tailed deer
		<u>Nov. 23 - Dec. 9</u>	<u>Nov. 22 - Dec. 9</u>	<u>105, 108, 117, 121</u>	<u>White-tailed, any buck</u>
		<u>Dec. 10-15</u>	<u>Nov. 22-15</u>	<u>105, 108, 117, 121</u>	<u>Any white-tailed deer</u>
((Eastern Washington White-tailed Deer in GMUs 117 and 121))	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	117, 121	Any white-tailed deer

MUZZLELOADER DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid muzzleloader deer tag for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment (WAC 232-12-051) or archery equipment (WAC 232-12-054).

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
High Buck Hunts	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten, Mount Baker, Olympic Peninsula, and Henry Jackson Wilderness areas, and Lake Chelan Recreation Area	3 pt. min.
EARLY MUZZLELOADER GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Oct. 3-11	Oct. 1-9	Sept. 30 - Oct. 8	407, 418, 426, 437, 448, 450, 501, 503, 504, 505, 506, 510, 513, 516, 520, 530, 550, 554, ((556-)) 560, 568, 572, 574, 603, 607, 612, 615, 624 (except Deer Area 6020), 636, 638, 642, 648, 660, 663, 672, 673	Any buck
				410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, 564, 627, 652, 655, 666, 684, and Deer Area 6020	Any deer
				578	3 pt. min.
Eastern Washington White-tailed Deer	Oct. 3-11	Oct. 1-9	Sept. 30 - Oct. 8	101, 105, 108, 111, 113, 117, 121, 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 260, 272, 278, 284	White-tailed, any buck
				((101, 105, 108, 111, 113,)) 124	Any white-tailed deer

Hunt Area	2015 Dates	2016 Dates	2017 Dates	Game Management Units (GMUs)	Legal Deer
				127, 142, 145, 149	White-tailed, 3 pt. min. or antlerless
				130, 133, 136, 139, 175, 181, 186	White-tailed, 3 pt. min.
				373, 379	Any white-tailed((-)) deer
Eastern Washington White-tailed Deer in GMUs 117 and 121	Oct. 3-11	Oct. 1-9	Sept. 30 - Oct. 8	117, 121	Any white-tailed-deer))
Eastern Washington Mule Deer	Oct. 3-11	Oct 1-9	Sept. 30 - Oct. 8	101 through 149, 175, 181, 186, 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 254, 260, 262, 266, 269, 272, 278, 284, 328, 330 through 342, 352 through 368, 373, 379	Mule deer, 3 pt. min.
<u>Eastern Washington Mule Deer</u>	<u>Oct. 3-11</u>	<u>Oct. 1-9</u>	<u>Sept. 30 - Oct. 8</u>	<u>Deer Areas 3334 and 3372</u>	<u>3 pt. min. or antlerless</u>
LATE MUZZLELOADER GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Nov. 25 - Dec. 15	Nov. 23 - Dec. 15	Nov. 22 - Dec. 15	407, 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, ((501;)) 504, 564, 633, 666, 684, and Deer Area 6020	Any deer
				448, 460, ((550)) 501, 602, 621, 651, 654, 658, 667, and 673	Any buck
Eastern Washington White-tailed Deer	Nov. 25 - Dec. 8	Nov. 23 - Dec. 8	Nov. 22 - Dec. 8	113	Any white-tailed buck
	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130, 133, 136, 139	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	172 (except Deer Area 1040), 181	White-tailed, 3 pt. min. or antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	379, 381	Any white-tailed deer
Eastern Washington Mule Deer	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130	Antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	381, <u>Deer Area 3372</u>	3 pt. min. or antlerless
	Nov. 20-30	Nov. 20-30	Nov. 20-30	379, 382	3 pt. min.

WSR 16-10-121
PROPOSED RULES
DEPARTMENT OF HEALTH
(Veterinary Board of Governors)
[Filed May 4, 2016, 11:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-10-169.

Title of Rule and Other Identifying Information: WAC 246-935-290 Qualified organizations approved by the veterinary board of governors, the veterinary board of governors (board) is proposing to amend the rule to update the list of approved veterinary technician continuing education (CE) organizations to include colleges of veterinary medicine.

Hearing Location(s): Courtyard Richland Columbia Point, Riverside Hall, 480 Columbia Point Drive, Richland, WA 99352, on June 20, 2016, at 10 a.m.

Date of Intended Adoption: June 20, 2016.

Submit Written Comments to: Lorelei Walker, Department of Health, Veterinary Board of Governors, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by June 10, 2016.

Assistance for Persons with Disabilities: Contact Lorelei Walker by June 10, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule would add board approved colleges or schools of veterinary medicine to the list of approved CE course providers for licensed veterinary technicians. The current list includes board approved colleges or schools of veterinary medical technology, but does not include veterinary colleges as approved CE providers.

Reasons Supporting Proposal: The Washington State University College of Veterinary Medicine asked the board

to consider adding this category because veterinary colleges provide quality CE that is relevant to the work of veterinary technicians. Adding veterinary colleges to the list of approved CE providers could offer veterinary technicians broader opportunities for meeting their CE requirements.

Statutory Authority for Adoption: RCW 18.92.030.

Statute Being Implemented: RCW 18.92.030.

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

Name of Proponent: Department of health, veterinary board of governors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Lorelei Walker, Department of Health, Veterinary Board of Governors, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4947, fax (360) 236-2901, e-mail Lorelei.Walker@doh.wa.gov. The board did not complete a cost-benefit analysis under RCW 34.05.328. The proposed rule does not qualify as a significant legislative rule as defined under RCW 34.05.328 (5)(c)(iii).

May 3, 2016

Kathy Schmitt

Deputy Director

Office of Health

Professions and Facilities

AMENDATORY SECTION (Amending WSR 08-20-126, filed 10/1/08, effective 11/1/08)

WAC 246-935-290 Qualified organizations approved by the veterinary board of governors. Courses offered by the following organizations qualify as continuing education courses for veterinary technicians.

(1) The Washington State Association of Veterinary Technicians.

(2) National Association of Veterinary Technicians in America.

(3) All veterinary technician specialty academies recognized by the North American Veterinary Technician Association.

(4) The American Association of Veterinary State Boards (AAVSB).

(5) The American Veterinary Medical Association (AVMA).

(6) The Washington State Veterinary Medical Association.

(7) Any board approved college or school of veterinary medical technology.

(8) Any board approved college or school of veterinary medicine.

(9) Any state or regional veterinary association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.

~~((9))~~ (10) The American Animal Hospital Association.

~~((10))~~ (11) Veterinary specialty boards recognized by the American Veterinary Medical Association.

~~((11))~~ (12) Regional veterinary conferences and allied organizations recognized by AAVSB.

~~((12))~~ (13) The Registry of Approved Continuing Education (RACE).

~~((13))~~ (14) Other courses as approved by the board.

WSR 16-10-123

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Optometry)

[Filed May 4, 2016, 12:00 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-851-580 Drug list and 246-851-590 Guidelines for the use of oral Schedule III through V controlled substances and legend drugs. In accordance with statutory changes, the board of optometry is adding Schedule II hydrocodone combination products to its list of approved oral drugs.

Hearing Location(s): Department of Health, Creekside Two at Center Point, 20425 72nd Avenue South, Room 307, Kent, WA 98032, on June 13, 2016, at 10 a.m.

Date of Intended Adoption: June 13, 2016.

Submit Written Comments to: Lorelei Walker, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by May 31, 2016.

Assistance for Persons with Disabilities: Contact Lorelei Walker, program manager, by May 31, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of optometry is implementing rules in accordance with SSB 5293 (chapter 113, Laws of 2015, codified in RCW 18.53.-010) which authorizes the board of optometry to include Schedule II hydrocodone combination products in its list of approved oral drugs. This legislation was in response to changes in federal regulations made in October 2014 that rescheduled hydrocodone combination products from Schedule III to Schedule II.

Reasons Supporting Proposal: Reauthorizing optometrists to use hydrocodone combination products with [will] help manage severe eye pain in patients more effectively and with fewer side effects than Schedule III pain medications. This will provide a greater continuity of care for these optometry patients.

Statutory Authority for Adoption: RCW 18.54.070(2).

Statute Being Implemented: RCW 18.53.010.

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

Name of Proponent: Department of health, board of optometry, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference - without material change - federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

May 3, 2016
Kathy Schmitt
Deputy Director
Office of Health
Professions and Facilities

AMENDATORY SECTION (Amending WSR 04-12-127, filed 6/2/04, effective 7/3/04)

WAC 246-851-580 Drug list. Pursuant to RCW 18.53.010(4), the optometry board adopts the following drug formulary of oral Schedule II hydrocodone combination products, Schedule III through V controlled substances, and legend drugs for diagnostic and therapeutic purposes in the practice of optometry. No licensed optometrist may use, prescribe, dispense, purchase, possess, or administer these drugs except as authorized and to the extent permitted by the board. This section includes the approved oral drug formulary. Optometrists must consult WAC 246-851-590 for specific guidelines on these drugs or drug categories.

(1) Approved nonscheduled oral drugs include:

- (a) Antibiotic agents excluding those listed in WAC 246-851-590(1).
- (b) Antiviral agents.
- (c) Antifungal agents listed under WAC 246-851-590(2).
- (d) Antihistamine agents.
- (e) Decongestant agents.
- (f) Dry eye agents.
- (g) Anti-emetic agents listed under WAC 246-851-590(3).
- (h) Diuretic agents listed under WAC 246-851-590(4).
- (i) Nonsteroidal anti-inflammatory agents excluding those listed in WAC 246-851-590(5).
- (j) Analgesics.

(2) Approved controlled substances limited to Schedule II hydrocodone combination products and Schedules III, IV, and V.

- (a) Schedule II hydrocodone combination products.
- (b) Schedule III controlled substances.
- ~~((b))~~ (c) Schedule IV controlled substances.
- ~~((e))~~ (c) Schedule V controlled substances.

~~(d) Schedule IV anti-anxiety/sedative agents.)~~ (d) Schedule IV anti-anxiety/sedative agents.

(e) Schedule V controlled substances.

(3) Approved injectable substances.

Administration of epinephrine by injection for the treatment of anaphylactic shock.

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 04-12-127, filed 6/2/04, effective 7/3/04)

WAC 246-851-590 Guidelines for the use of oral Schedule II hydrocodone combination products and Schedule III through V controlled substances and legend drugs. Nothing in these guidelines should be construed to restrict the recommendation of over-the-counter medications, vitamins, or supplements, nor restrict the ordering of any radiologic or laboratory testing necessary to the diagnosis of any eye related disease that is within the scope of practice of optometry.

(1) All oral forms and dosages of antibiotic agents will be available for use excluding: Vancomycin.

(2) Antifungal agents used in eye care shall fall into the following categories:

- (a) All oral forms and dosages of polyene antifungals.
- (b) All oral forms and dosages of imidazole antifungals.
- (c) All oral forms and dosages of triazole antifungals.

(3) Anti-emetic agents used in eye care shall be the following medications:

- (a) All oral forms and dosages of prochlorperazine.
- (b) All oral forms and dosages of metoclopramide.
- (c) All oral forms and dosages of promethazine.

(4) Diuretic agents used in eye care shall fall into the following categories:

(a) All oral forms and dosages of carbonic anhydrase inhibitors.

(b) All oral forms and dosages of osmotic diuretics. Osmotic diuretics shall be used only in the case of acute angle closure glaucoma administered in-office, outpatient, and/or ambulatory procedures only.

(5) All oral forms and dosages of nonsteroidal anti-inflammatory agents will be available for use excluding: Ketorolac tromethamine.

(6) Benzodiazepines prescribed, as anti-anxiety agents, shall be used for in-office, outpatient, and/or ambulatory procedures. This family of medications will be utilized as one dosage unit per prescription.

(7) Schedule II controlled substance will only include hydrocodone combination products.

(8) Schedules III and IV controlled substances will have a maximum quantity count of thirty dosage units per prescription.

~~((8))~~ (9) Specific dosage for use and appropriate duration of treatment of oral medications listed in WAC 246-851-580(1) will be consistent with guidelines established by the Food and Drug Administration.

~~((9))~~ (10) Notation of purpose shall be included on all prescriptions.

~~((10))~~ (11) An optometrist may not:

(a) Use, prescribe, dispense, or administer oral corticosteroids; or

(b) Prescribe, dispense, or administer a controlled substance for more than seven days in treating a particular patient for a single trauma, episode, or condition or for pain associated with or related to the trauma, episode, or condition; or

(c) Prescribe an oral drug within ninety days following ophthalmic surgery unless the optometrist consults with the treating ophthalmologist. If treatment exceeding the limitation is indicated, the patient must be referred to a physician licensed under chapter 18.71 RCW.

~~((11))~~ (12) The prescription or administration of drugs as authorized in this section is specifically limited to those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry. The prescription or administration of drugs for any other purpose is not authorized.

~~((12))~~ (13) Nothing in this chapter may be construed to authorize the use, prescription, dispensing, purchase, possession, or administration of any Schedule I or II controlled substance with the exception of Schedule II hydrocodone combination products.