

**WSR 16-22-013**  
**PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
 [Filed October 21, 2016, 1:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-092.

Title of Rule and Other Identifying Information: WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), Room E-154, 19010 1st Avenue South, Burien, WA 98148, on December 14, 2016, at 10 a.m.

Date of Intended Adoption: December 14, 2016.

Submit Written Comments to: Sonja Peterson, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail [speterson@cjtc.state.wa.us](mailto:speterson@cjtc.state.wa.us), fax (206) 835-7313, by December 7, 2016.

Assistance for Persons with Disabilities: Contact Sonja Peterson, rules coordinator, by December 7, 2016, TTY (206) 835-7300 or (206) 835-7356.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to WAC 139-05-915 are needed to establish guidelines in reference to canine training. Currently, canine team standards are established by WAC; if approved, WSCJTC will establish and adopt canine team standards by policy.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Tisha Jones, Lacey, Washington, (360) 486-2431.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

A cost-benefit analysis is not required under RCW 34.05.328. The changes are not new, as they simply mirror the language of RCW 43.101.220.

October 21, 2016  
 Sonja Peterson  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

**WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams.** ~~((1) Title and scope: These rules are intended to set minimum standards of performance for the certification of canine teams that are used for law enforcement or corrections purposes. This process is not related to nor does it have any effect upon the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or fed-~~

~~eral agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.~~

~~(2) For purposes of this section, the following definitions will apply:~~

~~(a) "Dog handler" means any fully commissioned law enforcement officer or corrections officer of a state, county, city, municipality, or combination thereof, agency who is responsible for the routine care, control, and utilization of a police canine within a law enforcement or corrections assignment; and~~

~~(b) "Canine team" means a specific officer and a specific canine controlled by that officer in the capacity of handler, formally assigned by the employing agency to work together in the performance of law enforcement or corrections duties.~~

~~(c) "Training" means any structured classroom or practical learning exercise conducted, evaluated, and documented by an experienced dog handler or trainer, certified as an instructor with recognized expertise on canine subjects associated with the development of the trainee's competency in the care, control, and utilization of a police canine.~~

~~(d) "Evaluator" means a certified peace officer or corrections officer, who has a minimum of three years experience as a dog handler and is recognized as a trainer of canines by a professional organization of police and/or corrections dog handlers/trainers or by the handler's employing agency. The trainer must have trained a canine team in accordance with the training requirements of WAC 139-05-915, or be recognized by the commission as a certified instructor with expertise in canine training of a specific police canine subject for the purpose of testing and certifying dog handlers and canines to work as a canine team.~~

~~(3) A dog handler must, as a precondition of such assignment, successfully complete the basic law enforcement academy or basic corrections officer academy, or otherwise comply with the basic training requirement prescribed by WAC 139-05-200 and 139-05-210 of the commission.~~

~~(4) Prior to such assignment, a dog handler must successfully complete training according to the nature and purpose of utilization of the police canine for which such handler is responsible.~~

~~(a) A dog handler who is responsible for the routine and regular utilization of a police canine within general patrol or investigative activities, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:~~

- ~~(i) Philosophies/theories of police canine;~~
- ~~(ii) Legal and liability aspects, including applicable department policies;~~
- ~~(iii) Public relations;~~
- ~~(iv) Care and maintenance;~~
- ~~(v) Obedience and control;~~
- ~~(vi) Tracking;~~
- ~~(vii) Trailing;~~
- ~~(viii) Area search;~~
- ~~(ix) Building search;~~
- ~~(x) Evidence search;~~
- ~~(xi) Pursuit and holding; and~~
- ~~(xii) Master protection.~~

(b) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and detection of specific substances, excluding explosives, must successfully complete a minimum of two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area search;
- (vii) Building search;
- (viii) Evidence search;
- (ix) Vehicle search; and
- (x) Detection of specific substances.

(c) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and detection of explosive substances and devices, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area search;
- (vii) Private and commercial conveyance search;
- (viii) Building search;
- (ix) Evidence search; and
- (x) Detection of explosives.

(d) A dog handler who is responsible for the routine and regular utilization of a police canine solely for self-protection and assistance in hostile or potentially hostile situations, must successfully complete at least two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Pursuit and holding; and
- (vii) Master protection.

(5) The commission will develop and adopt a minimum performance standard for canine teams performing specific law enforcement or corrections functions. It is the handler's responsibility to keep their canines under control at all times. Each handler must be able to make their canine perform to a level that is deemed acceptable by the commission in the category for the team's intended use as a condition of certification.

(6) Certification of canine teams:

(a) The handler and the canine will be considered as a team and it is the team who will be certified. If the canine or the handler changes, a new team exists and the team must be certified.

(b) A dog handler may not use a canine for police purposes unless the handler is certified to handle a specific canine for a specific purpose.

(c) In evaluating the proficiency of the canine team, the evaluators shall use the standards approved by the commission for that particular skill category. Performance will be rated on a pass/fail basis. The evaluator has the discretion to discontinue the testing if excessive time has been spent without results, or if there is a concern about safety issues involving the canine, handler, or equipment.

(d) The commission will certify a canine team who can successfully show proficiency, under scrutiny of a canine evaluator, in all of the areas in which the canine will be used:

(i) Patrol and investigation:

- (A) Obedience;
- (B) Protection and control;
- (C) Area search;
- (D) Building search; and
- (E) Tracking.

(ii) Detection:

- (A) Building search;
- (B) Vehicle search;
- (C) Exterior search; and
- (D) Obedience.

(iii) Explosive detection:

- (A) Obedience;
- (B) Building search;
- (C) Private and commercial conveyance search;
- (D) Exterior search.

(iv) Master protection:

- (A) Obedience;
- (B) Protection and control.

(e) Each certification issued pursuant to these rules will remain valid as long as the composition and responsibility of the canine team does not change. A canine team's certification expires if the specific handler and canine, originally paired at the time of certification, cease to perform canine team functions together or if the function for which the team was certified changes. It is recommended that teams recertify on an annual basis.

(f) If the canine team fails any phase of an evaluation, the team must be reevaluated in that particular phase. Canine teams will be allowed three attempts to successfully pass the requirements of each phase during an evaluation. If the team does not pass by the third attempt, the team must be reevaluated in all phases at a different time to be scheduled by the evaluator and approved by the commission.

(7) Recordkeeping:

(a) Each agency is required to keep training, performance, and identification records on canines. The records must stay with the agency responsible for the canine team. The records will be made available for review in the event that the canine is sold or transferred to another agency. The records will include, but not be limited to:

- (i) Microchip number (if applicable);
- (ii) Canine's name;
- (iii) Breed;
- (iv) Training records;
- (v) Certification date;
- (vi) Date acquired or purchased;

- (vii) Source from which the canine was acquired;
- (viii) Purpose, use, or assignment of canine;
- (ix) Handler's name;
- (x) The date and reason the canine was released from service; and

(xi) ~~Copies of all incident reports in which use of the canine resulted in the use of force.~~

(b) ~~These records must be retained for a period of one year from the date the canine is removed from active service unless a longer retention is required by statute or local ordinance.~~

(c) ~~It is the responsibility of the handler to advise their employing agency of the fact that they have met the standards for canine certification. The proof of certification with the evaluator's signature along with a request for canine certification must be submitted to the commission by the employing agency. This will be considered as a request for certification. Upon verification that the minimum requirements have been met, the commission will issue certification to the canine team.~~

(8) ~~It is recommended that a canine intended for use by a law enforcement or corrections agency, be positively identified by having a microchip medically inserted in the canine. Any canine that is sold by a vendor to a Washington state governmental agency for use as a law enforcement or corrections canine should be able to be identified by microchip placed in the canine at the vendor's expense prior to the canine being sold to the law enforcement or corrections agency.~~

~~Once the microchip has been inserted, it is recommended that it not be removed except for medical necessity. If it becomes necessary to remove the microchip, the reason for the removal must be documented and entered into the canine's training records and a new microchip inserted, if medically appropriate.) Canine teams working in the state of Washington shall be certified to the adopted standards as set by criminal justice training commission (CJTC) policy. The standards shall be maintained by commission staff and readily available to stakeholders. These standards include the minimum performance standards for canine teams performing specific law enforcement or corrections functions. As a condition of certification, each handler must ensure that the canine performs to a level that is deemed acceptable by the commission in the category for the team's intended use.~~

An evaluator shall be a person who is recognized and appointed by the CJTC to perform the testing of the canine teams. The qualifications to become an evaluator relating to canine certification shall be outlined in the evaluation policy adopted by the CJTC.

In evaluating the proficiency of the canine team, evaluators shall use the standards approved by the commission for that particular discipline. Each certification issued pursuant to these rules will remain valid for twelve months, as long as the composition and responsibility of the canine team does not change. A canine team's certification shall automatically expire if the specific handler and canine, originally paired at the time of certification, cease to perform canine team functions together or if the function for which the team was certified changes.

This process is not related to, nor does it have any effect upon, the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.

## WSR 16-22-023

### PROPOSED RULES

### DEPARTMENT OF HEALTH

[Filed October 24, 2016, 1:21 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: 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; WAC 246-249-020 Site use permit; and chapter 246-252 WAC, Uranium or thorium milling. The department of health (department) is proposing to revise these rules to be consistent with the United States Nuclear Regulatory Commission's (NRC) rules and make editorial changes.

Hearing Location(s): Department of Health, Town Center 2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501, on December 6, 2016, at 11:00 a.m.

Date of Intended Adoption: December 9, 2016.

Submit Written Comments to: Michelle K. Austin, Department of Health, P.O. Box 47820, Olympia, WA 98501-7820, e-mail <https://fortress.wa.gov/doh/policy> review, by December 6, 2016.

Assistance for Persons with Disabilities: Contact Michelle K. Austin by November 30, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making amends seven chapters of rules to adopt two NRC federally required rule changes without material change related to licensing radioactive materials. 2015-3: Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements; Including Corrections. NRC amended its regulations for the packaging and transportation of radioactive material. These amendments make conforming changes to the NRC's regulations based on the International Atomic Energy Agency's 2009 standards for the international transportation of radioactive material and maintain consistency with the United States Department of Transportation's regulations. 2015-5: Miscellaneous Corrections. NRC amended its regulations to make miscellaneous corrections that are nonsubstantive changes, such as updating names, e-mail address, correcting misspellings, capitalizing the words tribe, tribes, and tribal.

Reasons Supporting Proposal: The rule making is required to comply with RCW 70.98.050 State radiation control agency, and RCW 70.98.110, federal-state agreements. Under the formal state agreement between the governor and NRC, the department is required to remain compatible with NRC rules. This is done through rule amendments to make our state rules consistent with and at least as stringent as, the NRC's rules.

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, 80 F.R. 74974, 80 F.R. 48683, and 80 F.R. 33987.

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.

October 24, 2016

Clark Halvorson

Assistant Secretary

AMENDATORY SECTION (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

**WAC 246-231-010 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. To ensure compatibility with international transportation standards, all limits in this chapter are given in terms of dual units: The International System of Units (SI) followed or preceded by U.S. standard or customary units. The U.S. customary units are not exact equivalents, but are rounded to a convenient value, providing a functionally equivalent unit. For the purpose of this chapter, either unit may be used.

(1) "A1" means the maximum activity of special form radioactive material permitted in a Type A package. This value is either listed in WAC 246-231-200, Table A-1 or may be derived in accordance with the procedures prescribed in WAC 246-231-200.

(2) "A2" means the maximum activity of radioactive material, other than special form material, LSA and SCO material, permitted in a Type A package. This value is either

listed in WAC 246-231-200, Table A-1, or may be derived in accordance with the procedure prescribed in WAC 246-231-200.

(3) "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.

(4) "Certificate holder" means a person who has been issued a certificate of compliance or other package approval by NRC.

(5) "Certificate of compliance" means the certificate issued by NRC under 10 C.F.R. 71 Subpart D which approves the design of a package for the transportation of radioactive material.

(6) "Close reflection by water" means immediate contact by water of sufficient thickness for maximum reflection of neutrons.

(7) "Consignment" means each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

(8) "Containment system" means the assembly of components of the packaging intended to retain the radioactive material during transport.

(9) "Contamination" means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm<sup>2</sup>(1x10<sup>-5</sup> μCi/cm<sup>2</sup>) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm<sup>2</sup>(1x10<sup>-6</sup> μCi/cm<sup>2</sup>) for all other alpha emitters.

(a) Fixed contamination means contamination that cannot be removed from a surface during normal conditions of transport.

(b) Nonfixed contamination means contamination that can be removed from a surface during normal conditions of transport.

(10) "Conveyance" means:

(a) For transport by public highway or rail any transport vehicle or large freight container;

(b) For transport by water any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; and

(c) For transport by any aircraft.

~~((10))~~ (11) "Criticality safety index (CSI)" means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks, or freight containers containing fissile material during transportation. Determination of the criticality safety index is described in WAC 246-231-094, 246-231-096, and 10 C.F.R. ~~((71-59))~~ 71.22, 71.23, and 71.59. The criticality safety index for an overpack, freight container, consignment, or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment, or conveyance.

~~((11))~~ (12) "Deuterium" means, for the purposes of WAC 246-231-040 and 246-231-094, deuterium and any deuterium compounds, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

~~((12))~~ (13) "DOT" means the United States Department of Transportation. DOT regulations are found in Code of Federal Regulations Title 49 Transportation.

~~((13))~~ (14) "Exclusive use" means the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

~~((14))~~ (15) "Fissile material" means the radionuclides uranium-233, uranium-235, plutonium-239, and plutonium-241, or any combination of these radionuclides. Fissile material means the fissile nuclides themselves, not material containing fissile nuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only are not included in this definition. Certain exclusions from fissile material controls are provided in WAC 246-231-040.

~~((15))~~ (16) "Graphite" means graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

~~((16))~~ (17) "Indian Tribe" means an Indian or Alaskan native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a. A current listing of officially recognized Indian Tribes may be found at: <http://www.bia.gov/cs/groups/mywcsp/documents/text/idc-020733.pdf>.

~~((17))~~ (18) "Low specific activity (LSA) material" means radioactive material with limited specific activity which is nonfissile or is excepted under WAC 246-231-040 or 10 C.F.R. 71.15 and which satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(a) LSA-I.

(i) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radioactive radionuclides which are ~~((not))~~ intended to be processed for the use of these radionuclides; ~~((or))~~

(ii) ~~((Solid unirradiated))~~ Natural uranium ~~((or))~~, depleted uranium ~~((or))~~, natural thorium, or their compounds or mixtures, provided they are unirradiated and in solid or liquid ~~((compounds or mixtures))~~ form; or

(iii) Radioactive material other than fissile material for which the A2 value is unlimited; or

(iv) Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with Appendix A.

(b) LSA-II.

(i) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(ii) Other radioactive material in which the activity is distributed throughout, and the estimated average specific

activity does not exceed ~~((4E-4))~~  $1 \times 10^{-4}$  A2/g for solids and gases, and ~~((4E-5))~~  $1 \times 10^{-5}$  A2/g for liquids.

(c) LSA-III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of the 10 C.F.R. 71.77, in which:

(i) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.); and

(ii) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven days, would not exceed 0.1 A2; and

(iii) The estimated average specific activity of the solid, excluding any shielding material, does not exceed ~~((2E-3))~~  $2 \times 10^{-3}$  A2/g.

~~((18))~~ (19) "Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than ten days.

~~((19))~~ (20) "Maximum normal operating pressure" means the maximum gauge pressure that would develop in the containment system in a period of one year under the heat condition specified in NRC regulations 10 C.F.R. 71.71 (c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

~~((20))~~ (21) "Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

~~((21))~~ (22) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material."

~~((22))~~ (23) "Nuclear waste" as used in WAC 246-231-140 means any quantity of radioactive material (not including radiography sources being returned to the manufacturer) required to be in Type B packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Nuclear waste, as used in these regulations, is a special classification of radioactive waste.

~~((23))~~ (24) "Optimum interspersed hydrogenous moderation" means the presence of hydrogenous material between packages to such an extent that the maximum nuclear reactivity results.

~~((24))~~ (25) "Package" means the packaging together with its radioactive contents as presented for transport.

(a) "Fissile material package" or Type AF package, Type BF package, Type B(U)F package or Type B(M)F package means a fissile material packaging together with its fissile material contents.

(b) "Type A package" means a Type A packaging together with its radioactive contents. A Type A package is defined and must comply with the DOT regulations in 49 C.F.R. 173.

(c) "Type B package" means a Type B packaging together with its radioactive contents. Upon approval by NRC, a Type B package design is designated by NRC as

B(U) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lbs/in<sup>2</sup>) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in NRC regulations 10 C.F.R. 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, see DOT regulations in 49 C.F.R. 173. A Type B package approved before September 6, 1983, was designated only as Type B. Limitations on its use are specified in 10 C.F.R. 71.19.

~~((25))~~ (26) "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of this chapter. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

~~((26))~~ (27) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than 5 mm (0.2 in); and

(c) It satisfies the requirements of 10 C.F.R. 71.75. A special form encapsulation designed in accordance with ~~((NRC))~~ the requirements of 10 C.F.R. 71.4 in effect on June 30, 1983, (see 10 C.F.R. 71, revised as of January 1, 1983), and constructed before July 1, 1985~~((and))~~; a special form encapsulation designed in accordance with the requirements of ~~((NRC requirements in))~~ 10 C.F.R. 71.4 in effect on March 31, 1996 (see 10 C.F.R. 71, revised as of January 1, ~~((1983))~~ 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015, in accordance with the requirements of 10 C.F.R. 71.75(d) in effect before September 10, 2015, may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

~~((27))~~ (28) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

~~((28))~~ (29) "Spent nuclear fuel" or "spent fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, has undergone at least one year's decay since being used as a source of energy in a power reactor, and has not been chemically separated into its constituent elements by reprocessing. Spent fuel includes the special nuclear material, by-product material, source material, and other radioactive materials associated with fuel assemblies.

~~((29))~~ (30) "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.

~~((30))~~ (31) "Surface contaminated object (SCO)" means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

(a) SCO-I: A solid object on which:

(i) The nonfixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed 4 Bq/cm<sup>2</sup> ~~((1E-4))~~ 1x10<sup>-4</sup> microcurie/cm<sup>2</sup> for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm<sup>2</sup> ~~((1E-5))~~ 1x10<sup>-5</sup> microcurie/cm<sup>2</sup> for all other alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed ~~((4E+4))~~ 4x10<sup>4</sup> Bq/cm<sup>2</sup> (1.0 microcurie/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or ~~((4E+3))~~ 4x10<sup>3</sup> Bq/cm<sup>2</sup> (0.1 microcurie/cm<sup>2</sup>) for all other alpha emitters; and

(iii) The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed ~~((4E+4))~~ 4x10<sup>4</sup> Bq/cm<sup>2</sup> (1 microcurie/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or ~~((4E+3))~~ 4x10<sup>3</sup> Bq/cm<sup>2</sup> (0.1 microcurie/cm<sup>2</sup>) for all other alpha emitters.

(b) SCO-II: A solid object on which the limits for SCO-I are exceeded and on which:

(i) The nonfixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed 400 Bq/cm<sup>2</sup> ~~((1E-2))~~ 1x10<sup>-2</sup> microcurie/cm<sup>2</sup> for beta and gamma and low toxicity alpha emitters or 40 Bq/cm<sup>2</sup> ~~((1E-3))~~ 1x10<sup>-3</sup> microcurie/cm<sup>2</sup> for all other alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed ~~((8E+5))~~ 8x10<sup>5</sup> Bq/cm<sup>2</sup> (20 microcuries/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or ~~((8E+4))~~ 8x10<sup>4</sup> Bq/cm<sup>2</sup> (2 microcuries/cm<sup>2</sup>) for all other alpha emitters; and

(iii) The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed ~~((8E+5))~~ 8x10<sup>5</sup> Bq/cm<sup>2</sup> (20 microcuries/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or ~~((8E+4))~~ 8x10<sup>4</sup> Bq/cm<sup>2</sup> (2 microcuries/cm<sup>2</sup>) for all other alpha emitters.

~~((31))~~ (32) "Transport index (TI)" means the dimensionless number (rounded up to the next tenth) placed on the label of a package, to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter (3.3 ft)).

~~((32))~~ (33) "Tribal official" means the highest ranking individual who represents Tribal leadership, such as the chief, president, or Tribal council leadership.

~~((33))~~ (34) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which

does not exceed A1 for special form radioactive material, or A2 for normal form radioactive material, where A1 and A2 are given in Table A-1 of WAC 246-231-200, or may be determined by procedures described in WAC 246-231-200.

~~((34))~~ (35) "Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

~~((35))~~ (36) "Unirradiated uranium" means uranium containing not more than ~~((2E+3))~~  $2 \times 10^3$  Bq of plutonium per gram of uranium-235, not more than ~~((9E+6))~~  $9 \times 10^6$  Bq of fission products per gram of uranium-235, and not more than ~~((5E-3))~~  $5 \times 10^{-3}$  g of uranium-236 per gram of uranium-235.

~~((36))~~ (37) Uranium~~((—))~~-natural, depleted, enriched.

(a) "Natural uranium" means uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

(b) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(c) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

AMENDATORY SECTION (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**WAC 246-231-040 Exemptions.** (1) Common and contract carriers, freight forwarders, warehouse workers, 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 either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for use of these radionuclides, provided the activity concentration of the material does not exceed ten times the

applicable radionuclide activity concentration values specified in WAC 246-231-200, Table A-2 or Table A-3.

(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 Table A-3, 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 or Table A-3.

~~((5))~~ (c) Nonradioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in WAC 246-231-010.

(5) A licensee is exempt from all the requirements of this chapter, other than 10 C.F.R. 71.5 and 71.88, with respect to shipment or carriage of the following packages, provided the packages do not contain any fissile material, or the material is exempt from classification as fissile material in this subsection:

(a) A package that contains no more than a Type A quantity of radioactive material;

(b) A package transported within the United States that contains no more than 0.74 TBq (20 Ci) of special form plutonium-244; or

(c) The package contains only LSA or SCO radioactive material, provided:

(i) That the LSA or SCO material has an external radiation dose of less than or equal to 10 mSv/h (1 rem/h), at a distance of three meters from the unshielded material; or

(ii) That the package contains only LSA-I or SCO-I material.

(6) 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 g 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, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.

(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 246-231-060 General license—NRC-approved package.** (1) A general license is hereby issued to any licensee of the department, NRC, or an agreement state, to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.

(2) This general license applies only to a licensee who has a quality assurance program approved by NRC as satisfying the provisions of 10 C.F.R. 71 Subpart H.

(3) ~~((This))~~ Each licensee issued a general license ((applies only to a licensee who)) under this chapter shall:

(a) ~~((Has))~~ Maintain a copy of the certificate of compliance, or other approval of the package, and ~~((has))~~ the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

(b) ~~((Complies))~~ Comply with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of 10 C.F.R. 71 Subparts A, G, and H; and

(c) Before the licensee's first use of the package, submits in writing to: ATTN: Document Control Desk, Director, Division of Spent Fuel ((Project Office)) Storage and Transportation, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in 10 C.F.R. 71.1(a), the licensee's name and license number and the package identification number specified in the package approval.

(4) This general license applies only when the package approval authorizes use of the package under this general license.

(5) For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of 10 C.F.R. 71.19.

**AMENDATORY SECTION** (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

**WAC 246-231-090 General license—Use of foreign approved package.** (1) A general license is issued to any licensee of the department, NRC, or an agreement state, to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has

been revalidated by DOT as meeting the applicable requirements of 49 C.F.R. ~~((471.42))~~ 171.23.

(2) Except as otherwise provided in this ~~((section))~~ chapter, the general license applies only to a licensee who has a quality assurance program approved by NRC as satisfying the applicable provisions of 10 C.F.R. 71 Subpart H.

(3) This general license applies only to shipments made to or from locations outside the United States.

(4) ~~((This))~~ Each licensee issued a general license ((applies only to a licensee who)) under this section shall:

(a) ~~((Has))~~ Maintain a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and

(b) ~~((Complies))~~ Comply with the terms and conditions of the certificate and revalidation, and with the applicable requirements of 10 C.F.R. 71 Subparts A, G, and H. ~~((With respect to the quality assurance provisions of Subpart H of 10 C.F.R. 71, the licensee is exempt from design, construction, and fabrication considerations:))~~

**AMENDATORY SECTION** (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

**WAC 246-231-106 Preliminary determinations.** Before the first use of any packaging for the shipment of licensed material:

(1) The licensee shall ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

(2) Where the maximum normal operating pressure will exceed 35 kPa (5 lbs/in<sup>2</sup>) gauge, the licensee shall test the containment system at an internal pressure at least fifty percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; ~~((and))~~

(3) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by NRC. Before applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by NRC; and

(4) The licensee shall ascertain that the determinations in subsections (1) through (3) of this section have been made.

**AMENDATORY SECTION** (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

**WAC 246-231-136 Records.** (1) Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under WAC 246-231-040(4), showing where applicable:

(a) Identification of the packaging by model number and serial number;

(b) Verification that there are no significant defects in the packaging, as shipped;

(c) Volume and identification of coolant;

(d) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(e) For each item of irradiated fissile material:



- (i) Identification by model number and serial number;
- (ii) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
- (iii) Any abnormal or unusual condition relevant to radiation safety;
- (f) Date of the shipment;
- (g) For fissile packages and for Type B packages, any special controls exercised;
- (h) Name and address of the transferee;
- (i) Address to which the shipment was made; and
- (j) Results of the determinations required by WAC 246-231-110 and by the conditions of the package approval.

(2) ~~((Each certificate holder shall maintain, for a period of three years after the life of the packaging to which they apply, records identifying the packaging by model number, serial number, and date of manufacture.~~

~~(3))~~ The licensee, certificate holder, and an applicant for a certificate of compliance, shall make available to the department and NRC for inspection, upon reasonable notice, all records required by 10 C.F.R. 71.91. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.

~~((4))~~ (3) The licensee, certificate holder, and an applicant for a certificate of compliance shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by WAC 246-231-106; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.

AMENDATORY SECTION (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

**WAC 246-231-140 Advance notification of shipment of irradiated reactor fuel and nuclear waste.** (1)(a) As specified in subsections (2), (3), and (4) of this section, each licensee shall provide advance notification to the governor of a state, or the governor's designee, of the shipment of licensed material, within or across the boundary of the state, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

(b) As specified in subsections (2), (3), and (4) of this section, after June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating tribes referenced in subsection (3)(c)(iii) of this section, or the official's designee, of the shipment of licensed material within or across the boundary of the Tribe's reservation before the transport, or delivery to a carrier for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

(2) Advance notification is required under this section for shipments of irradiated reactor fuel in quantities less than that subject to advance notification requirements of NRC regulations 10 C.F.R. 73.37(f). Advance notification is also required under this section for shipment of licensed material, other than irradiated fuel, meeting the following three conditions:

(a) The licensed material is required by this section to be in Type B packaging for transportation;

(b) The licensed material is being transported to or across a state boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and

(c) The quantity of licensed material in a single package exceeds the least of the following:

(i) 3000 times the A1 value of the radionuclides as specified in WAC 246-231-200, Table A-1 for special form radioactive material;

(ii) 3000 times the A2 value of the radionuclides as specified in WAC 246-231-200, Table A-1 for normal form radioactive material; or

(iii) 1000 TBq (27,000 Ci).

(3) Procedures for submitting advance notification.

(a) The notification must be made in writing to the office of each appropriate governor or governor's designee, to the office of each appropriate Tribal official or Tribal official's designee, and to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

(b) A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

(c) A notification delivered by any other means than mail must reach the office of the governor or the governor's designee, or of the Tribal official or the Tribal official's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

(i) A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the *Federal Register* on June 30, 1995, (60 FR 34306).

(ii) ~~((The list of))~~ Contact information for each state, including telephone and mailing addresses of governors and governors' designees, and ((tribal officials' designees of)) participating ((tribes will be published annually in the Federal Register on or about June 30 to reflect any changes in information)) Tribes, including telephone and mailing addresses of Tribal officials and Tribal official's designees, is available on the NRC web site at: <https://scp.nrc.gov/special/designee.pdf>.

(iii) A list of the names and mailing addresses of the governors' designees and Tribal officials' designees of participating Tribes is available on request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, NRC, Washington, D.C. 20555-0001.

(d) The licensee shall retain a copy of the notification as a record for three years.

(4) Information to be furnished in advance notification of shipment. Each advance notification of shipment of irradi-

ated reactor fuel or nuclear waste must contain the following information:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the irradiated reactor fuel or nuclear waste shipment;

(b) A description of the irradiated reactor fuel or nuclear waste contained in the shipment, as specified in the regulations of DOT in 49 C.F.R. 172.202 and 172.203(d);

(c) The point of origin of the shipment and the seven-day period during which departure of the shipment is estimated to occur;

(d) The seven-day period during which arrival of the shipment at state boundaries or Tribal reservation boundaries is estimated to occur;

(e) The destination of the shipment, and the seven-day period during which arrival of the shipment is estimated to occur; and

(f) A point of contact, with a telephone number, for current shipment information.

(5) Revision notice. A licensee who finds that schedule information previously furnished to a governor or governor's designee, or a Tribal official or Tribal official's designee, in accordance with this section, will not be met, shall telephone a responsible individual in the office of the governor of the state or of the governor's designee or the Tribal official or the Tribal official's designee, and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for three years.

(6) Cancellation notice.

(a) Each licensee who cancels an irradiated reactor fuel or nuclear waste shipment for which advance notification has been sent shall send a cancellation notice to the governor of each state or to the governor's designee previously notified, to each Tribal official or to the Tribal official's designee previously notified, and to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

(b) The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled. The licensee shall retain a copy of the notice as a record for three years.

AMENDATORY SECTION (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

**WAC 246-231-150 Quality assurance requirements.**

(1) Purpose. This section describes quality assurance requirements that apply to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety. As used in this chapter, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements. ~~((The))~~ Each licensee ~~((, certificate holder,))~~ and applicant for a ~~((certificate of compliance are responsible for))~~ package approval is

responsible for satisfying the quality assurance requirements ~~((as they))~~ that apply to design, fabrication, testing, and modification of packaging subject to this chapter. Each licensee is responsible for satisfying the quality assurance ~~((provision which applies))~~ requirements that apply to its use of packaging for the shipment of licensed material subject to this chapter.

(2) Establishment of program. Each licensee, certificate holder, and applicant for a certificate of compliance shall establish, maintain, and execute a quality assurance program satisfying each of the applicable criteria in 10 C.F.R. 71.101 through 71.137 and satisfying any specific provisions that are applicable to the licensee's activities including procurement of packaging. The licensee, certificate holder, and applicant for a certificate of compliance shall execute the applicable criteria in a graded approach to an extent that is commensurate with the quality assurance requirement's importance to safety.

(3) Approval of program. Before the use of any package for the shipment of licensed material subject to this chapter, each licensee shall obtain NRC approval of its quality assurance program. Using an appropriate method listed in 10 C.F.R. 71.1(a), each licensee shall file a description of its quality assurance program, including a discussion of which requirements of 10 C.F.R. 71 Subpart H are applicable and how they will be satisfied, by submitting the description to: ATTN: Document Control Desk, Director, Division of Spent Fuel ~~((Project Office))~~ Management, Office of Nuclear Material Safety and Safeguards.

(4) Radiography containers. A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices and meeting the requirements of WAC 246-243-120(2), 10 C.F.R. 34.31(b), or equivalent agreement state requirements, is deemed to satisfy the requirements of WAC 246-231-060(2) and 246-231-150(2).

AMENDATORY SECTION (Amending WSR 08-09-093, filed 4/18/08, effective 5/19/08)

**WAC 246-231-160 Quality assurance organization.**

(1) The licensee, ~~((<sup>2</sup>))~~ certificate holder, and applicant for a ~~((<sup>2</sup>))~~ certificate of compliance shall be responsible for the establishment and execution of the quality assurance program. The licensee, certificate holder, and applicant for a ~~((<sup>2</sup>))~~ certificate of compliance may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part of the quality assurance program, but shall retain responsibility for the program. These activities include performing the functions associated with attaining quality objectives and the quality assurance functions.

~~((<sup>2</sup>))~~ While the term "licensee" is used in these criteria, the requirements are applicable to whatever design, fabrication, assembly, and testing of the package is accomplished with respect to a package before the time a package approval is issued.

(2) The quality assurance functions are:

(a) Assuring that an appropriate quality assurance program is established and effectively executed; and

(b) Verifying, by procedures such as checking, auditing, and inspection, that activities affecting the functions that are important to safety have been correctly performed.

(3) The persons and organizations performing quality assurance functions must have sufficient authority and organizational freedom to:

- (a) Identify quality problems;
- (b) Initiate, recommend, or provide solutions; and
- (c) Verify implementation of solutions.

(4) The persons and organizations performing quality assurance functions shall report to a management level that assures that the required authority and organizational freedom, including sufficient independence from cost and schedule, when opposed to safety considerations, are provided.

(5) Because of the many variables involved, such as the number of personnel, the type of activity being performed, and the location or locations where activities are performed, the organizational structure for executing the quality assurance program may take various forms, provided that the persons and organizations assigned the quality assurance functions have the required authority and organizational freedom.

(6) Irrespective of the organizational structure, the individual(s) assigned the responsibility for assuring effective execution of any portion of the quality assurance program, at any location where activities subject to this chapter are being performed, must have direct access to the levels of management necessary to perform this function.

#### NEW SECTION

**WAC 246-231-174 Changes to quality assurance program.** (1) Each quality assurance program approval holder shall submit, in accordance with 10 C.F.R. 71.1(a), a description of a proposed change to its NRC-approved quality assurance program that will reduce commitments in the program description as approved by the NRC. The quality assurance program approval holder shall not implement the change before receiving NRC approval.

(a) The description of a proposed change to the NRC-approved quality assurance program must identify the change, the reason for the change, the basis for concluding that the revised program incorporating the change continues to satisfy the applicable requirements of 10 C.F.R. Subpart H.

(b) (Reserved.)

(2) Each quality assurance program approval holder may change a previously approved quality assurance program without prior NRC approval, if the change does not reduce the commitments in the quality assurance program previously approved by the NRC. Changes to the quality assurance program that do not reduce the commitments shall be submitted to the NRC every twenty-four months, in accordance with 10 C.F.R. 71.1(a). In addition to quality assurance program changes involving administrative improvements and clarifications, spelling corrections, and nonsubstantive changes to punctuation or editorial items, the following changes are not considered reductions in commitment:

(a) The use of a quality assurance standard approved by the NRC that is more recent than the quality assurance standard in the certificate holder's or applicant's current quality assurance program at the time of the change;

(b) The use of generic organizational position titles that clearly denote the position function, supplemented as necessary by descriptive text, rather than specific titles, provided that there is no substantive change to either the functions of the position or reporting responsibilities;

(c) The use of generic organization charts to indicate functional relationships, authorities, and responsibilities, or alternatively, the use of descriptive text, provided that there is no substantive change to the functional relationships, authorities, or responsibilities;

(d) The elimination of quality assurance program information that duplicates language in quality assurance regulatory guides and quality assurance standards to which the quality assurance program approval holder has committed to on record; and

(e) Organizational revisions that ensure that persons and organizations performing quality assurance functions continue to have the requisite authority and organizational freedom, including sufficient independence from cost and schedule when opposed to safety considerations.

(3) Each quality assurance program approval holder shall maintain records of quality assurance program changes.

AMENDATORY SECTION (Amending WSR 08-09-093, filed 4/18/08, effective 5/19/08)

**WAC 246-231-178 Handling, storage, and shipping control.** The licensee, certificate holder, and applicant for a ~~((COC))~~ certificate of compliance shall establish measures to control, in accordance with instructions, the handling, storage, shipping, cleaning, and preservation of materials and equipment to be used in packaging to prevent damage or deterioration. When necessary for particular products, special protective environments, such as inert gas atmosphere, and specific moisture content and temperature levels must be specified and provided.

AMENDATORY SECTION (Amending WSR 08-09-093, filed 4/18/08, effective 5/19/08)

**WAC 246-231-180 Inspection, test, and operating status.** (1) The licensee, certificate holder, and applicant for a ~~((COC))~~ certificate of compliance shall establish measures to indicate, by the use of markings such as stamps, tags, labels, routing cards, or other suitable means, the status of inspections and tests performed upon individual items of the packaging. These measures must provide for the identification of items that have satisfactorily passed required inspections and tests, where necessary to preclude inadvertent bypassing of the inspections and tests.

(2) The licensee shall establish measures to identify the operating status of components of the packaging, such as tagging valves and switches, to prevent inadvertent operation.

AMENDATORY SECTION (Amending WSR 08-09-093, filed 4/18/08, effective 5/19/08)

**WAC 246-231-182 Nonconforming materials, parts, or components.** The licensee, certificate holder, and applicant for a ~~((COC))~~ certificate of compliance shall establish measures to control materials, parts, or components that do

not conform to the licensee's requirements to prevent their inadvertent use or installation. These measures must include, as appropriate, procedures for identification, documentation, segregation, disposition, and notification to affected organizations. Nonconforming items must be reviewed and accepted, rejected, repaired, or reworked in accordance with documented procedures.

**AMENDATORY SECTION** (Amending WSR 08-09-093, filed 4/18/08, effective 5/19/08)

**WAC 246-231-184 Corrective action.** The licensee, certificate holder, and applicant for a ~~((COC))~~ certificate of compliance shall establish measures to assure that conditions adverse to quality, such as deficiencies, deviations, defective material and equipment, and nonconformance, are promptly identified and corrected. In the case of a significant condition adverse to quality, the measures must assure that the cause of the condition is determined and corrective action taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken must be documented and reported to appropriate levels of management.

**AMENDATORY SECTION** (Amending WSR 14-09-017, filed 4/7/14, effective 5/8/14)

**WAC 246-231-186 Quality assurance records.** The licensee, certificate holder, and applicant for a certificate of compliance shall maintain sufficient written records to describe the activities affecting quality. ~~((The))~~ These records must include changes to the quality assurance program as required by 10 C.F.R. 71.106, the instructions, procedures, and drawings required by 10 C.F.R. 71.111 to prescribe quality assurance activities, and ~~((must include))~~ closely related specifications such as required qualifications of personnel, procedures, and equipment. The records must include the instructions or procedures ~~((which))~~ that establish a records retention program that is consistent with applicable regulations and designates factors such as duration, location, and assigned responsibility. The licensee, certificate holder, and applicant for a certificate of compliance shall retain these records for three years beyond the date when the licensee, certificate holder, and applicant for a certificate of compliance last engaged in the activity for which the quality assurance program was developed. If any portion of the quality assurance program, written procedures or instructions is superseded, the licensee, certificate holder, and applicant for a certificate of compliance shall retain the superseded material for three years after it is superseded.

**AMENDATORY SECTION** (Amending WSR 08-09-093, filed 4/18/08, effective 5/19/08)

**WAC 246-231-188 Audits.** The licensee, certificate holder, and applicant for a ~~((COC))~~ certificate of compliance shall carry out a comprehensive system of planned and periodic audits to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. The audits must be performed in accordance with written procedures or checklists by appropriately trained

personnel not having direct responsibilities in the areas being audited. Audited results must be documented and reviewed by management having responsibility in the area audited. Follow-up action, including ~~((re-audit))~~ re-audit of deficient areas, must be taken where indicated.

**AMENDATORY SECTION** (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**WAC 246-231-200 Appendix A—Determination of A1 and A2.** (1) Values of A1 and A2 for individual radionuclides, 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 is as follows:

((  
~~$$\sum_I \frac{B(i)}{A1(i)} \text{ less than or equal to } 1$$~~  
 ))

~~$$\sum_i \frac{B(i)}{A1(i)} \leq 1$$~~

Where B(i) is the activity of radionuclide ((~~I~~ and A1(i) is the A1)) i in special form, and A1(i) is the A1 value for radionuclide ((~~I~~) i.

(b) For normal form radioactive material, the maximum quantity transported in a Type A package:

((  
~~$$\sum_I \frac{B(i)}{A2(i)} \text{ less than or equal to } 1$$~~  
 ))

~~$$\sum_i \frac{B(i)}{A2(i)} \leq 1$$~~

Where B(i) is the activity of radionuclide ((~~I~~ and A2(i) is the A2)) i in normal form, and A2(i) is the A2 value for radionuclide ((~~I~~) i.

(c) If the package contains both special and normal form radioactive material, the activity that may be transported in a Type A package is as follows:

~~$$\sum_i \frac{B(i)}{A1(i)} + \sum_j \frac{C(j)}{A2(j)} \leq 1$$~~

Where B(i) is the activity of radionuclide i as special form radioactive material, A1(i) is the A1 value for radionuclide i, C(j) is the activity of radionuclide j as normal form radioactive material, and A2(j) is the A2 value for radionuclide j.

(d) Alternatively, the A1 value for mixtures of special form material may be determined as follows:

((  
~~$$A1 \text{ for mixture} = \frac{1}{\sum_I \frac{f(i)}{A1(i)}}$$~~  
 ))

~~$$A1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A1(i)}}$$~~

Where f(i) is the fraction of activity for radionuclide ((~~I~~) i in the mixture and A1(i) is the appropriate A1 value for radionuclide ((~~I~~) i.

((~~I~~)) (e) Alternatively, the A2 value for mixtures of normal form material may be determined as follows:

((  
~~$$A2 \text{ for mixture} = \frac{1}{\sum_I \frac{f(i)}{A2(i)}}$$~~  
 ))

~~$$A2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A2(i)}}$$~~

Where f(i) is the fraction of activity for radionuclide ((~~I~~) i in the mixture and A2(i) is the appropriate A2 value for radionuclide ((~~I~~) i.

((~~I~~)) (f) The exempt activity concentration for mixtures of nuclides may be determined as follows:

((  
~~$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_I \frac{f(i)}{[A](i)}}$$~~  
 ))

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

Where f(i) is the fraction of activity concentration of radionuclide ((#)) i in the mixture, and ((A)) [A](i) is the activity concentration ((#)) for exempt material containing radionuclide ((#)) i.

((#)) (g) The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

((

~~$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$~~

))

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

Where f(i) is the fraction of activity of radionuclide ((#)) i in the mixture((#)) and A(i) is the activity limit for exempt consignments for radionuclide ((#)) i.

(5)(a) 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.

(b) 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 [A] (activity concentration for exempt material) or A (activity limit for exempt consignment) value, as appropriate, for the radionuclides in each group may be used in applying the formulas in paragraph IV of this appendix. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest [A] or A values for the alpha emitters and beta/gamma emitters, respectively.

Table A-1.—A1 and A2 Values for Radionuclides

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Ac-225 (a)	Actinium (89)	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	2.1X10 <sup>3</sup>	5.8X10 <sup>4</sup>
Ac-227 (a)		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	9.0X10 <sup>-5</sup>	2.4X10 <sup>-3</sup>	2.7	7.2X10 <sup>1</sup>
Ac-228		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	8.4X10 <sup>4</sup>	2.2X10 <sup>6</sup>
Ag-105	Silver (47)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>4</sup>
Ag-108m (a)		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	9.7X10 <sup>-1</sup>	2.6X10 <sup>1</sup>
Ag-110m (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.8X10 <sup>2</sup>	4.7X10 <sup>3</sup>
Ag-111		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.8X10 <sup>3</sup>	1.6X10 <sup>5</sup>
Al-26	Aluminum (13)	1.0X10 <sup>-1</sup>	2.7	1.0X10 <sup>-1</sup>	2.7	7.0X10 <sup>-4</sup>	1.9X10 <sup>-2</sup>
Am-241	Americium (95)	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	1.3X10 <sup>-1</sup>	3.4
Am-242m (a)		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	3.6X10 <sup>-1</sup>	1.0X10 <sup>1</sup>
Am-243 (a)		5.0	1.4X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	7.4X10 <sup>-3</sup>	2.0X10 <sup>-1</sup>
Ar-37	Argon (18)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.7X10 <sup>3</sup>	9.9X10 <sup>4</sup>
Ar-39		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	1.3	3.4X10 <sup>1</sup>
Ar-41		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.5X10 <sup>6</sup>	4.2X10 <sup>7</sup>
As-72	Arsenic (33)	3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	6.2X10 <sup>4</sup>	1.7X10 <sup>6</sup>
As-73		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	8.2X10 <sup>2</sup>	2.2X10 <sup>4</sup>
As-74		1.0	2.7X10 <sup>1</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	3.7X10 <sup>3</sup>	9.9X10 <sup>4</sup>
As-76		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	5.8X10 <sup>4</sup>	1.6X10 <sup>6</sup>
As-77		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	3.9X10 <sup>4</sup>	1.0X10 <sup>6</sup>
At-211 (a)	Astatine (85)	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	7.6X10 <sup>4</sup>	2.1X10 <sup>6</sup>
Au-193	Gold (79)	7.0	1.9X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	3.4X10 <sup>4</sup>	9.2X10 <sup>5</sup>
Au-194		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	1.5X10 <sup>4</sup>	4.1X10 <sup>5</sup>
Au-195		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	6.0	1.6X10 <sup>2</sup>	1.4X10 <sup>2</sup>	3.7X10 <sup>3</sup>
Au-198		1.0	2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	9.0X10 <sup>3</sup>	2.4X10 <sup>5</sup>

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Au-199		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	7.7X10 <sup>3</sup>	2.1X10 <sup>5</sup>
Ba-131 (a)	Barium (56)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	3.1X10 <sup>3</sup>	8.4X10 <sup>4</sup>
Ba-133		3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	9.4	2.6X10 <sup>2</sup>
Ba-133m		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.2X10 <sup>4</sup>	6.1X10 <sup>5</sup>
Ba-140 (a)		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	3.0X10 <sup>-1</sup>	8.1	2.7X10 <sup>3</sup>	7.3X10 <sup>4</sup>
Be-7	Beryllium (4)	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	1.3X10 <sup>4</sup>	3.5X10 <sup>5</sup>
Be-10		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	8.3X10 <sup>-4</sup>	2.2X10 <sup>-2</sup>
Bi-205	Bismuth (83)	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	1.5X10 <sup>3</sup>	4.2X10 <sup>4</sup>
Bi-206		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	3.8X10 <sup>3</sup>	1.0X10 <sup>5</sup>
Bi-207		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	1.9	5.2X10 <sup>1</sup>
Bi-210		1.0	2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	4.6X10 <sup>3</sup>	1.2X10 <sup>5</sup>
Bi-210m (a)		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	2.1X10 <sup>-5</sup>	5.7X10 <sup>-4</sup>
Bi-212 (a)		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.4X10 <sup>5</sup>	1.5X10 <sup>7</sup>
Bk-247	Berkelium (97)	8.0	2.2X10 <sup>2</sup>	8.0X10 <sup>-4</sup>	2.2X10 <sup>-2</sup>	3.8X10 <sup>-2</sup>	1.0
Bk-249 (a)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>-1</sup>	8.1	6.1X10 <sup>1</sup>	1.6X10 <sup>3</sup>
Br-76	Bromine (35)	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	9.4X10 <sup>4</sup>	2.5X10 <sup>6</sup>
Br-77		3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	2.6X10 <sup>4</sup>	7.1X10 <sup>5</sup>
Br-82		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>4</sup>	1.1X10 <sup>6</sup>
C-11	Carbon (6)	1.0	2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.1X10 <sup>7</sup>	8.4X10 <sup>8</sup>
C-14		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0	8.1X10 <sup>1</sup>	1.6X10 <sup>-1</sup>	4.5
Ca-41	Calcium (20)	Unlimited	Unlimited	Unlimited	Unlimited	3.1X10 <sup>-3</sup>	8.5X10 <sup>-2</sup>
Ca-45		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0	2.7X10 <sup>1</sup>	6.6X10 <sup>2</sup>	1.8X10 <sup>4</sup>
Ca-47 (a)		3.0	8.1X10 <sup>1</sup>	3.0X10 <sup>-1</sup>	8.1	2.3X10 <sup>4</sup>	6.1X10 <sup>5</sup>
Cd-109	Cadmium (48)	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	9.6X10 <sup>1</sup>	2.6X10 <sup>3</sup>
Cd-113m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	8.3	2.2X10 <sup>2</sup>
Cd-115 (a)		3.0	8.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.9X10 <sup>4</sup>	5.1X10 <sup>5</sup>
Cd-115m		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	9.4X10 <sup>2</sup>	2.5X10 <sup>4</sup>
Ce-139	Cerium (58)	7.0	1.9X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	2.5X10 <sup>2</sup>	6.8X10 <sup>3</sup>
Ce-141		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.8X10 <sup>4</sup>
Ce-143		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.5X10 <sup>4</sup>	6.6X10 <sup>5</sup>
Ce-144 (a)		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	1.2X10 <sup>2</sup>	3.2X10 <sup>3</sup>
Cf-248	Californium (98)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	5.8X10 <sup>1</sup>	1.6X10 <sup>3</sup>
Cf-249		3.0	8.1X10 <sup>1</sup>	8.0X10 <sup>-4</sup>	2.2X10 <sup>-2</sup>	1.5X10 <sup>-1</sup>	4.1
Cf-250		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>-3</sup>	5.4X10 <sup>-2</sup>	4.0	1.1X10 <sup>2</sup>
Cf-251		7.0	1.9X10 <sup>2</sup>	7.0X10 <sup>-4</sup>	1.9X10 <sup>-2</sup>	5.9X10 <sup>-2</sup>	1.6
Cf-252 ((††))		((5.0X10 <sup>-2</sup> )) 1.0X10 <sup>-1</sup>	((4.4)) 2.7	3.0X10 <sup>-3</sup>	8.1X10 <sup>-2</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>
Cf-253 (a)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>-2</sup>	1.1	1.1X10 <sup>3</sup>	2.9X10 <sup>4</sup>
Cf-254		1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	3.1X10 <sup>2</sup>	8.5X10 <sup>3</sup>
Cl-36	Chlorine (17)	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.2X10 <sup>-3</sup>	3.3X10 <sup>-2</sup>
Cl-38		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	4.9X10 <sup>6</sup>	1.3X10 <sup>8</sup>
Cm-240	Curium (96)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	7.5X10 <sup>2</sup>	2.0X10 <sup>4</sup>
Cm-241		2.0	5.4X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	6.1X10 <sup>2</sup>	1.7X10 <sup>4</sup>
Cm-242		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0X10 <sup>-2</sup>	2.7X10 <sup>-1</sup>	1.2X10 <sup>2</sup>	3.3X10 <sup>3</sup>
Cm-243		9.0	2.4X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	1.9X10 <sup>-3</sup>	5.2X10 <sup>1</sup>
Cm-244		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>-3</sup>	5.4X10 <sup>-2</sup>	3.0	8.1X10 <sup>1</sup>
Cm-245		9.0	2.4X10 <sup>2</sup>	9.0X10 <sup>-4</sup>	2.4X10 <sup>-2</sup>	6.4X10 <sup>-3</sup>	1.7X10 <sup>-1</sup>
Cm-246		9.0	2.4X10 <sup>2</sup>	9.0X10 <sup>-4</sup>	2.4X10 <sup>-2</sup>	1.1X10 <sup>-2</sup>	3.1X10 <sup>-1</sup>

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Cm-247 (a)		3.0	8.1X10 <sup>1</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	3.4X10 <sup>-6</sup>	9.3X10 <sup>-5</sup>
Cm-248		2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	3.0X10 <sup>-4</sup>	8.1X10 <sup>-3</sup>	1.6X10 <sup>-4</sup>	4.2X10 <sup>-3</sup>
Co-55	Cobalt (27)	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	1.1X10 <sup>5</sup>	3.1X10 <sup>6</sup>
Co-56		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.1X10 <sup>3</sup>	3.0X10 <sup>4</sup>
Co-57		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	3.1X10 <sup>2</sup>	8.4X10 <sup>3</sup>
Co-58		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	1.2X10 <sup>3</sup>	3.2X10 <sup>4</sup>
Co-58m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.2X10 <sup>5</sup>	5.9X10 <sup>6</sup>
Co-60		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.2X10 <sup>1</sup>	1.1X10 <sup>3</sup>
Cr-51	Chromium (24)	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.4X10 <sup>3</sup>	9.2X10 <sup>4</sup>
Cs-129	Cesium (55)	4.0	1.1X10 <sup>2</sup>	4.0	1.1X10 <sup>2</sup>	2.8X10 <sup>4</sup>	7.6X10 <sup>5</sup>
Cs-131		3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.8X10 <sup>3</sup>	1.0X10 <sup>5</sup>
Cs-132		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	5.7X10 <sup>3</sup>	1.5X10 <sup>5</sup>
Cs-134		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	4.8X10 <sup>1</sup>	1.3X10 <sup>3</sup>
Cs-134m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.0X10 <sup>5</sup>	8.0X10 <sup>6</sup>
Cs-135		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0	2.7X10 <sup>1</sup>	4.3X10 <sup>-5</sup>	1.2X10 <sup>-3</sup>
Cs-136		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	2.7X10 <sup>3</sup>	7.3X10 <sup>4</sup>
Cs-137 (a)		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.2	8.7X10 <sup>1</sup>
Cu-64	Copper (29)	6.0	1.6X10 <sup>2</sup>	1.0	2.7X10 <sup>1</sup>	1.4X10 <sup>5</sup>	3.9X10 <sup>6</sup>
Cu-67		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	2.8X10 <sup>4</sup>	7.6X10 <sup>5</sup>
Dy-159	Dysprosium (66)	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.1X10 <sup>2</sup>	5.7X10 <sup>3</sup>
Dy-165		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.0X10 <sup>5</sup>	8.2X10 <sup>6</sup>
Dy-166 (a)		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	3.0X10 <sup>-1</sup>	8.1	8.6X10 <sup>3</sup>	2.3X10 <sup>5</sup>
Er-169	Erbium (68)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0	2.7X10 <sup>1</sup>	3.1X10 <sup>3</sup>	8.3X10 <sup>4</sup>
Er-171		8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	9.0X10 <sup>4</sup>	2.4X10 <sup>6</sup>
Eu-147	Europium (63)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	1.4X10 <sup>3</sup>	3.7X10 <sup>4</sup>
Eu-148		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	6.0X10 <sup>2</sup>	1.6X10 <sup>4</sup>
Eu-149		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	3.5X10 <sup>2</sup>	9.4X10 <sup>3</sup>
Eu-150 (short lived)		2.0	5.4X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	6.1X10 <sup>4</sup>	1.6X10 <sup>6</sup>
Eu-150 (long lived)		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	6.1X10 <sup>4</sup>	1.6X10 <sup>6</sup>
Eu-152		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	6.5	1.8X10 <sup>2</sup>
Eu-152m		8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	8.2X10 <sup>4</sup>	2.2X10 <sup>6</sup>
Eu-154		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	9.8	2.6X10 <sup>2</sup>
Eu-155		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	1.8X10 <sup>1</sup>	4.9X10 <sup>2</sup>
Eu-156		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	2.0X10 <sup>3</sup>	5.5X10 <sup>4</sup>
F-18	Fluorine (9)	1.0	2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.5X10 <sup>6</sup>	9.5X10 <sup>7</sup>
Fe-52 (a)	Iron (26)	3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	2.7X10 <sup>5</sup>	7.3X10 <sup>6</sup>
Fe-55		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	8.8X10 <sup>1</sup>	2.4X10 <sup>3</sup>
Fe-59		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	1.8X10 <sup>3</sup>	5.0X10 <sup>4</sup>
Fe-60 (a)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>-1</sup>	5.4	7.4X10 <sup>-4</sup>	2.0X10 <sup>-2</sup>
Ga-67	Gallium (31)	7.0	1.9X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	2.2X10 <sup>4</sup>	6.0X10 <sup>5</sup>
Ga-68		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	1.5X10 <sup>6</sup>	4.1X10 <sup>7</sup>
Ga-72		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.1X10 <sup>5</sup>	3.1X10 <sup>6</sup>
Gd-146 (a)	Gadolinium (64)	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	6.9X10 <sup>2</sup>	1.9X10 <sup>4</sup>
Gd-148		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>-3</sup>	5.4X10 <sup>-2</sup>	1.2	3.2X10 <sup>1</sup>
Gd-153		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	9.0	2.4X10 <sup>2</sup>	1.3X10 <sup>2</sup>	3.5X10 <sup>3</sup>
Gd-159		3.0	8.1X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.9X10 <sup>4</sup>	1.1X10 <sup>6</sup>
Ge-68 (a)	Germanium (32)	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	2.6X10 <sup>2</sup>	7.1X10 <sup>3</sup>



Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Ge-71		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	5.8X10 <sup>3</sup>	1.6X10 <sup>5</sup>
Ge-77		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.3X10 <sup>5</sup>	3.6X10 <sup>6</sup>
Hf-172 (a)	Hafnium (72)	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	4.1X10 <sup>1</sup>	1.1X10 <sup>3</sup>
Hf-175		3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	3.9X10 <sup>2</sup>	1.1X10 <sup>4</sup>
Hf-181		2.0	5.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	6.3X10 <sup>2</sup>	1.7X10 <sup>4</sup>
Hf-182		Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 <sup>-6</sup>	2.2X10 <sup>-4</sup>
Hg-194 (a)	Mercury (80)	1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	1.3X10 <sup>-1</sup>	3.5
Hg-195m (a)		3.0	8.1X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	1.5X10 <sup>4</sup>	4.0X10 <sup>5</sup>
Hg-197		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	9.2X10 <sup>3</sup>	2.5X10 <sup>5</sup>
Hg-197m		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	2.5X10 <sup>4</sup>	6.7X10 <sup>5</sup>
Hg-203		5.0	1.4X10 <sup>2</sup>	1.0	2.7X10 <sup>1</sup>	5.1X10 <sup>2</sup>	1.4X10 <sup>4</sup>
Ho-166	Holmium (67)	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	2.6X10 <sup>4</sup>	7.0X10 <sup>5</sup>
Ho-166m		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	6.6X10 <sup>-2</sup>	1.8
I-123	Iodine (53)	6.0	1.6X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	7.1X10 <sup>4</sup>	1.9X10 <sup>6</sup>
I-124		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	9.3X10 <sup>3</sup>	2.5X10 <sup>5</sup>
I-125		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	6.4X10 <sup>2</sup>	1.7X10 <sup>4</sup>
I-126		2.0	5.4X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	2.9X10 <sup>3</sup>	8.0X10 <sup>4</sup>
I-129		Unlimited	Unlimited	Unlimited	Unlimited	6.5X10 <sup>-6</sup>	1.8X10 <sup>-4</sup>
I-131		3.0	8.1X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	4.6X10 <sup>3</sup>	1.2X10 <sup>5</sup>
I-132		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	3.8X10 <sup>5</sup>	1.0X10 <sup>7</sup>
I-133		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	4.2X10 <sup>4</sup>	1.1X10 <sup>6</sup>
I-134		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	9.9X10 <sup>5</sup>	2.7X10 <sup>7</sup>
I-135 (a)		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.3X10 <sup>5</sup>	3.5X10 <sup>6</sup>
In-111	Indium (49)	3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	1.5X10 <sup>4</sup>	4.2X10 <sup>5</sup>
In-113m		4.0	1.1X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	6.2X10 <sup>5</sup>	1.7X10 <sup>7</sup>
In-114m (a)		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	8.6X10 <sup>2</sup>	2.3X10 <sup>4</sup>
In-115m		7.0	1.9X10 <sup>2</sup>	1.0	2.7X10 <sup>1</sup>	2.2X10 <sup>5</sup>	6.1X10 <sup>6</sup>
Ir-189 (a)	Iridium (77)	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.9X10 <sup>3</sup>	5.2X10 <sup>4</sup>
Ir-190		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	2.3X10 <sup>3</sup>	6.2X10 <sup>4</sup>
Ir-192 ((e))		≈1.0	≈2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.4X10 <sup>2</sup>	9.2X10 <sup>3</sup>
Ir-194		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	3.1X10 <sup>4</sup>	8.4X10 <sup>5</sup>
K-40	Potassium (19)	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	2.4X10 <sup>-7</sup>	6.4X10 <sup>-6</sup>
K-42		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	2.2X10 <sup>5</sup>	6.0X10 <sup>6</sup>
K-43		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.2X10 <sup>5</sup>	3.3X10 <sup>6</sup>
Kr-79	Krypton (36)	4.0	1.1X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	4.2X10 <sup>4</sup>	1.1X10 <sup>6</sup>
Kr-81	((Krypton (36)))	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	7.8X10 <sup>-4</sup>	2.1X10 <sup>-2</sup>
Kr-85		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.5X10 <sup>1</sup>	3.9X10 <sup>2</sup>
Kr-85m		8.0	2.2X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	3.0X10 <sup>5</sup>	8.2X10 <sup>6</sup>
Kr-87		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	1.0X10 <sup>6</sup>	2.8X10 <sup>7</sup>
La-137	Lanthanum (57)	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	6.0	1.6X10 <sup>2</sup>	1.6X10 <sup>-3</sup>	4.4X10 <sup>-2</sup>
La-140		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	2.1X10 <sup>4</sup>	5.6X10 <sup>5</sup>
Lu-172	Lutetium (71)	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	4.2X10 <sup>3</sup>	1.1X10 <sup>5</sup>
Lu-173		8.0	2.2X10 <sup>2</sup>	8.0	2.2X10 <sup>2</sup>	5.6X10 <sup>1</sup>	1.5X10 <sup>3</sup>
Lu-174		9.0	2.4X10 <sup>2</sup>	9.0	2.4X10 <sup>2</sup>	2.3X10 <sup>1</sup>	6.2X10 <sup>2</sup>
Lu-174m		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	2.0X10 <sup>2</sup>	5.3X10 <sup>3</sup>
Lu-177		3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	4.1X10 <sup>3</sup>	1.1X10 <sup>5</sup>
Mg-28 (a)	Magnesium (12)	3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	2.0X10 <sup>5</sup>	5.4X10 <sup>6</sup>

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Mn-52	Manganese (25)	3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.6X10 <sup>4</sup>	4.4X10 <sup>5</sup>
Mn-53		Unlimited	Unlimited	Unlimited	Unlimited	6.8X10 <sup>-5</sup>	1.8X10 <sup>-3</sup>
Mn-54		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	2.9X10 <sup>2</sup>	7.7X10 <sup>3</sup>
Mn-56		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	8.0X10 <sup>5</sup>	2.2X10 <sup>7</sup>
Mo-93	Molybdenum (42)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	4.1X10 <sup>-2</sup>	1.1
Mo-99 (a) ((†)) (h)		1.0	2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.8X10 <sup>4</sup>	4.8X10 <sup>5</sup>
N-13	Nitrogen (7)	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.4X10 <sup>7</sup>	1.5X10 <sup>9</sup>
Na-22	Sodium (11)	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	2.3X10 <sup>2</sup>	6.3X10 <sup>3</sup>
Na-24		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	3.2X10 <sup>5</sup>	8.7X10 <sup>6</sup>
Nb-93m	Niobium (41)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	8.8	2.4X10 <sup>2</sup>
Nb-94		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	6.9X10 <sup>-3</sup>	1.9X10 <sup>-1</sup>
Nb-95		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	1.5X10 <sup>3</sup>	3.9X10 <sup>4</sup>
Nb-97		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	9.9X10 <sup>5</sup>	2.7X10 <sup>7</sup>
Nd-147	Neodymium (60)	6.0	1.6X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.0X10 <sup>3</sup>	8.1X10 <sup>4</sup>
Nd-149		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	4.5X10 <sup>5</sup>	1.2X10 <sup>7</sup>
Ni-59	Nickel (28)	Unlimited	Unlimited	Unlimited	Unlimited	3.0X10 <sup>-3</sup>	8.0X10 <sup>-2</sup>
Ni-63		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	2.1	5.7X10 <sup>1</sup>
Ni-65		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	7.1X10 <sup>5</sup>	1.9X10 <sup>7</sup>
Np-235	Neptunium (93)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	5.2X10 <sup>1</sup>	1.4X10 <sup>3</sup>
Np-236 (short-lived)		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	4.7X10 <sup>-4</sup>	1.3X10 <sup>-2</sup>
Np-236 (long-lived)		((9.0X10 <sup>6</sup> )) 9.0	2.4X10 <sup>2</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	4.7X10 <sup>-4</sup>	1.3X10 <sup>-2</sup>
Np-237		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>-3</sup>	5.4X10 <sup>-2</sup>	2.6X10 <sup>-5</sup>	7.1X10 <sup>-4</sup>
Np-239		7.0	1.9X10 <sup>2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	8.6X10 <sup>3</sup>	2.3X10 <sup>5</sup>
Os-185	Osmium (76)	1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	2.8X10 <sup>2</sup>	7.5X10 <sup>3</sup>
Os-191		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	1.6X10 <sup>3</sup>	4.4X10 <sup>4</sup>
Os-191m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	4.6X10 <sup>4</sup>	1.3X10 <sup>6</sup>
Os-193		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	b2.0X10 <sup>4</sup>	5.3X10 <sup>5</sup>
Os-194 (a)		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.1X10 <sup>1</sup>	3.1X10 <sup>2</sup>
P-32	Phosphorus (15)	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	1.1X10 <sup>4</sup>	2.9X10 <sup>5</sup>
P-33		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0	2.7X10 <sup>1</sup>	5.8X10 <sup>3</sup>	1.6X10 <sup>5</sup>
Pa-230 (a)	Protactinium (91)	2.0	5.4X10 <sup>1</sup>	7.0X10 <sup>-2</sup>	1.9	1.2X10 <sup>3</sup>	3.3X10 <sup>4</sup>
Pa-231		4.0	1.1X10 <sup>2</sup>	4.0X10 <sup>-4</sup>	1.1X10 <sup>-2</sup>	1.7X10 <sup>-3</sup>	4.7X10 <sup>-2</sup>
Pa-233		5.0	1.4X10 <sup>2</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.7X10 <sup>2</sup>	2.1X10 <sup>4</sup>
Pb-201	Lead (82)	1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	6.2X10 <sup>4</sup>	1.7X10 <sup>6</sup>
Pb-202		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	1.2X10 <sup>-4</sup>	3.4X10 <sup>-3</sup>
Pb-203		4.0	1.1X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	1.1X10 <sup>4</sup>	3.0X10 <sup>5</sup>
Pb-205		Unlimited	Unlimited	Unlimited	Unlimited	4.5X10 <sup>-6</sup>	1.2X10 <sup>-4</sup>
Pb-210 (a)		1.0	2.7X10 <sup>1</sup>	5.0X10 <sup>-2</sup>	1.4	2.8	7.6X10 <sup>1</sup>
Pb-212 (a)		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	2.0X10 <sup>-1</sup>	5.4	5.1X10 <sup>4</sup>	1.4X10 <sup>6</sup>
Pd-103 (a)	Palladium (46)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.8X10 <sup>3</sup>	7.5X10 <sup>4</sup>
Pd-107		Unlimited	Unlimited	Unlimited	Unlimited	1.9X10 <sup>-5</sup>	5.1X10 <sup>-4</sup>
Pd-109		2.0	5.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	7.9X10 <sup>4</sup>	2.1X10 <sup>6</sup>
Pm-143	Promethium (61)	3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	1.3X10 <sup>2</sup>	3.4X10 <sup>3</sup>
Pm-144		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	9.2X10 <sup>1</sup>	2.5X10 <sup>3</sup>
Pm-145		3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	5.2	1.4X10 <sup>2</sup>
Pm-147		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0	5.4X10 <sup>1</sup>	3.4X10 <sup>1</sup>	9.3X10 <sup>2</sup>
Pm-148m (a)		8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.9X10 <sup>2</sup>	2.1X10 <sup>4</sup>

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Pm-149		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.5X10 <sup>4</sup>	4.0X10 <sup>5</sup>
Pm-151		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.7X10 <sup>4</sup>	7.3X10 <sup>5</sup>
Po-210	Polonium (84)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	1.7X10 <sup>2</sup>	4.5X10 <sup>3</sup>
Pr-142	Praseodymium (59)	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.3X10 <sup>4</sup>	1.2X10 <sup>6</sup>
Pr-143		3.0	8.1X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.5X10 <sup>3</sup>	6.7X10 <sup>4</sup>
Pt-188 (a)	Platinum (78)	1.0	2.7X10 <sup>1</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	2.5X10 <sup>3</sup>	6.8X10 <sup>4</sup>
Pt-191		4.0	1.1X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	8.7X10 <sup>3</sup>	2.4X10 <sup>5</sup>
Pt-193		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.4	3.7X10 <sup>1</sup>
Pt-193m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.8X10 <sup>3</sup>	1.6X10 <sup>5</sup>
Pt-195m		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	6.2X10 <sup>3</sup>	1.7X10 <sup>5</sup>
Pt-197		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.2X10 <sup>4</sup>	8.7X10 <sup>5</sup>
Pt-197m		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.7X10 <sup>5</sup>	1.0X10 <sup>7</sup>
Pu-236	Plutonium (94)	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.0X10 <sup>-3</sup>	8.1X10 <sup>-2</sup>	2.0X10 <sup>1</sup>	5.3X10 <sup>2</sup>
Pu-237		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	4.5X10 <sup>2</sup>	1.2X10 <sup>4</sup>
Pu-238		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	6.3X10 <sup>-1</sup>	1.7X10 <sup>1</sup>
Pu-239		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	2.3X10 <sup>-3</sup>	6.2X10 <sup>-2</sup>
Pu-240		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	8.4X10 <sup>-3</sup>	2.3X10 <sup>-1</sup>
Pu-241 (a)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	6.0X10 <sup>-2</sup>	1.6	3.8	1.0X10 <sup>2</sup>
Pu-242		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	1.5X10 <sup>-4</sup>	3.9X10 <sup>-3</sup>
Pu-244 (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	6.7X10 <sup>-7</sup>	1.8X10 <sup>-5</sup>
Ra-223 (a)	Radium (88)	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	7.0X10 <sup>-3</sup>	1.9X10 <sup>-1</sup>	1.9X10 <sup>3</sup>	5.1X10 <sup>4</sup>
Ra-224 (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	5.9X10 <sup>3</sup>	1.6X10 <sup>5</sup>
Ra-225 (a)		2.0X10 <sup>-1</sup>	5.4	4.0X10 <sup>-3</sup>	1.1X10 <sup>-1</sup>	1.5X10 <sup>3</sup>	3.9X10 <sup>4</sup>
Ra-226 (a)		2.0X10 <sup>-1</sup>	5.4	3.0X10 <sup>-3</sup>	8.1X10 <sup>-2</sup>	3.7X10 <sup>-2</sup>	1.0
Ra-228 (a)		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>
Rb-81	Rubidium (37)	2.0	5.4X10 <sup>1</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	3.1X10 <sup>5</sup>	8.4X10 <sup>6</sup>
Rb-83 (a)		2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	6.8X10 <sup>2</sup>	1.8X10 <sup>4</sup>
Rb-84		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	1.8X10 <sup>3</sup>	4.7X10 <sup>4</sup>
Rb-86		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	3.0X10 <sup>3</sup>	8.1X10 <sup>4</sup>
Rb-87		Unlimited	Unlimited	Unlimited	Unlimited	3.2X10 <sup>-9</sup>	8.6X10 <sup>-8</sup>
Rb (nat)		Unlimited	Unlimited	Unlimited	Unlimited	6.7X10 <sup>6</sup>	1.8X10 <sup>8</sup>
Re-184	Rhenium (75)	1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	6.9X10 <sup>2</sup>	1.9X10 <sup>4</sup>
Re-184m		3.0	8.1X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	1.6X10 <sup>2</sup>	4.3X10 <sup>3</sup>
Re-186		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.9X10 <sup>3</sup>	1.9X10 <sup>5</sup>
Re-187		Unlimited	Unlimited	Unlimited	Unlimited	1.4X10 <sup>-9</sup>	3.8X10 <sup>-8</sup>
Re-188		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	3.6X10 <sup>4</sup>	9.8X10 <sup>5</sup>
Re-189 (a)		3.0	8.1X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.5X10 <sup>4</sup>	6.8X10 <sup>5</sup>
Re (nat)		Unlimited	Unlimited	Unlimited	Unlimited	0.0	2.4X10 <sup>-8</sup>
Rh-99	Rhodium (45)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	3.0X10 <sup>3</sup>	8.2X10 <sup>4</sup>
Rh-101		4.0	1.1X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	4.1X10 <sup>1</sup>	1.1X10 <sup>3</sup>
Rh-102		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	4.5X10 <sup>1</sup>	1.2X10 <sup>3</sup>
Rh-102m		2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	2.3X10 <sup>2</sup>	6.2X10 <sup>3</sup>
Rh-103m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.2X10 <sup>6</sup>	3.3X10 <sup>7</sup>
Rh-105		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	3.1X10 <sup>4</sup>	8.4X10 <sup>5</sup>
Rn-222 (a)	Radon (86)	3.0X10 <sup>-1</sup>	8.1	4.0X10 <sup>-3</sup>	1.1X10 <sup>-1</sup>	5.7X10 <sup>3</sup>	1.5X10 <sup>5</sup>
Ru-97	Ruthenium (44)	5.0	1.4X10 <sup>2</sup>	5.0	1.4X10 <sup>2</sup>	1.7X10 <sup>4</sup>	4.6X10 <sup>5</sup>
Ru-103 (a)		2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	1.2X10 <sup>3</sup>	3.2X10 <sup>4</sup>

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Ru-105		1.0	2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.5X10 <sup>5</sup>	6.7X10 <sup>6</sup>
Ru-106 (a)		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	1.2X10 <sup>2</sup>	3.3X10 <sup>3</sup>
S-35	Sulphur (16)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0	8.1X10 <sup>1</sup>	1.6X10 <sup>3</sup>	4.3X10 <sup>4</sup>
Sb-122	Antimony (51)	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.5X10 <sup>4</sup>	4.0X10 <sup>5</sup>
Sb-124		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.5X10 <sup>2</sup>	1.7X10 <sup>4</sup>
Sb-125		2.0	5.4X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	3.9X10 <sup>1</sup>	1.0X10 <sup>3</sup>
Sb-126		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	3.1X10 <sup>3</sup>	8.4X10 <sup>4</sup>
Sc-44	Scandium (21)	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	6.7X10 <sup>5</sup>	1.8X10 <sup>7</sup>
Sc-46		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	1.3X10 <sup>3</sup>	3.4X10 <sup>4</sup>
Sc-47		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	3.1X10 <sup>4</sup>	8.3X10 <sup>5</sup>
Sc-48		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	5.5X10 <sup>4</sup>	1.5X10 <sup>6</sup>
Se-75	Selenium (34)	3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	5.4X10 <sup>2</sup>	1.5X10 <sup>4</sup>
Se-79		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0	5.4X10 <sup>1</sup>	2.6X10 <sup>-3</sup>	7.0X10 <sup>-2</sup>
Si-31	Silicon (14)	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.4X10 <sup>6</sup>	3.9X10 <sup>7</sup>
Si-32		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	3.9	1.1X10 <sup>2</sup>
Sm-145	Samarium (62)	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	9.8X10 <sup>1</sup>	2.6X10 <sup>3</sup>
Sm-147		Unlimited	Unlimited	Unlimited	Unlimited	8.5X10 <sup>-1</sup>	2.3X10 <sup>-8</sup>
Sm-151		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	9.7X10 <sup>-1</sup>	2.6X10 <sup>1</sup>
Sm-153		9.0	2.4X10 <sup>2</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.6X10 <sup>4</sup>	4.4X10 <sup>5</sup>
Sn-113 (a)	Tin (50)	4.0	1.1X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	3.7X10 <sup>2</sup>	1.0X10 <sup>4</sup>
Sn-117m		7.0	1.9X10 <sup>2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	3.0X10 <sup>3</sup>	8.2X10 <sup>4</sup>
Sn-119m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	1.4X10 <sup>2</sup>	3.7X10 <sup>3</sup>
Sn-121m (a)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>
Sn-123		8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	3.0X10 <sup>2</sup>	8.2X10 <sup>3</sup>
Sn-125		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>3</sup>	1.1X10 <sup>5</sup>
Sn-126 (a)		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.0X10 <sup>-3</sup>	2.8X10 <sup>-2</sup>
Sr-82 (a)	Strontium (38)	2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	2.3X10 <sup>3</sup>	6.2X10 <sup>4</sup>
Sr-85		2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	8.8X10 <sup>2</sup>	2.4X10 <sup>4</sup>
Sr-85m		5.0	1.4X10 <sup>2</sup>	5.0	1.4X10 <sup>2</sup>	1.2X10 <sup>6</sup>	3.3X10 <sup>7</sup>
Sr-87m		3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	4.8X10 <sup>5</sup>	1.3X10 <sup>7</sup>
Sr-89		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.9X10 <sup>4</sup>
Sr-90 (a)		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	5.1	1.4X10 <sup>2</sup>
Sr-91 (a)		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.3X10 <sup>5</sup>	3.6X10 <sup>6</sup>
Sr-92 (a)		1.0	2.7X10 <sup>1</sup>	3.0X10 <sup>-1</sup>	8.1	4.7X10 <sup>5</sup>	1.3X10 <sup>7</sup>
T(H-3)	Tritium (1)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.6X10 <sup>2</sup>	9.7X10 <sup>3</sup>
Ta-178 (long-lived)	Tantalum (73)	1.0	2.7X10 <sup>1</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	4.2X10 <sup>6</sup>	1.1X10 <sup>8</sup>
Ta-179		3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	4.1X10 <sup>1</sup>	1.1X10 <sup>3</sup>
Ta-182		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	2.3X10 <sup>2</sup>	6.2X10 <sup>3</sup>
Tb-157	Terbium (65)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	5.6X10 <sup>-1</sup>	1.5X10 <sup>1</sup>
Tb-158		1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	5.6X10 <sup>-1</sup>	1.5X10 <sup>1</sup>
Tb-160		1.0	2.7X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	4.2X10 <sup>2</sup>	1.1X10 <sup>4</sup>
Tc-95m (a)	Technetium (43)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	8.3X10 <sup>2</sup>	2.2X10 <sup>4</sup>
Tc-96		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.2X10 <sup>4</sup>	3.2X10 <sup>5</sup>
Tc-96m (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.4X10 <sup>6</sup>	3.8X10 <sup>7</sup>
Tc-97		Unlimited	Unlimited	Unlimited	Unlimited	5.2X10 <sup>-5</sup>	1.4X10 <sup>-3</sup>
Tc-97m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0	2.7X10 <sup>1</sup>	5.6X10 <sup>2</sup>	1.5X10 <sup>4</sup>
Tc-98		8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	3.2X10 <sup>-5</sup>	8.7X10 <sup>-4</sup>

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
Tc-99		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.3X10 <sup>-4</sup>	1.7X10 <sup>-2</sup>
Tc-99m		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	4.0	1.1X10 <sup>2</sup>	1.9X10 <sup>5</sup>	5.3X10 <sup>6</sup>
Te-121	Tellurium (52)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	2.4X10 <sup>3</sup>	6.4X10 <sup>4</sup>
Te-121m		5.0	1.4X10 <sup>2</sup>	3.0	8.1X10 <sup>1</sup>	2.6X10 <sup>2</sup>	7.0X10 <sup>3</sup>
Te-123m		8.0	2.2X10 <sup>2</sup>	1.0	2.7X10 <sup>1</sup>	3.3X10 <sup>2</sup>	8.9X10 <sup>3</sup>
Te-125m		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.7X10 <sup>2</sup>	1.8X10 <sup>4</sup>
Te-127		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	9.8X10 <sup>4</sup>	2.6X10 <sup>6</sup>
Te-127m (a)		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	3.5X10 <sup>2</sup>	9.4X10 <sup>3</sup>
Te-129		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	7.7X10 <sup>5</sup>	2.1X10 <sup>7</sup>
Te-129m (a)		8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>4</sup>
Te-131m (a)		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	3.0X10 <sup>4</sup>	8.0X10 <sup>5</sup>
Te-132 (a)		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.1X10 <sup>4</sup>	3.0X10 <sup>5</sup>
Th-227	Thorium (90)	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	5.0X10 <sup>-3</sup>	1.4X10 <sup>-1</sup>	1.1X10 <sup>3</sup>	3.1X10 <sup>4</sup>
Th-228 (a)		5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	3.0X10 <sup>1</sup>	8.2X10 <sup>2</sup>
Th-229		5.0	1.4X10 <sup>2</sup>	5.0X10 <sup>-4</sup>	1.4X10 <sup>-2</sup>	7.9X10 <sup>-3</sup>	2.1X10 <sup>-1</sup>
Th-230		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	7.6X10 <sup>-4</sup>	2.1X10 <sup>-2</sup>
Th-231		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	2.0X10 <sup>4</sup>	5.3X10 <sup>5</sup>
Th-232		Unlimited	Unlimited	Unlimited	Unlimited	4.0X10 <sup>-9</sup>	1.1X10 <sup>-7</sup>
Th-234 (a)		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	8.6X10 <sup>2</sup>	2.3X10 <sup>4</sup>
Th(nat)		Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 <sup>-9</sup>	2.2X10 <sup>-7</sup>
Ti-44 (a)	Titanium (22)	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	6.4	1.7X10 <sup>2</sup>
Tl-200	Thallium (81)	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	2.2X10 <sup>4</sup>	6.0X10 <sup>5</sup>
Tl-201		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	4.0	1.1X10 <sup>2</sup>	7.9X10 <sup>3</sup>	2.1X10 <sup>5</sup>
Tl-202		2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	2.0X10 <sup>3</sup>	5.3X10 <sup>4</sup>
Tl-204		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	1.7X10 <sup>1</sup>	4.6X10 <sup>2</sup>
Tm-167	Thulium (69)	7.0	1.9X10 <sup>2</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	3.1X10 <sup>3</sup>	8.5X10 <sup>4</sup>
Tm-170		3.0	8.1X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.2X10 <sup>2</sup>	6.0X10 <sup>3</sup>
Tm-171		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>
U-230 (fast lung absorption) (a)(d)	Uranium (92)	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0X10 <sup>-1</sup>	2.7	1.0X10 <sup>3</sup>	2.7X10 <sup>4</sup>
U-230 (medium lung absorption) (a)(e)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>-3</sup>	1.1X10 <sup>-1</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>4</sup>
U-230 (slow lung absorption) (a)(f)		3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.0X10 <sup>-3</sup>	8.1X10 <sup>-2</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>4</sup>
U-232 (fast lung absorption) (d)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	1.0X10 <sup>-2</sup>	2.7X10 <sup>-1</sup>	8.3X10 <sup>-1</sup>	2.2X10 <sup>1</sup>
U-232 (medium lung absorption) (e)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	7.0X10 <sup>-3</sup>	1.9X10 <sup>-1</sup>	8.3X10 <sup>-1</sup>	2.2X10 <sup>1</sup>
U-232 (slow lung absorption) (f)		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	8.3X10 <sup>-1</sup>	2.2X10 <sup>1</sup>
U-233 (fast lung absorption) (d)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	9.0X10 <sup>-2</sup>	2.4	3.6X10 <sup>-4</sup>	9.7X10 <sup>-3</sup>
U-233 (medium lung absorption) (e)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	3.6X10 <sup>-4</sup>	9.7X10 <sup>-3</sup>
U-233 (slow lung absorption) (f)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	3.6X10 <sup>-4</sup>	9.7X10 <sup>-3</sup>
U-234 (fast lung absorption) (d)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	9.0X10 <sup>-2</sup>	2.4	2.3X10 <sup>-4</sup>	6.2X10 <sup>-3</sup>
U-234 (medium lung absorption) (e)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	2.3X10 <sup>-4</sup>	6.2X10 <sup>-3</sup>

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) <sup>b</sup>	A2 (TBq)	A2 (Ci) <sup>b</sup>	Specific activity	
						(TBq/g)	(Ci/g)
U-234 (slow lung absorption) (f)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	2.3X10 <sup>-4</sup>	6.2X10 <sup>-3</sup>
U-235 (all lung absorption types) (a), (d), (e), (f)		Unlimited	Unlimited	Unlimited	Unlimited	8.0X10 <sup>-8</sup>	2.2X10 <sup>-6</sup>
U-236 (fast lung absorption) (d)		Unlimited	Unlimited	Unlimited	Unlimited	2.4X10 <sup>-6</sup>	6.5X10 <sup>-5</sup>
U-236 (medium lung absorption) (e)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	2.4X10 <sup>-6</sup>	6.5X10 <sup>-5</sup>
U-236 (slow lung absorption) (f)		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	2.4X10 <sup>-6</sup>	6.5X10 <sup>-5</sup>
U-238 (all lung absorption types) (d), (e), (f)		Unlimited	Unlimited	Unlimited	Unlimited	1.2X10 <sup>-8</sup>	3.4X10 <sup>-7</sup>
U (nat)		Unlimited	Unlimited	Unlimited	Unlimited	2.6X10 <sup>-8</sup>	7.1X10 <sup>-7</sup>
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 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	6.3X10 <sup>3</sup>	1.7X10 <sup>5</sup>
V-49		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>2</sup>	8.1X10 <sup>3</sup>
W-178 (a)	Tungsten (74)	9.0	2.4X10 <sup>2</sup>	5.0	1.4X10 <sup>2</sup>	1.3X10 <sup>3</sup>	3.4X10 <sup>4</sup>
W-181		3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	2.2X10 <sup>2</sup>	6.0X10 <sup>3</sup>
W-185		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	3.5X10 <sup>2</sup>	9.4X10 <sup>3</sup>
W-187		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	2.6X10 <sup>4</sup>	7.0X10 <sup>5</sup>
W-188 (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	3.0X10 <sup>-1</sup>	8.1	3.7X10 <sup>2</sup>	1.0X10 <sup>4</sup>
Xe-122 (a)	Xenon (54)	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.8X10 <sup>4</sup>	1.3X10 <sup>6</sup>
Xe-123		2.0	5.4X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	4.4X10 <sup>5</sup>	1.2X10 <sup>7</sup>
Xe-127		4.0	1.1X10 <sup>2</sup>	2.0	5.4X10 <sup>1</sup>	1.0X10 <sup>3</sup>	2.8X10 <sup>4</sup>
Xe-131m		4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	4.0X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.1X10 <sup>3</sup>	8.4X10 <sup>4</sup>
Xe-133		2.0X10 <sup>1</sup>	5.4X10 <sup>2</sup>	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	6.9X10 <sup>3</sup>	1.9X10 <sup>5</sup>
Xe-135		3.0	8.1X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	9.5X10 <sup>4</sup>	2.6X10 <sup>6</sup>
Y-87 (a)	Yttrium (39)	1.0	2.7X10 <sup>1</sup>	1.0	2.7X10 <sup>1</sup>	1.7X10 <sup>4</sup>	4.5X10 <sup>5</sup>
Y-88		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	5.2X10 <sup>2</sup>	1.4X10 <sup>4</sup>
Y-90		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	2.0X10 <sup>4</sup>	5.4X10 <sup>5</sup>
Y-91		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	9.1X10 <sup>2</sup>	2.5X10 <sup>4</sup>
Y-91m		2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	1.5X10 <sup>6</sup>	4.2X10 <sup>7</sup>
Y-92		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	3.6X10 <sup>5</sup>	9.6X10 <sup>6</sup>
Y-93		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.2X10 <sup>5</sup>	3.3X10 <sup>6</sup>
Yb-169	Ytterbium (70)	4.0	1.1X10 <sup>2</sup>	1.0	2.7X10 <sup>1</sup>	8.9X10 <sup>2</sup>	2.4X10 <sup>4</sup>
Yb-175		3.0X10 <sup>1</sup>	8.1X10 <sup>2</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	6.6X10 <sup>3</sup>	1.8X10 <sup>5</sup>
Zn-65	Zinc (30)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	3.0X10 <sup>2</sup>	8.2X10 <sup>3</sup>
Zn-69		3.0	8.1X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.8X10 <sup>6</sup>	4.9X10 <sup>7</sup>
Zn-69m (a)		3.0	8.1X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	1.2X10 <sup>5</sup>	3.3X10 <sup>6</sup>
Zr-88	Zirconium (40)	3.0	8.1X10 <sup>1</sup>	3.0	8.1X10 <sup>1</sup>	6.6X10 <sup>2</sup>	1.8X10 <sup>4</sup>
Zr-93		Unlimited	Unlimited	Unlimited	Unlimited	9.3X10 <sup>-5</sup>	2.5X10 <sup>-3</sup>
Zr-95 (a)		2.0	5.4X10 <sup>1</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	7.9X10 <sup>2</sup>	2.1X10 <sup>4</sup>
Zr-97 (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	7.1X10 <sup>4</sup>	1.9X10 <sup>6</sup>

(a)	A <sub>1</sub> or A <sub>2</sub> values include contributions from daughter nuclides with half-lives less than ten days(=), as listed in the following:	
	Mg-28	Al-28
	Ca-47	Sc-47
	Ti-44	Sc-44
	Fe-52	Mn-52m
	Fe-60	Co-60m

<u>Zn-69m</u>	<u>Zn-69</u>
<u>Ge-68</u>	<u>Ga-68</u>
<u>Rb-83</u>	<u>Kr-83m</u>
<u>Sr-82</u>	<u>Rb-82</u>
<u>Sr-90</u>	<u>Y-90</u>
<u>Sr-91</u>	<u>Y-91m</u>
<u>Sr-92</u>	<u>Y-92</u>
<u>Y-87</u>	<u>Sr-87m</u>
<u>Zr-95</u>	<u>Nb-95m</u>
<u>Zr-97</u>	<u>Nb-97m, Nb-97</u>
<u>Mo-99</u>	<u>Tc-99m</u>
<u>Tc-95m</u>	<u>Tc-95</u>
<u>Tc-96m</u>	<u>Tc-96</u>
<u>Ru-103</u>	<u>Rh-103m</u>
<u>Ru-106</u>	<u>Rh-106</u>
<u>Pd-103</u>	<u>Rh-103m</u>
<u>Ag-108m</u>	<u>Ag-108</u>
<u>Ag-110m</u>	<u>Ag-110</u>
<u>Cd-115</u>	<u>In-115m</u>
<u>In-114m</u>	<u>In-114</u>
<u>Sn-113</u>	<u>In-113m</u>
<u>Sn-121m</u>	<u>Sn-121</u>
<u>Sn-126</u>	<u>Sb-126m</u>
<u>Te-127m</u>	<u>Te-127</u>
<u>Te-129m</u>	<u>Te-129</u>
<u>Te-131m</u>	<u>Te-131</u>
<u>Te-132</u>	<u>I-132</u>
<u>I-135</u>	<u>Xe-135m</u>
<u>Xe-122</u>	<u>I-122</u>
<u>Cs-137</u>	<u>Ba-137m</u>
<u>Ba-131</u>	<u>Cs-131</u>
<u>Ba-140</u>	<u>La-140</u>
<u>Ce-144</u>	<u>Pr-144m, Pr-144</u>
<u>Pm-148m</u>	<u>Pm-148</u>
<u>Gd-146</u>	<u>Eu-146</u>
<u>Dy-166</u>	<u>Ho-166</u>
<u>Hf-172</u>	<u>Lu-172</u>
<u>W-178</u>	<u>Ta-178</u>
<u>W-188</u>	<u>Re-188</u>
<u>Re-189</u>	<u>Os-189m</u>
<u>Os-194</u>	<u>Ir-194</u>
<u>Ir-189</u>	<u>Os-189m</u>
<u>Pt-188</u>	<u>Ir-188</u>
<u>Hg-194</u>	<u>Au-194</u>
<u>Hg-195m</u>	<u>Hg-195</u>
<u>Pb-210</u>	<u>Bi-210</u>
<u>Pb-212</u>	<u>Bi-212, Tl-208, Po-212</u>
<u>Bi-210m</u>	<u>Tl-206</u>
<u>Bi-212</u>	<u>Tl-208, Po-212</u>
<u>At-211</u>	<u>Po-211</u>
<u>Rn-222</u>	<u>Po-218, Pb-214, At-218, Bi-214, Po-214</u>
<u>Ra-223</u>	<u>Rn-219, Po-215, Pb-211, Bi-211, Po-211, Tl-207</u>
<u>Ra-224</u>	<u>Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212</u>
<u>Ra-225</u>	<u>Ac-225, Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209</u>
<u>Ra-226</u>	<u>Rn-222, Po-218, Pb-214, At-218, Bi-214, Po-214</u>
<u>Ra-228</u>	<u>Ac-228</u>
<u>Ac-225</u>	<u>Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209</u>
<u>Ac-227</u>	<u>Fr-223</u>
<u>Th-228</u>	<u>Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212</u>
<u>Th-234</u>	<u>Pa-234m, Pa-234</u>
<u>Pa-230</u>	<u>Ac-226, Th-226, Fr-222, Ra-222, Rn-218, Po-214</u>

	U-230	Th-226, Ra-222, Rn-218, Po-214
	U-235	Th-231
	Pu-241	U-237
	Pu-244	U-240, Np-240m
	Am-242m	Am-242, Np-238
	Am-243	Np-239
	Cm-247	Pu-243
	Bk-249	Am-245
	Cf-253	Cm-249
	Am-243	Np-239
	Cm-247	Pu-243
	Bk-249	Am-245
	Cf-253	Cm-249
(b)	((Reserved.)) The values of A <sub>1</sub> and A <sub>2</sub> in Curies (Ci) are approximate and for information only the regulatory standard units are terabecquerels (TBq).	
(c)	The ((quantity)) activity of IR-192 in special form 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 UF <sub>6</sub> , UO <sub>2</sub> F <sub>2</sub> and UO <sub>2</sub> (NO <sub>3</sub> ) <sub>2</sub> in both normal and accident conditions of transport.	
(e)	These values apply only to compounds of uranium that take the chemical form of UO <sub>3</sub> , UF <sub>4</sub> , UCl <sub>4</sub> 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)	((A <sub>1</sub> = 0.1 TBq (2.7 Ci) and A <sub>2</sub> = 0.001 TBq (0.027 Ci) for Cf-252 for domestic use.	
(i))	A <sub>2</sub> = 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 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Ac-227	-	1.0X10 <sup>-1</sup>	2.7X10 <sup>-12</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Ac-228	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ag-105	Silver (47)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ag-108m (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ag-110m	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ag-111	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Al-26	Aluminum (13)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Am-241	Americium (95)	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Am-242m (b)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Am-243 (b)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Ar-37	Argon (18)	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Ar-39	-	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Ar-41	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
As-72	Arsenic (33)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
As-73	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
As-74	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
As-76	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
As-77	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
At-211	Astatine (85)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Au-193	Gold (79)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Au-194	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Au-195	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Au-198	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>



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)
Au-199	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-131	Barium (56)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-133	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-133m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-140 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Be-7	Beryllium (4)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Be-10	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-205	Bismuth (83)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-206	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Bi-207	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-210	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-210m	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Bi-212 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Bk-247	Berkelium (97)	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Bk-249	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Br-76	Bromine (35)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Br-77	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Br-82	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
C-11	Carbon (6)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
C-14	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ca-41	Calcium (20)	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ca-45	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ca-47	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-109	Cadmium (48)	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-113m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-115	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-115m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ce-139	Cerium (58)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ce-141	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ce-143	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ce-144 (b)	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cf-248	Californium (98)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cf-249	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Cf-250	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cf-251	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Cf-252	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cf-253	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cf-254	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Cl-36	Chlorine (17)	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cl-38	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cm-240	Curium (96)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cm-241	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cm-242	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cm-243	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cm-244	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cm-245	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Cm-246	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>

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)
Cm-247	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cm-248	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Co-55	Cobalt (27)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Co-56	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Co-57	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Co-58	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Co-58m	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Co-60	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cr-51	Chromium (24)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Cs-129	Cesium (55)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cs-131	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cs-132	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cs-134	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cs-134m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cs-135	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Cs-136	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Cs-137 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Cu-64	Copper (29)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cu-67	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Dy-159	Dysprosium (66)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Dy-165	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Dy-166	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Er-169	Erbium (68)	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Er-171	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-147	Europium (63)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-148	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-149	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Eu-150 (short lived)	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-150 (long lived)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-152	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-152m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-154	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Eu-155	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Eu-156	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
F-18	Fluorine (9)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Fe-52	Iron (26)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Fe-55	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Fe-59	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Fe-60	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Ga-67	Gallium (31)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ga-68	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Ga-72	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Gd-146	Gadolinium (64)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Gd-148	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Gd-153	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Gd-159	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ge-68	Germanium (32)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>

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)
Ge-71	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Ge-77	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Hf-172	Hafnium (72)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Hf-175	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Hf-181	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Hf-182	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Hg-194	Mercury (80)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Hg-195m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Hg-197	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Hg-197m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Hg-203	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Ho-166	Holmium (67)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Ho-166m	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
I-123	Iodine (53)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
I-124	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
I-125	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
I-126	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
I-129	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
I-131	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
I-132	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
I-133	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
I-134	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
I-135	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
In-111	Indium (49)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
In-113m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
In-114m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
In-115m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ir-189	Iridium (77)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ir-190	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ir-192	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Ir-194	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
K-40	Potassium (19)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
K-42	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
K-43	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
<u>Kr-79</u>	<u>Krypton (36)</u>	<u>1.0X10<sup>3</sup></u>	<u>2.7X10<sup>-8</sup></u>	<u>1.0X10<sup>5</sup></u>	<u>2.7X10<sup>-6</sup></u>
Kr-81	<del>((Krypton (36)))</del>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Kr-85	-	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Kr-85m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>10</sup>	2.7X10 <sup>-1</sup>
Kr-87	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
La-137	Lanthanum (57)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
La-140	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Lu-172	Lutetium (71)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Lu-173	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Lu-174	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Lu-174m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Lu-177	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Mg-28	Magnesium (12)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>

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)
Mn-52	Manganese (25)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Mn-53	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
Mn-54	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Mn-56	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Mo-93	Molybdenum (42)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Mo-99	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
N-13	Nitrogen (7)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
Na-22	Sodium (11)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Na-24	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Nb-93m	Niobium (41)	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Nb-94	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Nb-95	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Nb-97	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Nd-147	Neodymium (60)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Nd-149	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ni-59	Nickel (28)	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Ni-63	-	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Ni-65	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Np-235	Neptunium (93)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Np-236 (short-lived)	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Np-236 (long-lived)	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Np-237 (b)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Np-239	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Os-185	Osmium (76)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Os-191	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Os-191m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Os-193	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Os-194	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
P-32	Phosphorus (15)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
P-33	-	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Pa-230	Protactinium (91)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pa-231	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Pa-233	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Pb-201	Lead (82)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pb-202	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pb-203	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pb-205	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Pb-210 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Pb-212 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Pd-103	Palladium (46)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Pd-107	-	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Pd-109	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pm-143	Promethium (61)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pm-144	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pm-145	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Pm-147	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Pm-148m	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>

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)
Pm-149	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pm-151	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Po-210	Polonium (84)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Pr-142	Praseodymium (59)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Pr-143	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pt-188	Platinum (78)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pt-191	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pt-193	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Pt-193m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Pt-195m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pt-197	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pt-197m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Pu-236	Plutonium (94)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Pu-237	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Pu-238	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Pu-239	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Pu-240	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Pu-241	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Pu-242	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Pu-244	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Ra-223 (b)	Radium (88)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Ra-224 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Ra-225	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Ra-226 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Ra-228 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Rb-81	Rubidium (37)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Rb-83	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Rb-84	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Rb-86	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Rb-87	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Rb (nat)	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Re-184	Rhenium (75)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Re-184m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Re-186	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Re-187	-	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
Re-188	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Re-189	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Re (nat)	-	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
Rh-99	Rhodium (45)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Rh-101	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Rh-102	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Rh-102m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Rh-103m	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Rh-105	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Rn-222 (b)	Radon (86)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Ru-97	Ruthenium (44)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ru-103	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>

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Ru-105	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ru-106 (b)	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
S-35	Sulphur (16)	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Sb-122	Antimony (51)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Sb-124	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sb-125	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sb-126	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Sc-44	Scandium (21)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Sc-46	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sc-47	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sc-48	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Se-75	Selenium (34)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Se-79	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Si-31	Silicon (14)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Si-32	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sm-145	Samarium (62)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Sm-147	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Sm-151	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Sm-153	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sn-113	Tin (50)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Sn-117m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sn-119m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Sn-121m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Sn-123	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sn-125	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Sn-126	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Sr-82	Strontium (38)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Sr-85	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sr-85m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Sr-87m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sr-89	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Sr-90 (b)	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Sr-91	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Sr-92	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
T(H-3)	Tritium (1)	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
Ta-178 (long-lived)	Tantalum (73)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ta-179	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ta-182	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Tb-157	Terbium (65)	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Tb-158	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tb-160	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tc-95m	Technetium (43)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tc-96	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tc-96m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Tc-97	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Tc-97m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Tc-98	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>

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Tc-99	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Tc-99m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Te-121	Tellurium (52)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Te-121m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>(5)</sup> <u>6</u>	2.7X10 <sup>(-6)</sup> <u>5</u>
Te-123m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Te-125m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Te-127	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Te-127m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Te-129	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Te-129m	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Te-131m	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Te-132	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Th-227	Thorium (90)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Th-228 (b)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Th-229 (b)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Th-230	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Th-231	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Th-232	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Th-234 (b)	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Th (nat) (b)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
Ti-44	Titanium (22)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Tl-200	Thallium (81)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tl-201	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tl-202	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tl-204	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Tm-167	Thulium (69)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tm-170	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Tm-171	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
U-230 (fast lung absorption) (b), (d)	Uranium (92)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
U-230 (medium lung absorption) (e)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-230 (slow lung absorption) (f)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-232 (fast lung absorption) (b), (d)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
U-232 (medium lung absorption) (e)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-232 (slow lung absorption) (f)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-233 (fast lung absorption) (d)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-233 (medium lung absorption) (e)	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
U-233 (slow lung absorption) (f)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
U-234 (fast lung absorption) (d)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-234 (medium lung absorption) (e)	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
U-234 (slow lung absorption) (f)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
U-235 (all lung absorption types) (b), (d), (e), (f)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-236 (fast lung absorption) (d)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-236 (medium lung absorption) (e)	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
U-236 (slow lung absorption) (f)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
U-238 (all lung absorption types) (b), (d), (e), (f)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>

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 (nat) (b)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
U (enriched to 20% or less) (g)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
U (dep)	-	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>
V-48	Vanadium (23)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
V-49	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
W-178	Tungsten (74)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
W-181	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
W-185	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
W-187	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
W-188	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Xe-122	Xenon (54)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
Xe-123	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
Xe-127	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Xe-131m	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Xe-133	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Xe-135	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>10</sup>	2.7X10 <sup>-1</sup>
Y-87	Yttrium (39)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Y-88	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Y-90	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Y-91	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Y-91m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Y-92	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Y-93	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Yb-169	Ytterbium (70)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Yb-175	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Zn-65	Zinc (30)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Zn-69	-	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Zn-69m	-	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Zr-88	Zirconium (40)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Zr-93 (b)	-	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Zr-95	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Zr-97 (b)	-	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>

(a) (Reserved)

(b) Parent nuclides and their progeny included in secular equilibrium are listed ((in the following)) as follows:

Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
<u>Ag-108m</u>	<u>Ag-108</u>
Cs-137	Ba-137m
<del>((Ce-134</del>	<del>La-134))</del>
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)
<del>((Rn-220</del>	<del>Po-216))</del>
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<sub>6</sub>, UO<sub>2</sub>F<sub>2</sub> and UO<sub>2</sub>(NO<sub>3</sub>)<sub>2</sub> in both normal and accident conditions of transport.
- (e) These values apply only to compounds of uranium that take the chemical form of UO<sub>3</sub>, UF<sub>4</sub>, UCl<sub>4</sub> 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 <sub>1</sub>		A <sub>2</sub>		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 x 10 <sup>-1</sup>	2.7 x 10 <sup>0</sup>	2 x 10 <sup>-2</sup>	5.4 x 10 <sup>-1</sup>	1 x 10 <sup>1</sup>	2.7 x 10 <sup>-10</sup>	1 x 10 <sup>4</sup>	2.7 x 10 <sup>-7</sup>
<del>((Only))</del> Alpha emitting ((radionuclides)) nuclides, but no neutron emitters, are known to be present (a)	2 x 10 <sup>-1</sup>	5.4 x 10 <sup>0</sup>	9 x 10 <sup>-5</sup>	2.4 x 10 <sup>-3</sup>	1 x 10 <sup>-1</sup>	2.7 x 10 <sup>-12</sup>	1 x 10 <sup>3</sup>	2.7 x 10 <sup>-8</sup>
Neutron emitting nuclides are known to be present or no relevant data are available	1 x 10 <sup>-3</sup>	2.7 x 10 <sup>-2</sup>	9 x 10 <sup>-5</sup>	2.4 x 10 <sup>-3</sup>	1 x 10 <sup>-1</sup>	2.7 x 10 <sup>-12</sup>	1 x 10 <sup>3</sup>	2.7 x 10 <sup>-8</sup>

(a) If beta or gamma emitting nuclides are known to be present, the A<sub>1</sub> value of 0.1 TBq (2.7 Ci) should be used.

Table A-4. Activity-Mass Relationships for Uranium

Uranium Enrichment <sup>1</sup> wt % U-235 present	Specific Activity	
	TBq/g	Ci/g
0.45	1.8 x 10 <sup>-8</sup>	5.0 x 10 <sup>-7</sup>
0.72	2.6 x 10 <sup>-8</sup>	7.1 x 10 <sup>-7</sup>
1	2.8 x 10 <sup>-8</sup>	7.6 x 10 <sup>-7</sup>
1.5	3.7 x 10 <sup>-8</sup>	1.0 x 10 <sup>-6</sup>
5	1.0 x 10 <sup>-7</sup>	2.7 x 10 <sup>-6</sup>
10	1.8 x 10 <sup>-7</sup>	4.8 x 10 <sup>-6</sup>
20	3.7 x 10 <sup>-7</sup>	1.0 x 10 <sup>-5</sup>
35	7.4 x 10 <sup>-7</sup>	2.0 x 10 <sup>-5</sup>

Uranium Enrichment <sup>1</sup> wt % U-235 present	Specific Activity	
	TBq/g	Ci/g
50	9.3 x 10 <sup>-7</sup>	2.5 x 10 <sup>-5</sup>
90	2.2 x 10 <sup>-6</sup>	5.8 x 10 <sup>-5</sup>
93	2.6 x 10 <sup>-6</sup>	7.0 x 10 <sup>-5</sup>
95	3.4 x 10 <sup>-6</sup>	9.1 x 10 <sup>-5</sup>

<sup>1</sup> 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 16-13-054, filed 6/10/16, effective 7/11/16)

**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;

(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 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 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 or the NRC, 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 16-13-054, filed 6/10/16, effective 7/11/16)

**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) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM"\*;

(ii) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"\*; and

(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 (1)(a)(i) and (ii) of this subsection need not be met by counterweights manufactured prior to December 31, 1969(~~(; Provided, That)~~), provided that such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM," as previously required by the rules(~~(; provided that such counterweights)~~) and 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 246-232-009 Exemption of certain items containing radioactive material.** 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 the person receives, possesses, uses, transfers, owns or acquires, and does not apply radioactive material to, or incorporate radioactive material into, the following products:\*

\*Note: 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.

(1) Static elimination devices which contain, as a sealed source or sources, by-product material consisting of a total of not more than 18.5 MBq (500 microcuries) of Po-210 per device.

(2)(a) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, by-product material consisting of a total of not more than 18.5 MBq (500 microcuries) of Po-210 per device or a total of not more than 1.85 GBq (50 millicuries) of hydrogen-3 (tritium) per device.

(b) Such devices authorized before October 23, 2012, for use under the general license then provided in this section and equivalent regulations of an agreement state or the NRC, and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the department, an agreement state, or the NRC.

(3) Balances of precision containing not more than 37 megabecquerels (1 millicurie) of tritium per balance or 18.5 megabecquerels (0.5 millicurie) of tritium per balance part manufactured before December 17, 2007.

~~((2))~~ (4) Marine compasses containing not more than 27.8 gigabecquerels (750 millicuries) of tritium gas and other marine navigational instruments containing not more than 9.25 gigabecquerels (250 millicuries) of tritium gas manufactured before December 17, 2007.

~~((3))~~ (5) Ionization chamber smoke detectors containing not more than 37 kilobecquerels (1 microcurie) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

~~((4))~~ (6) Electron tubes\* provided that each tube contains no more than one of the following specified quantities of radioactive material and the levels of radiation from each electron tube do not exceed 10 micrograys (1 millirad) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber:

(a) 5.55 gigabecquerels (150 millicuries) of tritium per microwave receiver protector tube or 370 megabecquerels (10 millicuries) of tritium per any other electron tube;

(b) 37 kilobecquerels (1 microcurie) of cobalt-60;

(c) 185 kilobecquerels (5 microcuries) of nickel-63;

(d) 1.11 megabecquerels (30 microcuries) of krypton-85;

(e) 185 kilobecquerels (5 microcuries) of cesium-137;

(f) 1.11 megabecquerels (30 microcuries) of promethium-147.

\*Note: For purposes of this subsection, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

~~((5))~~ (7) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(a) Each source contains not more than one exempt quantity set forth in WAC 246-232-120, Schedule B, exempt quantities of radioactive materials; and

(b) Each instrument contains no more than 10 exempt quantities. For purposes of this subsection, an instrument's source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in WAC 246-232-120, Schedule B, exempt quantities of radioactive materials, provided that the sum of such fractions must not exceed unity.

(c) For purposes of this subsection, 1.85 kilobecquerels (0.05 microcurie) of americium-241 is considered an exempt quantity.

**AMENDATORY SECTION** (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**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))~~ should apply for a license under (~~(chapter 246-235 WAC)~~) 10 C.F.R. 32.22 and for a certificate of registration in accordance with WAC 246-235-108.

(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 16-13-054, filed 6/10/16, effective 7/11/16)

**WAC 246-232-012 Exemption of certain gas and aerosol detectors containing radioactive material.** (1)(a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas (~~((or))~~ and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license and from this chapter and chapters 246-221, 246-222, 246-233 ((and)), 246-235, 246-240, 246-243, and 246-244 WAC to the extent that the person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect health, safety, or property, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued (~~((by the department, NRC, or an agreement state))~~) under 10 C.F.R. 32.26 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 issued by a state under provisions comparable to 10 C.F.R. 32.26 authorizing distribution to persons exempt from regulatory requirements.

(b) Any person who desires to manufacture, process, or produce gas (~~((or))~~ and 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)~~) subsection should apply for a license under 10 C.F.R. 32.26 and for a certificate of registration in accordance with WAC 246-235-108.

(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 16-13-054, filed 6/10/16, effective 7/11/16)

**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 issued under 10 C.F.R. 32.30 which authorizes the initial transfer of the device for use under this (~~(chapter)~~) section. 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 subsection (1) of this section, (~~((shall))~~ should apply for a license under (~~(chapter 246-235 WAC)~~) 10 C.F.R. 32.30 and for a certificate of registration in accordance with WAC 246-235-108.

AMENDATORY SECTION (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**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, and transfer 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 sub-

mitted 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 who receives, possesses, uses, or transfers source material pursuant to the general license issued in subsection (1) of this section:

(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.

(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.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-233-015 Certain devices and equipment.

AMENDATORY SECTION (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**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 as registered with the department under WAC 246-235-108, the NRC under 10 C.F.R. 32.210, an agreement state, or for a source or a device containing radium-226 or accelerator-produced radioactive material with a state under provisions comparable to 10 C.F.R. 32.210; or

(b) ~~((Be registered with the NRC under 10 C.F.R. 32.210))~~ Contain the information identified in WAC 246-235-108(3); or

(c) For sources or devices manufactured before October 23, 2012, that are not registered with the NRC 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 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))~~ WAC 246-235-108 (7)(a), 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.

AMENDATORY SECTION (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**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))~~ WAC 246-235-082 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, agreement state, or NRC, 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 16-13-054, filed 6/10/16, effective 7/11/16)

**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, 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 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 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 of 10 C.F.R. Part 32 are met.

AMENDATORY SECTION (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**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)),~~ such as hard copy, properly signed electronic document, or fax.)

(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)~~) department. 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 16-13-079, filed 6/14/16, effective 7/15/16)

**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))~~) 246-237-025(3).

(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 safeguards 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.

AMENDATORY SECTION (Amending WSR 16-13-079, filed 6/14/16, effective 7/15/16)

**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)) NRC 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.

AMENDATORY SECTION (Amending WSR 16-13-079, filed 6/14/16, effective 7/15/16)

**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>)) <https://scp.nrc.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).

**AMENDATORY SECTION** (Amending WSR 13-17-036, filed 8/12/13, effective 9/12/13)

**WAC 246-249-020 Site use permit.** (1) Each generator and each broker of radioactive waste shall:

(a) Possess an active valid, and unencumbered site use permit prior to the shipment of such waste to, or the disposal of such waste at any commercial disposal facility in the state of Washington.

(b) Renew the site use permit annually to maintain the permit in active status.

(2) If a generator or broker does not renew the permit:

(a) The department shall place the permit in inactive status; and

(b) The generator or broker shall pay a reinstatement fee in addition to the annual site use permit fee as required in WAC 246-254-165.

(3) Each generator and each broker of radioactive waste shall:

(a) Pay the site use permit fees required in WAC 246-254-165;

(b) Submit a completed application for a site use permit to the department on a form provided by the department;

(c) Ensure that each application is signed by the individual broker or generator or by an individual authorized to sign on behalf of the entity generating or brokering the waste; and

(d) Submit the application for site use permit renewal a minimum of four weeks prior to the expiration date of the permit.

(4) Number of permits required by each generator.

(a) Generators who own multiple facilities may apply for one site use permit provided:

(i) All facilities are within the same state; and

(ii) The generator has identified a single contact person who is responsible for responding to the department on matters pertaining to waste shipments for all of the facilities.

(b) Generators who own multiple facilities shall apply for separate site use permits for each facility when:

(i) The facilities are located in different states; or

(ii) The generator has identified different contact persons for each facility who are responsible for responding to the department on matters pertaining to waste shipments.

(c) When a facility both generates and brokers waste, each generator and broker shall possess separate generator and broker site use permits.

(5) Each broker shall:

(a) Ensure a generator of waste has an active, valid, and unencumbered site use permit prior to shipment of waste for disposal;

(b) Ensure the waste will arrive at the disposal facility prior to the expiration date of the generator's site use permit;

(c) Ensure all radioactive waste contained within a shipment accepted for disposal at any commercial radioactive waste disposal facility in the state of Washington is traceable to the original generators and states, regardless of whether the

waste is shipped directly from the point of generation to the disposal facility or shipped through a licensed service facility, such as a facility for recycling, processing, compacting, incinerating, collecting, or brokering waste; and

(d) As consignor, assumes co-responsibility with a generator for all aspects of that generator's waste until it can be documented to the department's satisfaction that the broker's sphere of responsibility was limited.

(6) Any generator or broker shipping waste for disposal at the commercial low-level radioactive waste disposal site that was originally generated in the Rocky Mountain compact region shall attach to the shipping manifest and provide to the disposal site operator a copy of the letter granting approval to export waste from the Rocky Mountain compact region.

(7) Suspension or revocation of permit.

(a) The department may suspend the site use permit of the responsible generator, or broker, or both the generator and broker if one or more packages in a shipment of waste does not meet one or more of the requirements of the license issued to the commercial low-level radioactive waste disposal site operator, Title 246 WAC, NRC regulations, DOT regulations, or the conditions of the disposal site operator's radioactive materials license.

(b) The site use permit of a generator or broker may be suspended or revoked if any other licensed commercial low-level radioactive waste disposal site in the United States has refused to accept waste from that generator or broker.

(c) A suspended site use permit may be reinstated provided:

(i) The generator or broker whose permit has been suspended submits a quality assurance procedure designed to correct previous ~~((problem[s]-[s]and))~~ problems and to achieve and maintain compliance with all applicable requirements; and

(ii) A point-of-origin inspection by the state of Washington of the waste management activities of the generator or broker whose permit has been suspended, indicated compliance with all applicable requirements and regulations.

(8) Additional generator and broker requirements. Permittees shall provide additional information as requested by the department for the safe management of radioactive waste in the state of Washington.

**AMENDATORY SECTION** (Amending WSR 16-13-054, filed 6/10/16, effective 7/11/16)

**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, decontam-

ination, 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 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 may not be used. Shale, rock laminated with shale, and cherts may not be used.

Rock covering of slopes may 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 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 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 runoff 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.

(L) 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

Constituent or Property	Maximum Concentration
	Milligrams per liter
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 <sub>10</sub> H <sub>10</sub> Cl <sub>6</sub> , 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 design<sup>1</sup> 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 average<sup>2</sup> release rate of 20 picocuries per square meter per second (pCi/m<sup>2</sup>s) 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/m<sup>2</sup>s 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/m<sup>2</sup>s 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.

<sup>1</sup> 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.

<sup>2</sup> 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/m<sup>2</sup>s. If the delay is approved on the basis that the radon releases do not exceed 20 pCi/m<sup>2</sup>s, 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 closure 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/m<sup>2</sup>s 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/m<sup>2</sup>s 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 pro-

gram 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 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.

**WSR 16-22-025****PROPOSED RULES****DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed October 24, 2016, 2:42 p.m.]

Supplemental Notice to WSR 16-09-100.

Preproposal statement of inquiry was filed as WSR 10-23-081.

Title of Rule and Other Identifying Information: WAC 246-817-510, 246-817-520, 246-817-525, 246-817-540 and 246-817-545, amending rules on dentist delegation of duties to dental assistants and expanded function dental auxiliaries. This is a supplemental proposal to rules filed April 19, 2016, as WSR 16-09-100.

Hearing Location(s): Department of Health, Point Plaza East, Room 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on December 9, 2016, at 8:05 a.m.

Date of Intended Adoption: December 9, 2016.

Submit Written Comments to: Jennifer Santiago, P.O. Box 47852, Olympia, WA 98501, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by December 2, 2016.

Assistance for Persons with Disabilities: Contact Jennifer Santiago by December 2, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendments update the scope of practice for registered dental assistants and licensed expanded function dental auxiliaries (EFDA) to current practice standards eliminating confusion for dental professionals and the public receiving dental care. The original proposal lacked clarity for dental assistants for polishing restorations, taking impressions for temporary oral devices, and semi-permanent restorations. The original proposal also lacked clarity for expanded function dental auxiliaries for placing and carving direct restorations and a correction to a WAC reference. The current proposal is different from the previous proposal with changes to WAC 246-817-520 [(4)](r) and (v)(ii), 246-817-525 (5)(b), 246-817-540(2), and 246-817-545(4).

Reasons Supporting Proposal: The scope of practice for registered dental assistants and licensed EFDAs has been an area of confusion for dental professionals as the current rules are not specific enough. Proposed rule amendments clarify what tasks dentists are currently delegating in dental facilities.

Statutory Authority for Adoption: RCW 18.260.040, 18.260.070, and SB 5606 (chapter 20 [120], Laws of 2015).

Statute Being Implemented: Chapter 18.260 RCW and SB 5606 (chapter 20 [120], Laws of 2015).

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

Name of Proponent: Dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Santiago, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4893.

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 Jennifer Santiago, P.O. Box 47852, Olympia, WA 98501, phone (360) 236-4893, fax (360) 236-2901, e-mail [jennifer.santiago@doh.wa.gov](mailto:jennifer.santiago@doh.wa.gov).

October 24, 2016  
C. Madden, Chair  
Dental Quality  
Assurance Commission

AMENDATORY SECTION (Amending WSR 09-15-075, filed 7/13/09, effective 8/13/09)

**WAC 246-817-510 Definitions** (~~for WAC 246-817-501 through 246-817-570~~). The definitions in this section apply throughout WAC 246-817-501 through 246-817-570 unless the context clearly requires otherwise.

(1) **"Close supervision"** means that a ~~((licensed))~~ supervising dentist whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. ~~((A))~~ The supervising dentist ~~((shall be))~~ is continuously on-site and physically present in the treatment facility while the procedures are performed by the assistive personnel and capable of responding immediately in the event of an emergency. Close supervision does not require a supervising dentist to be physically present in the operator ~~((; however, an attending dentist must be in the treatment facility and be capable of responding immediately in the event of an emergency)).~~

(2) **"Coronal polishing"** means a procedure limited to the removal of plaque and stain from exposed tooth surfaces, ~~((utilizing))~~ using an appropriate instrument and polishing agent.

This procedure ~~((shall))~~ is not ~~((be))~~ intended or interpreted ~~((as))~~ to be an oral prophylaxis as defined in ~~((WAC 246-817-510))~~ subsection (8) of this section a procedure specifically reserved to ~~((performance))~~ be performed by a licensed dentist or dental hygienist. Coronal polishing may, however, be ~~((performed by dental assistants under close supervision as))~~ a portion of the oral prophylaxis procedure. ~~((In all instances, however, a licensed dentist shall determine that the teeth need to be polished and are free of calculus or other extraneous material prior to performance of coronal polishing by a dental assistant.))~~

(3) **"Debridement at the periodontal surgical site"** means curettage or root planing after reflection of a flap by the supervising dentist. This does not include cutting of osseous tissues.

(4) **"Elevating soft tissues"** ~~((is defined as))~~ means part of a surgical procedure involving the use of the periosteal elevator to raise flaps of soft tissues. Elevating soft tissue is not a separate and distinct procedure in and of itself.

(5) **"General supervision"** means ~~((supervision of dental procedures based on examination and diagnosis of))~~ that a supervising dentist has examined and diagnosed the patient and provided subsequent instructions ~~((given by a licensed dentist but not requiring the physical presence of the supervising dentist in the treatment facility during the performance~~

~~of those procedures))~~ to be performed by the assistive personnel, but does not require that the dentist be physically present in the treatment facility.

(6) **"Incising"** ~~((is defined as))~~ means part of the surgical procedure of which the end result is removal of oral tissue. Incising, or the making of an incision, is not a separate and distinct procedure in and of itself.

(7) **"Luxation"** ~~((is defined as))~~ means an integral part of the surgical procedure of which the end result is extraction of a tooth. ~~((Luxation is not a distinct procedure in and of itself.))~~ It is the dislocation or displacement of a tooth or of the temporomandibular articulation.

(8) **"Oral prophylaxis"** means the preventive dental procedure of scaling and polishing which includes complete removal of calculus, soft deposits, plaque, stains and the smoothing of unattached tooth surfaces. The objective of this treatment ~~((shall be creation of))~~ is to create an environment in which hard and soft tissues can be maintained in good health by the patient.

(9) **"Periodontal soft tissue curettage"** means the closed removal of tissue lining the periodontal pocket, not involving the reflection of a flap.

(10) **"Root planing"** means the process of instrumentation by which the unattached surfaces of the root are made smooth by the removal of calculus or deposits.

(11) **"Supportive services"** means services that are related to clinical functions in direct relationship to treating a patient.

(12) **"Suturing"** is defined as the readaption of soft tissue by use of stitches as a phase of an oral surgery procedure. ~~((Suturing is not a separate and distinct procedure in and of itself.))~~

(13) **"Treatment facility"** means a dental office or connecting suite of offices, dental clinic, room or area with equipment to provide dental treatment, or the immediately adjacent rooms or areas. A treatment facility does not extend to any other area of a building in which the treatment facility is located.

(14) ~~((**"Noncredentialed person"** means a person who is not a dentist licensed under chapter 18.32 RCW; dental hygienist licensed under chapter 18.29 RCW; expanded function dental auxiliary licensed under chapter 18.260 RCW; or a dental assistant registered under chapter 18.260 RCW.~~

~~((15))~~ **"Volunteer dental assistant"** means an individual who, without compensation, provides the supportive services ~~((set forth in))~~ under WAC 246-817-520 in a charitable dental clinic.

AMENDATORY SECTION (Amending WSR 08-14-010, filed 6/19/08, effective 7/1/08)

**WAC 246-817-520 Supportive services that may be performed by registered dental assistants.** ~~((A dentist may allow registered dental assistants to perform the following supportive services under the dentist's close supervision.))~~

(1) A supervising dentist may delegate the supportive services in subsection (4) of this section under the dentist's close supervision, provided the registered dental assistant has demonstrated skills necessary to perform each task competently.

~~(2) Delegation of supportive services not in subsection (4) of this section may be subject to disciplinary action.~~

~~(3) In addition to supportive services in subsection (4) of this section, registered dental assistants may perform non-clinical tasks.~~

~~(4) Supportive services allowed under close supervision:~~

~~(a) Oral inspection, with no diagnosis.~~

~~((2) Patient education in oral hygiene.~~

~~(3) Place and remove the rubber dam.~~

~~(4) Hold in place and remove impression materials after the dentist has placed them.~~

~~(5) Take impressions solely for diagnostic and opposing models.~~

~~(6) Take impressions and wax bites solely for study casts.~~

~~(7) Take impressions, fabricate, and deliver bleaching and fluoride trays.~~

~~(8) Remove the excess cement after the dentist has placed a permanent or temporary inlay, crown, bridge or appliance, or around orthodontic bands.~~

~~(9) Perform coronal polish.~~

~~(10) Give fluoride treatments.~~

~~(11) Place periodontal packs.~~

~~(12) Remove periodontal packs or sutures.~~

~~(13) Place a matrix and wedge for a metallic and nonmetallic direct restorative material after the dentist has prepared the cavity.~~

~~(14) Place a temporary filling (as zinc oxide-eugenol (ZOE)) after diagnosis and examination by the dentist.~~

~~(15) Apply tooth separators as for placement for Class III gold foil.~~

~~(16) Fabricate, place, and remove temporary crowns or temporary bridges.~~

~~(17) Pack and medicate extraction areas.~~

~~(18) Deliver an oral sedative drug to patient.~~

~~(19) Place topical anesthetics.~~

~~(20) Place retraction cord.~~

~~(21) Polish restorations at a subsequent appointment.~~

~~(22) Select denture shade and mold.~~

~~(23) Acid etch.~~

~~(24) Apply sealants.~~

~~(25) Place dental X-ray film and expose and develop the films.~~

~~(26) Take intra-oral and extra-oral photographs.~~

~~(27) Take health histories.~~

~~(28) Take and record blood pressure and vital signs.~~

~~(29) Give preoperative and postoperative instructions.~~

~~(30) Assist in the administration of inhalation minimal sedation (nitrous oxide) analgesia or sedation.~~

~~(31) Select orthodontic bands for size.~~

~~(32) Place and remove orthodontic separators.~~

~~(33) Prepare teeth for the bonding or orthodontic appliances.~~

~~(34) Fit and adjust headgear.~~

~~(35) Remove fixed orthodontic appliances.~~

~~(36) Remove and replace archwires and orthodontic wires.~~

~~(37) Take a facebow transfer for mounting study casts.~~

~~(38) Take impressions for temporary oral devices, such as but not limited to space maintainers, orthodontic retainers,~~

~~and occlusal guards.)~~ (b) Take and record blood pressure and vital signs.

(c) Place, expose, and process radiographs.

(d) Take intra-oral and extra-oral photographs.

(e) Perform coronal polish. A licensed dentist shall determine the teeth are free of calculus or other extraneous material prior to dismissing the patient.

(f) Give fluoride treatments.

(g) Give patient education in oral hygiene.

(h) Give preoperative and postoperative instructions.

(i) Deliver an oral sedative drug to patient.

(j) Assist in the administration of inhalation minimal sedation (nitrous oxide) analgesia, including starting and stopping the flow as directed by the supervising dentist.

(k) Place topical anesthetics.

(l) Place and remove the rubber dam.

(m) Apply tooth separators as for placement for Class III gold foil.

(n) Apply sealants.

(o) Place a matrix and wedge for a direct restorative material after the dentist has prepared the cavity.

(p) Place cavity liners and bases.

(q) Perform acid etch and apply bonding agents.

(r) Polish restorations but may not intra-orally adjust or finish permanent restorations.

(s) Sterilize equipment and disinfect operatories.

(t) Place retraction cord.

(u) Hold in place and remove impression materials after the dentist has placed them.

(v) Take impressions, bite registrations, or digital scans of the teeth and jaws for:

(i) Diagnostic and opposing models;

(ii) Fixed and removable orthodontic appliances, occlusal guards, bleaching trays, and fluoride trays; and

(iii) Temporary indirect restorations such as temporary crowns.

(w) Take digital scans of prepared teeth for fabrication of permanent indirect restorations.

(x) Take a facebow transfer for mounting study casts.

(y) Fabricate and deliver bleaching and fluoride trays.

(z) Fabricate, cement, and remove temporary crowns or temporary bridges.

(aa) Remove the excess cement after the dentist has placed a permanent or temporary inlay, crown, bridge or appliance, or around orthodontic bands.

(bb) Place a temporary filling (as zinc oxide-eugenol (ZOE)) after diagnosis and examination by the dentist.

(cc) Pack and medicate extraction areas.

(dd) Place periodontal packs.

(ee) Remove periodontal packs or sutures.

(ff) Select denture shade and mold.

(gg) Place and remove orthodontic separators.

(hh) Select and fit orthodontic bands, try in fixed or removable orthodontic appliances prior to the dentist cementing or checking the appliance.

(ii) Prepare teeth for the bonding of orthodontic appliances.

(jj) Bond attachments for clear removable orthodontic aligners.



(kk) Remove and replace archwires and orthodontic wires.

(ll) Fit and adjust headgear.

(mm) Remove fixed orthodontic appliances, orthodontic cement, and orthodontic bonded resin material.

AMENDATORY SECTION (Amending WSR 08-14-010, filed 6/19/08, effective 7/1/08)

**WAC 246-817-525 Supportive services that may be performed by expanded function dental auxiliaries (EFDAs).** ~~((1) A dentist may allow EFDAs to perform the following supportive services under the dentist's close supervision:~~

- ~~(a) Oral inspection, with no diagnosis.~~
- ~~(b) Place and remove the rubber dam.~~
- ~~(c) Take preliminary and final impressions and bite registrations, to include computer assisted design and computer assisted manufacture applications.~~
- ~~(d) Take impressions, fabricate, and deliver bleaching and fluoride trays.~~
- ~~(e) Remove the excess cement after the dentist has placed a permanent or temporary inlay, crown, bridge or appliance, or around orthodontic bands.~~
- ~~(f) Place periodontal packs.~~
- ~~(g) Remove periodontal packs or sutures.~~
- ~~(h) Place a matrix and wedge for a metallic and nonmetallic direct restorative material after the dentist has prepared the cavity.~~
- ~~(i) Place a temporary filling (as zinc oxide-eugenol (ZOE)) after diagnosis and examination by the dentist.~~
- ~~(j) Apply tooth separators as for placement for Class III gold foil.~~
- ~~(k) Fabricate, place, and remove temporary crowns or temporary bridges.~~
- ~~(l) Pack and medicate extraction areas.~~
- ~~(m) Deliver an oral sedative drug to patient.~~
- ~~(n) Place topical anesthetics.~~
- ~~(o) Place retraction cord.~~
- ~~(p) Polish restorations.~~
- ~~(q) Select denture shade and mold.~~
- ~~(r) Acid etch.~~
- ~~(s) Take intra-oral and extra-oral photographs.~~
- ~~(t) Take health histories.~~
- ~~(u) Take and record blood pressure and vital signs.~~
- ~~(v) Give preoperative and postoperative instructions.~~
- ~~(w) Assist in the administration of inhalation minimal sedation (nitrous oxide) analgesia or sedation.~~
- ~~(x) Select orthodontic bands for size.~~
- ~~(y) Place and remove orthodontic separators.~~
- ~~(z) Prepare teeth for the bonding or orthodontic appliances.~~
- ~~(aa) Fit and adjust headgear.~~
- ~~(bb) Remove fixed orthodontic appliances.~~
- ~~(cc) Remove and replace archwires and orthodontic wires.~~
- ~~(dd) Take a facebow transfer for mounting study casts.~~
- ~~(ee) Place and carve direct restorations.~~

~~(ff) Take impressions for temporary oral devices, such as but not limited to space maintainers, orthodontic retainers, and occlusal guards.~~

~~(2) A dentist may allow EFDAs to perform the following supportive services under the dentist's general supervision:~~

- ~~(a) Perform coronal polishing.~~
- ~~(b) Give fluoride treatments.~~
- ~~(c) Apply sealants.~~
- ~~(d) Place dental X-ray film and exposing and developing the films.)~~ (1) A supervising dentist may delegate the supportive services in subsection (5) of this section under the dentist's close supervision, provided the EFDA has demonstrated skills necessary to perform each task competently.

(2) A dentist may delegate the supportive services in subsection (6) of this section under the dentist's general supervision, provided the EFDA has demonstrated skills necessary to perform each task.

(3) Delegation of supportive services not in subsection (5) or (6) of this section may be subject to disciplinary action.

(4) In addition to supportive services in subsections (5) and (6) of this section, licensed EFDAs may perform nonclinical tasks.

(5) Supportive services allowed under close supervision:

(a) Supportive services under WAC 246-817-520(4), except for supportive services in subsection (6) of this section.

(b) Place, carve, finish, and polish direct restorations.

(c) Take preliminary and final impressions and bite registrations, to include computer assisted design and computer assisted manufacture applications.

(6) Supportive services allowed under general supervision are:

(a) Perform coronal polishing.

(b) Give fluoride treatments.

(c) Apply sealants.

(d) Place, expose, and process radiographs.

(e) Give patient oral health instructions.

AMENDATORY SECTION (Amending WSR 08-14-010, filed 6/19/08, effective 7/1/08)

**WAC 246-817-540 Acts that may not be performed by registered dental assistants (~~or noncredentialed persons~~).** ~~((No dentist shall))~~ This list is not all inclusive. Delegation of procedures not in subsections (1) through (22) of this section should not be assumed to be allowed. Supportive services approved for delegation to registered dental assistants are under WAC 246-817-520. A dentist may not allow registered dental assistants (~~or noncredentialed persons~~) who are in his or her employ or are acting under his or her supervision or direction to perform any of the following procedures:

(1) Any removal of or addition to the hard or soft natural tissue of the oral cavity.

(2) Any placing of permanent (~~or semi-permanent~~) restorations in natural teeth.

(3) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure.

(4) Any administration of general or local anesthetic, including intravenous sedation.

(5) Any oral prophylaxis, except coronal polishing as a part of oral prophylaxis as defined ~~((11))~~ under WAC 246-817-510 and 246-817-520~~((8))~~ (4)(c).

(6) Any scaling procedure.

(7) The taking of any impressions of the teeth or jaws, or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliances, or prosthesis(~~Not prohibited are the taking of impressions solely for diagnostic and opposing models or taking wax bites solely for study casts~~), other than impressions allowed as a delegated task under WAC 246-817-520.

~~((8))~~ Intra-orally adjust ~~((occlusal of inlays, crowns, and bridges.~~

~~((9))~~ Intra-orally finish margins of inlays, crowns, and bridges.

~~((10))~~ and finish permanent restorations.

~~((9))~~ Cement or recement, permanently, any cast restoration or stainless steel crown.

~~((11))~~ (10) Incise gingiva or other soft tissue.

~~((12))~~ (11) Elevate soft tissue flap.

~~((13))~~ (12) Luxate teeth.

~~((14))~~ (13) Curette to sever epithelial attachment.

~~((15))~~ (14) Suture.

~~((16))~~ (15) Establish occlusal vertical dimension for dentures.

~~((17))~~ (16) Try-in of dentures set in wax.

~~((18))~~ (17) Insertion and post-insertion adjustments of dentures.

~~((19))~~ (18) Endodontic treatment((—))- Open, extirpate pulp, ream and file canals, establish length of tooth, and fill root canal.

~~((20))~~ (19) Use of any light or electronic device for invasive procedures.

~~((21))~~ (20) Intra-oral air abrasion or mechanical etching devices.

~~((22))~~ (21) Place direct pulp caps.

~~((23))~~ (22) Fit and adjust occlusal guards.

AMENDATORY SECTION (Amending WSR 08-14-010, filed 6/19/08, effective 7/1/08)

**WAC 246-817-545 Acts that may not be performed by expanded function dental auxiliaries (EFDAs) ~~((or noncredentialed persons)).~~ ~~((No dentist shall))~~ This list is not all inclusive. Delegation of procedures not in subsections (1) through (20) of this section should not be assumed to be allowed. Supportive services approved for delegation to licensed expanded function dental auxiliaries are under WAC 246-817-525. A dentist may not allow EFDAs ~~((or noncredentialed persons))~~ who are in his or her employ or are acting under his or her supervision or direction to perform any of the following procedures:**

(1) Any removal of or addition to the hard or soft natural tissue of the oral cavity except for placing and carving direct restorations ~~((by an EFDA)).~~

(2) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure.

(3) Any administration of general or local anesthetic, including intravenous sedation.

(4) Any oral prophylaxis, except coronal polishing as a part of oral prophylaxis as defined ~~((11))~~ under WAC 246-817-510 and 246-817-520~~((8))~~ (4)(c).

(5) Any scaling procedure.

~~((6))~~ Intra-orally adjust ~~((occlusal of))~~ and finish permanent inlays, crowns, and bridges.

~~((7))~~ ~~((Intra-orally finish margins of inlays, crowns, and bridges.~~

~~((8))~~ Cement or recement, permanently, any cast restoration or stainless steel crown.

~~((9))~~ (8) Incise gingiva or other soft tissue.

~~((10))~~ (9) Elevate soft tissue flap.

~~((11))~~ (10) Luxate teeth.

~~((12))~~ (11) Curette to sever epithelial attachment.

~~((13))~~ (12) Suture.

~~((14))~~ (13) Establish occlusal vertical dimension for dentures.

~~((15))~~ (14) Try-in of dentures set in wax.

~~((16))~~ (15) Insertion and postinsertion adjustments of dentures.

~~((17))~~ (16) Endodontic treatment((—))- Open, extirpate pulp, ream and file canals, establish length of tooth, and fill root canal.

~~((18))~~ (17) Use of any light or electronic device for invasive procedures.

~~((19))~~ (18) Intra-oral air abrasion or mechanical etching devices.

~~((20))~~ (19) Place direct pulp caps.

~~((21))~~ (20) Fit and adjust occlusal guards.

**WSR 16-22-026  
PROPOSED RULES  
CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed October 25, 2016, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-092.

Title of Rule and Other Identifying Information: WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams.

Hearing Location(s): Washington State Criminal Justice Training Commission (WSCJTC), Room E-154, 19010 1st Avenue South, Burien, WA 98148, on December 14, 2016, at 10 a.m.

Date of Intended Adoption: December 14, 2016.

Submit Written Comments to: Sonja Peterson, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail [speterson@cjtc.state.wa.us](mailto:speterson@cjtc.state.wa.us), fax (206) 835-7313, by December 7, 2016.

Assistance for Persons with Disabilities: Contact Sonja Peterson, rules coordinator, by December 7, 2016, TTY (206) 835-7300 or (206) 835-7356.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes to WAC 139-05-915 are needed to establish guidelines in reference to canine training. Currently, canine team standards are established by WAC; if approved, WSCJTC will establish and adopt canine team standards by policy.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Tisha Jones, Lacey, Washington, (360) 486-2431.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

A cost-benefit analysis is not required under RCW 34.05.328. The changes are not new, as they simply mirror the language of RCW 43.101.220.

October 21, 2016

Sonja Peterson

Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-20-029, filed 9/28/05, effective 10/29/05)

**WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams.** ~~((1) Title and scope: These rules are intended to set minimum standards of performance for the certification of canine teams that are used for law enforcement or corrections purposes. This process is not related to nor does it have any effect upon the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.~~

(2) For purposes of this section, the following definitions will apply:

(a) "Dog handler" means any fully commissioned law enforcement officer or corrections officer of a state, county, city, municipality, or combination thereof, agency who is responsible for the routine care, control, and utilization of a police canine within a law enforcement or corrections assignment; and

(b) "Canine team" means a specific officer and a specific canine controlled by that officer in the capacity of handler, formally assigned by the employing agency to work together in the performance of law enforcement or corrections duties.

(c) "Training" means any structured classroom or practical learning exercise conducted, evaluated, and documented by an experienced dog handler or trainer, certified as an instructor with recognized expertise on canine subjects associated with the development of the trainee's competency in the care, control, and utilization of a police canine.

(d) "Evaluator" means a certified peace officer or corrections officer, who has a minimum of three years experience as a dog handler and is recognized as a trainer of canines by a professional organization of police and/or corrections dog

handlers/trainers or by the handler's employing agency. The trainer must have trained a canine team in accordance with the training requirements of WAC 139-05-915, or be recognized by the commission as a certified instructor with expertise in canine training of a specific police canine subject for the purpose of testing and certifying dog handlers and canines to work as a canine team.

(3) A dog handler must, as a precondition of such assignment, successfully complete the basic law enforcement academy or basic corrections officer academy, or otherwise comply with the basic training requirement prescribed by WAC 139-05-200 and 139-05-210 of the commission.

(4) Prior to such assignment, a dog handler must successfully complete training according to the nature and purpose of utilization of the police canine for which such handler is responsible.

(a) A dog handler who is responsible for the routine and regular utilization of a police canine within general patrol or investigative activities, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Tracking;
- (vii) Trailing;
- (viii) Area search;
- (ix) Building search;
- (x) Evidence search;
- (xi) Pursuit and holding; and
- (xii) Master protection.

(b) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and detection of specific substances, excluding explosives, must successfully complete a minimum of two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area search;
- (vii) Building search;
- (viii) Evidence search;
- (ix) Vehicle search; and
- (x) Detection of specific substances.

(c) A dog handler who is responsible for the primary and specialized utilization of a police canine in the search for and detection of explosive substances and devices, must successfully complete a minimum of four hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;

- (v) Obedience and control;
- (vi) Area search;
- (vii) Private and commercial conveyance search;
- (viii) Building search;
- (ix) Evidence search; and
- (x) Detection of explosives.

(d) A dog handler who is responsible for the routine and regular utilization of a police canine solely for self-protection and assistance in hostile or potentially hostile situations, must successfully complete at least two hundred hours of training, which will include, but not be limited to:

- (i) Philosophies/theories of police canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Pursuit and holding; and
- (vii) Master protection.

(5) The commission will develop and adopt a minimum performance standard for canine teams performing specific law enforcement or corrections functions. It is the handler's responsibility to keep their canines under control at all times. Each handler must be able to make their canine perform to a level that is deemed acceptable by the commission in the category for the team's intended use as a condition of certification.

(6) Certification of canine teams:

(a) The handler and the canine will be considered as a team and it is the team who will be certified. If the canine or the handler changes, a new team exists and the team must be certified.

(b) A dog handler may not use a canine for police purposes unless the handler is certified to handle a specific canine for a specific purpose.

(c) In evaluating the proficiency of the canine team, the evaluators shall use the standards approved by the commission for that particular skill category. Performance will be rated on a pass/fail basis. The evaluator has the discretion to discontinue the testing if excessive time has been spent without results, or if there is a concern about safety issues involving the canine, handler, or equipment.

(d) The commission will certify a canine team who can successfully show proficiency, under scrutiny of a canine evaluator, in all of the areas in which the canine will be used:

- (i) Patrol and investigation:
  - (A) Obedience;
  - (B) Protection and control;
  - (C) Area search;
  - (D) Building search; and
  - (E) Tracking.
- (ii) Detection:
  - (A) Building search;
  - (B) Vehicle search;
  - (C) Exterior search; and
  - (D) Obedience.
- (iii) Explosive detection:
  - (A) Obedience;
  - (B) Building search;
  - (C) Private and commercial conveyance search;

(D) Exterior search.

(iv) Master protection:

(A) Obedience;

(B) Protection and control.

(e) Each certification issued pursuant to these rules will remain valid as long as the composition and responsibility of the canine team does not change. A canine team's certification expires if the specific handler and canine, originally paired at the time of certification, cease to perform canine team functions together or if the function for which the team was certified changes. It is recommended that teams recertify on an annual basis.

(f) If the canine team fails any phase of an evaluation, the team must be reevaluated in that particular phase. Canine teams will be allowed three attempts to successfully pass the requirements of each phase during an evaluation. If the team does not pass by the third attempt, the team must be reevaluated in all phases at a different time to be scheduled by the evaluator and approved by the commission.

(7) Recordkeeping:

(a) Each agency is required to keep training, performance, and identification records on canines. The records must stay with the agency responsible for the canine team. The records will be made available for review in the event that the canine is sold or transferred to another agency. The records will include, but not be limited to:

- (i) Microchip number (if applicable);
- (ii) Canine's name;
- (iii) Breed;
- (iv) Training records;
- (v) Certification date;
- (vi) Date acquired or purchased;
- (vii) Source from which the canine was acquired;
- (viii) Purpose, use, or assignment of canine;
- (ix) Handler's name;
- (x) The date and reason the canine was released from service; and
- (xi) Copies of all incident reports in which use of the canine resulted in the use of force.

(b) These records must be retained for a period of one year from the date the canine is removed from active service unless a longer retention is required by statute or local ordinance.

(c) It is the responsibility of the handler to advise their employing agency of the fact that they have met the standards for canine certification. The proof of certification with the evaluator's signature along with a request for canine certification must be submitted to the commission by the employing agency. This will be considered as a request for certification. Upon verification that the minimum requirements have been met, the commission will issue certification to the canine team.

(8) It is recommended that a canine intended for use by a law enforcement or corrections agency, be positively identified by having a microchip medically inserted in the canine. Any canine that is sold by a vendor to a Washington state governmental agency for use as a law enforcement or corrections canine should be able to be identified by microchip placed in the canine at the vendor's expense prior to the

~~canine being sold to the law enforcement or corrections agency.~~

~~Once the microchip has been inserted, it is recommended that it not be removed except for medical necessity. If it becomes necessary to remove the microchip, the reason for the removal must be documented and entered into the canine's training records and a new microchip inserted, if medically appropriate.)~~ Canine teams working in the state of Washington shall be certified to the adopted standards as set by criminal justice training commission (CJTC) policy. The standards shall be maintained by commission staff and readily available to stakeholders. These standards include the minimum performance standards for canine teams performing specific law enforcement or corrections functions. As a condition of certification, each handler must ensure that the canine performs to a level that is deemed acceptable by the commission in the category for the team's intended use.

An evaluator shall be a person who is recognized and appointed by the CJTC to perform the testing of the canine teams. The qualifications to become an evaluator relating to canine certification shall be outlined in the evaluation policy adopted by the CJTC.

In evaluating the proficiency of the canine team, evaluators shall use the standards approved by the commission for that particular discipline. Each certification issued pursuant to these rules will remain valid for twelve months, as long as the composition and responsibility of the canine team does not change. A canine team's certification shall automatically expire if the specific handler and canine, originally paired at the time of certification, cease to perform canine team functions together or if the function for which the team was certified changes.

This process is not related to, nor does it have any effect upon, the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.

**WSR 16-22-028**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed October 25, 2016, 10:14 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 246-271 WAC, Public sewage, repeal the chapter because state board of health (board) rule-making authority has been superseded by more current and more specific department of ecology (ecology) statutory authority. The board delegated rule-making authority to the department of health (department) to repeal this chapter at its August 10, 2016, meeting.

Hearing Location(s): Department of Health, Town Center 2, Room 530, 111 Israel Road S.E., Tumwater, WA 98511, on December 16, 2016, at 10:00 a.m.

Date of Intended Adoption: December 23, 2016.

Submit Written Comments to: Vicki M. Bouvier, P.O. Box 47820, Olympia, WA 98504, e-mail <https://fortress.wa.gov/doh/policyreview>, by December 16, 2016.

Assistance for Persons with Disabilities: Contact Vicki M. Bouvier by December 9, 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 proposed rule is to repeal chapter 246-271 WAC, Public sewage. This chapter is outdated and duplicative with ecology and other public health statutes and rules. The board's rule-making authority under RCW 43.20.050 has been superseded by more current and more specific ecology statutory authority in chapter 90.48 RCW. As a result, the requirements of chapter 246-271 WAC do not reflect the most current and appropriate regulation of public sewage.

Reasons Supporting Proposal: The department performed a section-by-section analysis of the chapter to confirm all requirements of chapter 246-271 WAC are adequately regulated under ecology statutes and rules and other public health statutes and rules to protect public health. The department consulted with ecology to complete the rule review and ensure no essential public health regulatory oversight will be lost with the repeal of the chapter. The department also confirmed that local health jurisdictions do not rely on the chapter for any activities unknown to the department.

Statutory Authority for Adoption: RCW 43.20.050.

Statute Being Implemented: RCW 43.20.050.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Vicki M. Bouvier, 111 Israel Road S.E., Tumwater, WA 98511, (360) 236-3011.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(d), a small business economic impact statement is not required for proposed rules that only correct typographical errors, make address or name changes, or clarify the language of a rule without changing its effect.

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)(iv) exempts rules that only correct typographical errors, make address or name changes or clarify the language of a rule without changing its effect.

Clark Halvorson  
 Assistant Secretary  
 Division of  
 Environmental Public Health

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 246-271-010 Definitions.

WAC 246-271-020 Prohibited methods of sewage disposal.

- WAC 246-271-030 Investigative and order powers of secretary.
- WAC 246-271-040 Plans for sewage systems.
- WAC 246-271-050 Plans for sewage treatment works.
- WAC 246-271-060 Plans for sewage treatment works—Requirements for engineers.
- WAC 246-271-090 Operation of sewage treatment plants—Disinfection.
- WAC 246-271-100 Irrigation with sewage.
- WAC 246-271-110 Use of sewage sludge for fertilizer.
- WAC 246-271-120 Adoption of appendix details as rules.
- WAC 246-271-130 Appendix—Definitions.
- WAC 246-271-140 Appendix—Report—Sewage system.
- WAC 246-271-150 Appendix—General layout map.
- WAC 246-271-160 Appendix—Plot plan.
- WAC 246-271-170 Appendix—Engineering report—Sewage treatment works.
- WAC 246-271-180 Appendix—Preliminary report, industrial waste treatment works.

**WSR 16-22-030****PROPOSED RULES****DEPARTMENT OF HEALTH**

(Chiropractic Quality Assurance Commission)

[Filed October 25, 2016, 11:03 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 15-22-070.

Title of Rule and Other Identifying Information: WAC 246-808-150 Commission approved continuing education (CE), 246-808-155 Prior approval not required and 246-808-165 Exemptions; the chiropractic quality assurance commission (commission) is proposing amending WAC 246-808-150 to meet the requirements of ESHB 1424 (chapter 249, Laws of 2015) to clarify acceptable CE documentation and CE exemptions, and adding language regarding when chiropractors must start reporting CE. The commission is proposing to repeal WAC 246-808-155 and 246-808-165.

Hearing Location(s): Department of Health, Creekside 2, Room 309, 20425 72nd Avenue South, Kent, WA 98032, on December 8, 2016, at 9:30 a.m.

Date of Intended Adoption: December 8, 2016.

Submit Written Comments to: Leann Yount, Program Manager, Chiropractic Quality Assurance Commission, P.O. Box 47858, Olympia, WA 98504-7858, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2360, by December 5, 2016.

Assistance for Persons with Disabilities: Contact Leann Yount by November 23, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In the 2015 legislative session, the legislature passed ESHB 1424 (chapter

249, Laws of 2015), codified as RCW 43.70.442, that extends the suicide CE reporting period to 2017. The bill also requires the department of health (department) to create minimum standards for the training programs and include them on a model list. Beginning July 1, 2017, the suicide CE training must be taken from a vendor identified on the model list or it will not count as meeting the requirement in RCW 43.70.442. Changes to CE, including the suicide training required by statute, will not increase or decrease the total number of CE hours required. Additionally, the text in WAC 246-808-155 and 246-808-165 can be incorporated into the CE rule in WAC 246-808-150 to capture the requirements in one rule, making it easier to read, and to reduce the number of rules.

Reasons Supporting Proposal: The intent of chapter 18.25 RCW is to regulate the competency and quality of chiropractors by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. The intent of RCW 43.70.442 is the [to] help reduce suicide in Washington state. The proposal meets the intent of both statutes by clarifying the CE requirements and recognizing the model list, so chiropractors not only maintain but also expand their practice skills and knowledge to protect the public's health and safety.

Statutory Authority for Adoption: RCW 18.25.0171, 18.130.050, and 18.25.070.

Statute Being Implemented: RCW 18.25.0171 and 43.70.442.

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

Name of Proponent: Leann Yount, program manager, chiropractic quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Leann Yount, P.O. Box 47858, Olympia, WA 98504-7858, (360) 236-4856.

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 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.

October 24, 2016

Leann Yount

Program Manager

**AMENDATORY SECTION** (Amending WSR 15-07-005, filed 3/6/15, effective 4/6/15)

**WAC 246-808-150 Commission approved continuing education.** (1) (~~Chiropractors must complete~~) A chiropractor must demonstrate completion of twenty-five hours of continuing education ((per year under)) each annual renewal cycle as required by RCW 18.25.070 and chapter 246-12

WAC, Part 7. ~~((2))~~ The required continuing education must be obtained during the period between renewals.

(2) A chiropractor must attest to completion of the continuing education requirement upon renewal. If the first renewal period is less than one full year from the date of licensure, no continuing education will be due for the first renewal period.

(3) A chiropractor in active status who resides and practices outside Washington must meet all the requirements.

(4) A chiropractor is not required to obtain prior approval of any continuing education.

(5) The commission approves the following subject material within the scope of practice for continuing chiropractic education credit:

- (a) Diagnosis and treatment of the spine or extremity articulations within the scope of practice;
- (b) X-ray/diagnostic imaging;
- (c) Adjustive technique;
- (d) Detection of a subluxation;
- (e) Physical examination;
- (f) Hygiene;
- (g) Symptomatology;
- (h) Neurology;
- (i) Pathology;
- (j) Orthopedics;
- (k) Patient/case management, documentation, coding;
- (l) Impairment within the scope of practice;
- (m) CPR (not to exceed a total of four hours);
- (n) Dietary and nutrition advice;
- (o) Chiropractic philosophy; and
- (p) Governmental regulations relevant to chiropractic and public health (not to exceed a total of twelve hours).

~~((3) Beginning June 12, 2014,))~~ (6) As part of the continuing education, a chiropractor ~~(s are required to)~~ must obtain a one-time, three-hour ~~(s)~~ training in suicide screening and referral from a qualified suicide prevention training program. ~~((This is a one-time suicide prevention training that))~~ The training must be completed during the first full reporting period after ~~((June 12, 2014, or the first full continuing education reporting period after))~~ initial licensure ~~((; whichever is later))~~.

(a) A qualified training program is empirically supported training in suicide screening and referral that is at least three hours in length ~~((which))~~ and may be provided in one or more sessions.

(b) The hours spent completing a training program in suicide screening and referral under this section count toward meeting any applicable continuing education requirements.

(c) Effective July 1, 2017, in order to meet the suicide training requirements, a chiropractor must obtain the three-hour training in suicide screening and referral from a qualified suicide prevention training program identified on the department of health's model list as required under RCW 43.70.442.

(d) Nothing in this subsection is intended to expand or limit the chiropractic scope of practice.

~~((4))~~ (7) Subject matter not approved for continuing education credit:

(a) Subject matter not directly relating to the chiropractic clinical scope of practice; and

(b) Conduct prohibited by Washington state statutes or rules governing chiropractic practice.

~~((5))~~ (8) A chiropractor may earn a maximum of twelve hours for:

(a) Completing a multimedia chiropractic education program, which includes, but is not limited to, the internet, tele-seminars, employer led training ~~((offering continuing education hours))~~, and audio or video presentations.

(b) Serving as teachers or lecturers in continuing education programs approved under subsection ~~((2))~~ (5) of this section. A chiropractor may receive credit on the same basis as those attending the program.

~~((6))~~ (9) The commission may randomly audit license holders for compliance. A chiropractor must provide acceptable documentation of attendance upon commission request or audit. Acceptable forms of documentation include:

- (a) Transcripts;
- (b) ~~((Letters))~~ Written documentation from the course instructors;
- (c) Certificate of completion indicating the name of the course, date(s) of the course, and the number of credit hours completed; or
- (d) Other formal documentation which includes:
  - (i) Participant's name;
  - (ii) Course title;
  - (iii) Course content;
  - (iv) Date(s) of course;
  - (v) ~~((Provider's))~~ Number of credit hours completed;
  - (vi) Instructor's name(s); and
  - ~~((vi))~~ (vii) Signature of the program sponsor or course instructor. Multimedia courses are exempt from the signature requirement.

~~((7) Chiropractors in active status who reside and practice outside Washington must meet all the requirements.))~~

(10) A sponsor offering a continuing chiropractic education program does not need prior commission approval for a formal continuing education program. The number of creditable hours may be determined by counting the contact hours of instruction. A credit hour for time actually spent in a course cannot be less than fifty minutes as required in chapter 246-12 WAC, Part 7.

(11) The commission may grant exemptions or time extensions on an individual basis, if a licensee fails to meet continuing education requirements due to illness, retirement, or other extenuating circumstances.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-808-155 Prior approval not required.

WAC 246-808-165 Exemptions.

**WSR 16-22-039**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed October 27, 2016, 10:11 a.m.]

October 21, 2016

Randy Dorn  
 State Superintendent  
 of Public Instruction

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-026.

Title of Rule and Other Identifying Information: Vocational indirect cost limit carryover recovery calculations as described in WAC 392-121-571 and 392-121-578 need to be revised to eliminate the language that restricts the allowable program carryover to the value of the career and technical education (CTE) enhancement which is now approximately three percent.

Hearing Location(s): Office of Superintendent of Public Instruction, Old Capitol Building, 600 South Washington, Olympia, WA 98501, on December 7, 2016, at 11:00 a.m.

Date of Intended Adoption: December 9, 2016.

Submit Written Comments to: T. J. Kelly, P.O. Box 47200, Olympia, WA 98504-7200, e-mail thomas.kelly@k12.wa.us, fax (360) 664-3683, by December 7, 2016.

Assistance for Persons with Disabilities: Contact Kristin Murphy by November 30, 2016, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Current rule limits the amount of carryover a CTE program can bring from one school year to the next to the value of the CTE program enhancement. While the maximum allowable carryover is ten percent, because the enhancement is now less than ten percent, districts cannot actually carryover that level of funds any longer. This rule change will eliminate the language that restricts the carryover to the value of the CTE enhancement, and make it ten percent of the program allocation less recovery.

Reasons Supporting Proposal: This rule change will allow programs to carryover state funds from one school year to the next at a level that will allow them to build budget capacity in future years, and facilitate program growth.

Statutory Authority for Adoption: RCW 28A.150.290 and 28A.710.220.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: T. J. Kelly, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6301.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable, no small business impact, no school district fiscal impact.

A cost-benefit analysis is not required under RCW 34.05.328. The superintendent of public instruction is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-121-571 Vocational indirect cost limit—Definitions.** As used in WAC 392-121-570 through 392-121-578:

(1) "Program 31" means the high school vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(2) "Program 34" means the middle school vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(3) "Basic allocation for vocational students" means the amount of money generated by a school district's or charter school's vocational full-time equivalent enrollment in the general apportionment formula using the state funding formula factors including the grade 4-12 staffing ratios without enhancement, and using the district's or charter school's average certificated instructional staff mix factor for program 31 staff from the district's S-275 personnel report.

~~((3))~~ (4) "Enhancement allocation for vocational students" means the additional money above the basic allocation for vocational students generated by a school district's or charter school's vocational full-time equivalent enrollment as a result of the enhanced state vocational staffing ratio and enhanced nonemployee related cost allocation for vocational students. This enhancement shall be calculated using the district's or charter school's average certificated instructional staff mix factor for program 31.

~~((4))~~ (5) "Vocational running start allocation" means the amount generated in the general apportionment formula by a school district's or charter school's running start students enrolled in vocational courses in a community or technical college pursuant to chapter 392-169 WAC.

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-121-578 Vocational indirect cost limit—Recovery of state allocations.** (1) At the time of the January apportionment calculations after the close of the school year, the superintendent of public instruction shall recalculate each school district's or charter school's minimum direct expenditures.

(2) If the district's or charter school's program 31 expenditures are below the minimum program 31 expenditure amount, the district or charter school shall be allowed to carry over into the ensuing school year an amount equal to up to ten percent of the minimum expenditure amount excluding any carryover from the prior school year (~~(-The actual amount carried over to the ensuing year shall be no more than the vocational enhancement)~~), less ~~((the))~~ recovery.

(3) The superintendent of public instruction shall recover from the district's or charter school's general apportionment allocation as a prior year adjustment an amount equal to the



lesser of the district's or charter school's enhancement allocation for vocational students or the following amount:

(a) The district's or charter school's minimum program 31 expenditures; minus

(b) The district's or charter school's program 31 expenditures plus any allowable carryover.

(4) Recoveries made pursuant to this section shall be adjusted after the January apportionment calculation if revised enrollment, staff mix, or expenditure data submitted by the district or charter school and accepted by the superintendent of public instruction materially affects the district's or charter school's recovery amount.

**WSR 16-22-044**

**PROPOSED RULES**

**DEPARTMENT OF HEALTH**

(Pharmacy Quality Assurance Commission)

[Filed October 28, 2016, 9:54 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: WAC 246-901-080 Pharmacy assistant registration, proposing amendments to existing rule to implement and conform with enacted SB 5549 (chapter 4, Laws of 2016), removing pharmacy assistant registration and renewal fee language. Fee rules are being adopted under separate rule making.

Hearing Location(s): SeaTac Red Lion Inn, 18220 International Boulevard, Seattle, WA 98188, on January 5, 2017, at 9:00 a.m.

Date of Intended Adoption: January 5, 2017.

Submit Written Comments to: Katherine Hoffman, P.O. Box 47850, Olympia, WA 98504-7850, e-mail <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-4626, by December 21, 2016.

Assistance for Persons with Disabilities: Contact Katherine Hoffman by December 30, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule will change current rule by removing language regarding the timing of pharmacy assistant registration renewal and remove reference to the fees being included in the pharmacy ancillary personnel fee.

Reasons Supporting Proposal: SB 5549 amended portions of chapter 18.64A RCW affecting registration and discipline of pharmacy assistants and adding them to the Uniform Disciplinary Act (UDA). Proposed rule changes are needed to conform with fees proposed by the secretary of health as WAC 246-907-0301, and with SB 5549.

Statutory Authority for Adoption: Chapter 18.64 RCW.

Statute Being Implemented: SB 5549 (chapter 4, Laws of 2016).

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

Name of Proponent: Pharmacy quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Katherine Hoffman, 111 Israel Road S.E., Tumwater, WA 98503 [98501], (360) 236-2979; Implementation and Enforcement: Steven Saxe, 111 Israel Road S.E., Tumwater, WA 98503 [98501], (360) 236-2903.

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].

October 28, 2016

Tim Lynch, PharmD, MS  
Chair

AMENDATORY SECTION (Amending WSR 00-15-081, filed 7/19/00, effective 8/19/00)

**WAC 246-901-080 Pharmacy assistant registration.**

(1) Training. No formal training or educational program will be required by the board, and there will be no age or educational restrictions. The supervising pharmacist shall thoroughly instruct the pharmacy assistant in the limitations of the functions he or she may perform.

(2) Registration of pharmacy assistants. Any person desiring registration as a pharmacy assistant shall apply to the board for registration on forms to be supplied by the board. ~~((The fee for registration will be included in the fee for authorization to utilize the services of pharmacy ancillary personnel.))~~

(3) It is the responsibility of the pharmacy assistant to maintain a current mailing address with the board as required by chapter 246-12 WAC. Pharmacy assistants shall notify the board of any change of mailing address within thirty days of the change.

(4) A pharmacy assistant registration must be renewed ~~((every two years on the assistant's birthdate. The fee for renewal is included in the fee the pharmacy pays to utilize pharmacy ancillary personnel))~~ in accordance with WAC 246-907-0301.

**WSR 16-22-048**

**PROPOSED RULES**

**PUBLIC DISCLOSURE COMMISSION**

[Filed October 28, 2016, 2:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-17-032.

Title of Rule and Other Identifying Information: New WAC 390-05-195 Application of RCW 42.17A.140(1).

Hearing Location(s): Office of the Public Disclosure Commission (PDC), 711 Capitol Way, Room 206, Olympia, WA 98504, on Thursday, December 8, 2016, at 9:30 a.m.

Date of Intended Adoption: December 8, 2016.

Submit Written Comments to: Evelyn Fielding-Lopez, P.O. Box 40908, Olympia, WA 98504, e-mail [evelyn.lopez@pdc.wa.gov](mailto:evelyn.lopez@pdc.wa.gov), fax (360) 664-2735, by November 30, 2016.

Assistance for Persons with Disabilities: Contact Jana Greer by e-mail [Jana.Greer@pdc.wa.gov](mailto:Jana.Greer@pdc.wa.gov), or (360) 753-1985.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed new rule establishes a timely filed presumption for mailed reports that are received by PDC within five business days of the statutory filing deadline.

Reasons Supporting Proposal: RCW 42.17A.140(1) provides that the post office cancellation mark be used as the date received for mailed reports. Postage purchased online at [stamps.com](http://stamps.com) is not cancelled, which results in the commission frequently receiving mailed reports in envelopes that do not bear a cancellation mark. Having the ability to use the date received to determine whether a report is timely filed resolves the issue presented by a lack of a post office cancellation mark. Furthermore, the commission will realize efficiencies if allowed to stamp one, consistent received date on reports as they are scanned for online access.

Statutory Authority for Adoption: RCW 42.17A.110(1).

Statute Being Implemented: RCW 42.17A.140.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No fiscal impact is expected to result from the proposed rule.

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting: Lori Anderson, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2737; Implementation and Enforcement: Evelyn Lopez, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small business. PDC is not subject to the requirement to prepare a school district fiscal impact statement, per RCW 28A.305.-135 and 34.05.320.

A cost-benefit analysis is not required under RCW 34.05.328. PDC is not an agency listed in subsection (5)(1)(i) of RCW 34.05.328. Further, PDC does not voluntarily make that section applicable to the adoption of these rules pursuant to subsection [subsection] (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of these rules.

October 28, 2016

Lori Anderson  
Communications and  
Training Officer

#### NEW SECTION

**WAC 390-05-195 Application of RCW 42.17A.140 (1).** (1) In accordance with RCW 42.17A.140(1), the date of receipt of any properly addressed application, report, statement, notice, or payment required under the provisions of chapter 42.17A RCW is the date shown by the post office cancellation mark on the envelope. The commission frequently receives mailed items that do not bear a post office cancellation mark.

(2) Any report mailed to the commission under the provisions of chapter 42.17A RCW is presumed to be filed timely if received within five business days of the due date provided for in chapter 42.17A RCW.

(3) A mailed report may not be substituted for a report required to be electronically filed under the provisions of chapter 42.17A RCW.

#### **WSR 16-22-053**

#### **PROPOSED RULES**

#### **HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed October 31, 2016, 9:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-112.

Title of Rule and Other Identifying Information: WAC 182-509-0360 MAGI income—How a child's income is counted.

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](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000), on December 6, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than December 7, 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](mailto:arc@hca.wa.gov), fax (360) 586-9727, by 5:00 p.m. on December 6, 2016.

Assistance for Persons with Disabilities: Contact Amber Lougheed by December 2, 2016, e-mail [amber.lougheed@hca.wa.gov](mailto: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: The agency is updating this rule to comply with 42 C.F.R. 43.

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: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1408; Implementation and Enforcement: Steve Kozak, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1343.

No small business economic impact statement has been prepared under chapter 19.85 RCW. 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.

October 31, 2016  
Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

**WAC 182-509-0360 MAGI income—How ((a child's)) the income of a child age eighteen or younger or a tax dependent is counted.** ~~((For purposes of))~~ The medic-aid agency determines what income is counted when determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health ((WAH) (see)) under WAC 182-509-0300((:)).

~~(1) Income received by a child claimed as a tax dependent by someone else is not counted when determining the eligibility of the tax filers who claim the tax dependent.~~

~~(2) Income received by a child in a nonfiling medical assistance unit (as described in WAC 182-506-0010) is not counted when determining the eligibility of the child or the other household members in the nonfiling household.~~

~~(3) Income received by a child age eighteen or younger who is required to file his or her own tax return but who is also claimed as a tax dependent by another person is counted when determining eligibility for WAH for the child, but not the person that claims them.~~

~~(4) Income of a sibling is not counted when determining the eligibility of any other sibling in the household).~~

(1) When determining countable income for persons described in subsections (2) through (4) of this section, the countable income of a child age eighteen or younger or of a tax dependent is included only when it meets the threshold required for tax filing under 26 U.S.C. Sec. 6012 (a)(1). For purposes of this section, countable income of a child or tax dependent does not include Social Security dependent benefits.

(2) Determining countable income of a tax filer. The countable income of a tax filer includes the countable income of each member in the tax filer's medical assistance unit (MAU) under WAC 182-506-0012(1).

(3) Determining countable income of a tax dependent. The countable income of a tax dependent includes the countable income of each member in the tax dependent's MAU under WAC 182-506-0012(2).

(4) Determining countable income of a nonfiler. The countable income of a nonfiler, including a person considered a nonfiler under WAC 182-506-0012 (2)(b)(ii), includes the countable income of each member in the nonfiler's MAU under WAC 182-506-0012(3).

**WSR 16-22-055**  
**PROPOSED RULES**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed October 31, 2016, 9:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-17-031.

Title of Rule and Other Identifying Information: Amending WAC 390-37-041 Enforcement procedures—Allegations submitted to the attorney general's office and/or prosecuting attorneys, 390-37-050 Enforcement procedures—Respondent's notice of complaint, 390-37-060 Enforcement procedures—Alternative responses to noncompliance—Investigation of complaints—Initiation of adjudicative proceeding, 390-37-100 Enforcement procedures—Conduct of hearings (adjudicative proceedings), 390-37-105 Prehearing conference—Rule, 390-37-132 Enforcement hearings (adjudicative proceedings)—Depositions and interrogatories—Notice, 390-37-136 Production of documents and use at hearing and other hearing procedures (adjudicative proceedings), 390-37-142 Brief enforcement hearing (adjudicative proceeding)—Procedure, 390-37-144 Brief adjudicative proceeding—Administrative review procedures, and 390-37-150 Reconsideration and judicial review of decisions; repealing WAC 390-37-155 Electronic filing brief enforcement hearing penalty schedule, 390-37-160 Statement of financial affairs (F-1) penalty schedule, 390-37-165 Candidate registration statement (C-1)/candidate statement of financial affairs (F-1) penalty schedule, 390-37-170 Lobbyist monthly expense report (L-2) penalty schedule and 390-37-175 Lobbyist employer report (L-3) penalty schedule; and new WAC 390-37-143 Brief enforcement hearings (adjudicative proceeding)—Penalty schedule.

Hearing Location(s): Office of the Public Disclosure Commission (PDC), 711 Capitol Way, Room 206, Olympia, WA 98504, on Thursday, December 8, 2016, at 9:30 a.m.

Date of Intended Adoption: December 8, 2016.

Submit Written Comments to: Evelyn Fielding-Lopez, P.O. Box 40908, Olympia, WA 98504, e-mail [evelyn.lopez@pdc.wa.gov](mailto:evelyn.lopez@pdc.wa.gov), fax (360) 664-2735, by November 30, 2016.

Assistance for Persons with Disabilities: Contact Jana Greer by e-mail [Jana.Greer@pdc.wa.gov](mailto:Jana.Greer@pdc.wa.gov), or (360) 753-1985.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Differentiate citizen action notices referred by the attorney general or prosecuting attorney solely for investigation from complaints filed with PDC and clarify the commission's limited investigatory role when a citizen action notice is referred. Update enforcement procedural rules to make consistent with the state's model administrative procedures and recent public records case law, modernize time period calculations for requests of

reconsideration of decisions by replacing "twenty-one business days" with "within ten days of service"; make consistent the use of "day" and "business day" throughout chapter 390-37 WAC; consolidate five current brief administrative proceeding penalty schedules into one and insert penalty amounts for additional violations that may be adjudicated in brief proceedings.

Reasons Supporting Proposal: The proposed rules:

- Better inform the public by clarifying and explaining what procedures are followed when a citizen action notice is referred for investigation;
- Make procedures more predictable by ensuring that terms "day" and "business day" are used consistently throughout chapter 390-37 WAC and clarifying process and time period calculation;
- Implement best practices by aligning hearing rules with the state's model administrative procedures; and
- Make enforcement procedures more "user-friendly" by consolidating five current penalty schedules into a single, enhanced schedule that includes penalty amounts for all types of violations that may be heard in a brief adjudicative proceeding and provides greater opportunity for respondents to take advantage of the statement of understanding enforcement alternative.

Statutory Authority for Adoption: RCW 42.17A.110(1).

Statute Being Implemented: RCW 42.17A.755 and 42.17A.765.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No fiscal impact is expected to result from the proposed rule.

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting: Lori Anderson, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2737; Implementation and Enforcement: Evelyn Lopez, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small business. PDC is not subject to the requirement to prepare a school district fiscal impact statement, per RCW 28A.305.-135 and 34.05.320.

A cost-benefit analysis is not required under RCW 34.05.328. PDC is not an agency listed in subsection (5)(1)(i) of RCW 34.05.328. Further, PDC does not voluntarily make that section applicable to the adoption of these rules pursuant to subsection [subsection] (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of these rules.

October 31, 2016

Lori Anderson  
Communications and  
Training Officer

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-37-041 ((Enforcement)) Citizen action notice procedures—Allegations submitted to the attorney general's office and/or prosecuting attorneys.** (1) When a person has notified the attorney general or prosecuting attorney under RCW 42.17A.765(4) that there is reason to believe a violation of the sections of chapter 42.17A RCW enforced by the commission has occurred, and the attorney general or ~~((prosecutor))~~ prosecuting attorney forwards the ~~((complaint))~~ citizen action notice to the commission, commission staff may:

~~((1) Initiate))~~ (a) Conduct an investigation and report the findings to the commission within time frames provided for in RCW 42.17A.765;

~~((2) Submit a report to the commission that may include a recommendation;~~

~~(3) Schedule the matter for an adjudicative proceeding before the commission following investigation; and/or~~

~~(4))~~ (b) Conduct an initial review and report to the commission whether the initial review indicated that a violation of chapter 42.17A RCW may have occurred;

(c) Recommend to the commission whether to recommend to the referring attorney general or prosecuting attorney to commence a civil action; and

(d) Take any other steps consistent with the agency's authority and resources.

(2)(a) A report to the commission will be made in an open public meeting. Commission staff shall provide advance notice of the meeting to the initiator and the subject of the citizen action as soon as is practicable. Any commission action to determine whether a recommendation will be made to the attorney general or prosecuting attorney will be made in an open public meeting within the time allotted by law.

(b) A report of investigation or initial review may be provided at any time to the attorney general or prosecuting attorney, at their request.

(3) When a citizen action notice is filed alleging the same or substantially similar violations alleged earlier by the same person in a complaint filed with the commission, the commission staff may continue its investigation of the complaint and may initiate an adjudicative proceeding as provided for in WAC 390-37-060.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-050 Enforcement procedures—Respondent's notice of complaint.** Within ten ~~((business))~~ days of receipt by the commission of a complaint which on its face appears to have merit, the commission shall notify the respondent that a complaint has been filed. The notice shall set forth the nature of the complaint and its origin (citizen complaint, commission or other) and the statutory provision alleged to have been violated. If an alternative response to the alleged violation has been issued as provided by this chapter, the notice shall also describe that response, including any conditions the respondent is required to meet.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-060 Enforcement procedures—Alternative responses to noncompliance—Investigation of complaints—Initiation of adjudicative proceeding.** (1)

Upon receipt of a complaint, the executive director will conduct an initial review of the complaint to determine what action will be taken. An initial review is a preliminary investigation to determine whether the allegations are limited to minor or technical violations of chapter 42.17A or if there is sufficient ground indicating that a material violation of chapter 42.17A RCW may have occurred so as to warrant a formal investigation.

(a) If the executive director ((shall return)) determines that any complaint ((that)) is obviously unfounded or frivolous((-)), the executive director will inform the complainant why ((the complaint is returned)) no further investigation is warranted.

(b) The executive director may resolve any complaint that alleges minor or technical violations of chapter 42.17A by issuing a formal written warning. If the resolution is conditioned upon the respondent reaching or maintaining compliance, specific expectations and any deadlines should be clearly explained in the written warning. A respondent's failure to meet conditions may result in a complaint being reopened.

(c) The executive director may use the complaint publication process set out in WAC 390-32-030 to resolve any complaint that alleges minor or technical violations of chapter 42.17A RCW.

(d) The director shall initiate a formal investigation whenever an initial review of a complaint indicates that a material violation of chapter 42.17A RCW may have occurred.

(2) If the executive director determines a formal investigation will require the expenditure of substantial resources, the executive director may request review and concurrence by the commission before proceeding.

(3) The executive director shall initiate an adjudicative proceeding or provide a report to the commission whenever a formal investigation reveals facts that the executive director has reason to believe are a material violation of chapter 42.17A RCW and do not constitute substantial compliance.

(4) The respondent and complainant shall be notified of the date of the adjudicative proceeding or a report on an enforcement matter resulting from a complaint no later than ten ~~((calendar))~~ days before that date. The notice shall contain the information required by RCW 34.05.434, the staff investigative report, and any charges to be adjudicated. The notice, whenever possible, will be delivered electronically.

~~((5) It is the policy of the commission during the course of any investigation that all records generated or collected as a result of that investigation are exempt from public inspection and copying under RCW 42.56.240(1).~~

~~((a) The records are exempt until:~~

~~((i) A final staff investigative report is submitted; or~~

~~((ii) The executive director issues a final disposition of the complaint through an alternative response as provided in this section.~~

~~((b) Without waiving any exemptions from public disclosure that are otherwise available for pending investigations, the commission may make public:~~

~~((i) A copy of a complaint filed with or submitted to the commission, including any attachments;~~

~~((ii) A copy of the respondent's initial response to a complaint; and~~

~~((iii) Materials concerning an enforcement matter that are placed on the commission's web site with a commission meeting agenda.~~

~~((e) If a request is made for any such record that implicates the privacy of an individual as defined in RCW 42.56.050, written notice of the records request may be provided to the individual in order that such individual may request a protective order from a court under RCW 42.56.540.~~

~~((d) Certain documents provided to the commission shall be returned to candidates, campaigns, or political committees as required by RCW 42.17A.105 within seven calendar days of the commission's final action upon completion of an audit or field investigation.))~~

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

**WAC 390-37-100 Enforcement procedures—Conduct of hearings (adjudicative proceedings).** (1)

An enforcement hearing (adjudicative proceeding) shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW). Chapter 390-37 WAC further governs these proceedings, as supplemented by chapter 10-08 WAC. To the extent chapters 390-37 and 10-08 WAC differ, chapter 390-37 WAC controls.

(2) An adjudicative proceeding shall be heard by the commission, except for brief adjudicative proceedings which are conducted by the chair or the chair's designee.

(3) The commission shall have the authority to:

(a) Determine the order of presentation of evidence;

(b) Administer oaths and affirmations;

(c) Rule on procedural matters, objections, and motions;

(d) Rule on offers of proof and receive relevant evidence;

(e) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(h) Take official notice of facts pursuant to RCW 34.05.452(5);

~~((h)) (i) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;~~

~~((i)) (j) Permit or require oral argument or briefs and determine the time limits for submission thereof;~~

~~((j))~~ (k) Issue an order of default pursuant to RCW 34.05.440;

~~((l))~~ (l) Take any other action necessary and authorized by any applicable statute or rule;

~~((m))~~ (m) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver; and

~~((n))~~ (n) The commission chair or the chair's designee may conduct the procedural aspects of the adjudicative proceeding under (a) through ~~((h))~~ (m) of this subsection, unless a majority of members present vote to seek a full commission decision on any particular matter.

(4) The commission may decide dispositive motions, and any other matters referred to it by the presiding officer at a prehearing conference.

(5) After an adjudicative proceeding by the commission, the commission may find that:

(a) Respondent did not violate the act, as alleged, and dismiss the case; or

(b) Respondent violated chapter 42.17A RCW, as alleged, and determine the sanction, if any, to be imposed; or

(c) Respondent is in apparent violation of chapter 42.17A RCW, its own remedies are inadequate and enter its order referring the matter to the appropriate law enforcement agency as provided in RCW 42.17A.105 and 42.17A.755.

(6) Upon the conclusion of an adjudicative proceeding, the commission:

(a) Shall set forth in writing its findings of fact, conclusions of law and decision on the merits of the case and enter an order; and

(b) Shall serve the respondent a copy of the findings of fact, conclusions of law and decision and order.

(7) The executive director is authorized to sign orders on behalf of the commission.

~~((8) When the commission finds an apparent violation and refers the matter to an enforcement agency, the commission shall give to the respondent written notice of such finding and order of referral.)~~

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

**WAC 390-37-105 Prehearing conference—Rule.** (1)

In any prehearing conference prior to an enforcement hearing (adjudicative proceeding), the chair or the chair's designee upon his/her own motion or upon request by one of the parties or their qualified representative, may direct the parties to appear at a specified time and place for a conference to consider:

(a) Identifying and simplifying issues;

(b) The necessity of amendments to the ~~((hearing notice))~~ pleadings;

(c) The possibility of obtaining stipulations, admissions of facts and of documents;

(d) Limiting the number and consolidation of the examination of witnesses; and

(e) Procedural and such other matters as may aid in the conduct of the proceeding.

(2) Prehearing conferences may be presided over by the chair or his/her designee.

(3) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(4) In a prehearing conference, the presiding officer may hear prehearing motions regarding preliminary matters such as motions *in limine*, discovery motions, and other similar matters. The presiding officer shall not consider dispositive motions in a prehearing conference and such motions will automatically be scheduled for consideration before the commission.

(5) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken and decisions made at the conference and the date on which objections to the order are to be filed and served. If no objection to the order is timely filed with the presiding officer, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(6) When the chair or his/her designee presides over a prehearing conference, he or she is acting as a quasi-judicial body which relates to a quasi-judicial matter between named parties. Therefore, a prehearing conference is not subject to chapter 42.30 RCW, Open Public Meetings Act.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

**WAC 390-37-132 Enforcement hearings (adjudicative proceedings)—Depositions ~~((and interrogatories))~~—**

**Notice.** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than ~~((seven calendar))~~ five business days in writing to the commission and all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party to whom the notice is served, the commission or its hearing officer may, for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

AMENDATORY SECTION (Amending WSR 06-07-001, filed 3/1/06, effective 4/1/06)

**WAC 390-37-136 Production of documents and use at hearing and other hearing procedures (adjudicative proceedings).** (1) Unless a prehearing order states otherwise, the provisions of this rule apply to evidence and written argument (legal briefs) filed and served in hearings (adjudicative proceedings). Parties or the executive director may request a prehearing conference if provisions of this rule need to be adjusted or if the provisions are not adhered to by the parties.

(2) The parties are encouraged to exchange copies of proposed exhibits, exhibit lists and witness lists prior to the deadline specified in subsection (3)(a) of this section. The parties are encouraged to exchange documents by e-mail. The parties are encouraged to confer and determine whether there are any objections to the evidence and whether any agreements or stipulations can be reached regarding proposed exhibits, witnesses, and legal and factual issues.

(3)(a) Unless the commission determines otherwise, when evidence is to be offered at the adjudicative proceeding

or when briefs are to be submitted at the adjudicative proceeding, the party offering the evidence or brief shall file with the commission and serve on all parties a copy of proposed exhibits, exhibit lists, witness lists, and briefs with the commission via an e-mail to the executive director or his or her designee by the date and time designated by the executive director or designee, which is typically by 1:00 p.m. Pacific Time at least eight (~~calendar~~) days prior to the hearing. The e-mail shall provide the name of the party submitting the documents, the total number of pages, the software used to prepare the document, and the name, address, telephone number and e-mail address of the person sending the e-mail message.

(b) In the event electronic submission is not readily available to a *pro se* respondent or the evidence is not suited to e-mail transmission, other means of providing these materials to the commission may be approved by the chair or the executive director, or their designees if requested in advance of the date and time in (a) of this subsection.

(c) On the day the parties provide these materials electronically to the commission, they shall also mail or otherwise deliver a paper (or hard copy) set of the materials to the commission.

(d) The parties shall confirm in advance with the executive director that any documents provided electronically are able to be accessed by software available at the agency. If they are not accessible, the executive director shall direct how the documents are to be submitted.

(e) The documents are considered filed when received during actual business hours at the commission office. If received after actual business hours, they will be deemed filed the next business day.

(4) Respondent's exhibits shall be numbered R-1, R-2, etc. Commission staff exhibits shall be numbered S-1, S-2, etc. Jointly submitted exhibits shall be numbered J-1, J-2, etc. If an exhibit is not jointly submitted but there is no objection to it by the responding party, the party offering the exhibit shall designate agreed-to exhibits on the party's exhibit list.

(5) Briefs shall contain the name of the respondent in the caption and the cause number. Briefs shall be no more than twenty-five pages, double-spaced, excluding attachments or exhibits.

(6) The parties shall inform the executive director of any special equipment necessary for the adjudicative proceeding at the time documents are filed with the commission.

AMENDATORY SECTION (Amending WSR 16-01-015, filed 12/4/15, effective 1/4/16)

**WAC 390-37-142 Brief enforcement hearing (adjudicative proceeding)—Procedure.** (1) A brief adjudicative proceeding may be presided over by the chair, or a member of the commission designated by the chair.

(2) When a violation, as described in WAC 390-37-140, is alleged, before taking action, the executive director shall send the alleged violator notice, which shall include:

(a) Alleged violation;

(b) The maximum amount of the penalty that can be imposed at the hearing, relevant penalty schedules, and the amount of any proposed fine; and

(c) Person's right to respond either in writing or in person to explain his/her view of the matter.

(3) As provided in RCW 34.05.050, a respondent who has been notified of a brief adjudicative proceeding may waive the hearing by providing the following prior to the hearing:

(a) A signed statement of understanding;

(b) Any missing required reports; and

(c) A penalty payment specified by the executive director in accordance with the penalty authority of WAC 390-37-140 and the brief enforcement hearing penalty schedules of this chapter.

(4) As used in this section, the term "statement of understanding" means a written statement signed by the respondent that:

(a) Acknowledges a violation of chapter 42.17A RCW and any relevant rules; and

(b) Expresses the respondent's understanding that the commission will not hold any adjudicative proceeding concerning the violation.

(5) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than (~~(\$1,000)~~) one thousand dollars, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an adjudicative proceeding by the full commission.

(6) At the time any unfavorable action is taken (~~(within ten business days)~~) the presiding officer shall serve upon each party a written statement describing the violation, the reasons for the decision, and the penalty imposed (~~(and their right to request review by the commission)~~). Within ten days, the presiding officer shall give the parties a brief written statement of the reasons for the decision and information about any internal administrative review available. The executive director is authorized to sign the decision on behalf of the presiding officer.

(7) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

**WAC 390-37-144 Brief adjudicative proceeding—Administrative review procedures.** (1) The commission shall conduct a review of the initial order upon the written or oral request of a party if the commission receives the request within twenty-one business days after the service of the initial order. "Service" is defined as the date the order was deposited in the U.S. mail per RCW 34.05.010(19), or personally served. The party seeking review shall state the reason for the review, and identify what alleged errors are contained in the initial order.

(2) If the parties have not requested review, the commission may conduct a review of the initial order upon its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(3) The order on review shall be in writing stating the findings made, and the reasons for the decision, and notice that reconsideration and judicial review are available. The order on review shall be entered within twenty ((business)) days after the date of the initial order or of the request for review, whichever is later.

(4) If the commission is not scheduled to meet within twenty ((business)) days after the date of the initial order or request for review and therefore cannot dispose of the request within that time period, the request is:

(a) Deemed denied under RCW 34.05.491(5) and the initial order becomes final;

(b) Considered a request for reconsideration under WAC 390-37-150; and

(c) Scheduled for consideration and disposition at the next commission meeting at which it is practicable to do so.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

**WAC 390-37-150 Reconsideration and judicial review of decisions.** (1) For purposes of this rule, "decision" means any findings, conclusions, order, or other action by the commission which is reviewable by a court.

(2) A decision may be reconsidered only upon (a) the written request of a party thereby or (b) the motion or written request of a commissioner who voted on the prevailing side when that decision was made.

(3) Such a request for reconsideration shall be filed at the office of the public disclosure commission, or motion made, ((no later than twenty-one business days after)) within ten days of service of the decision of which reconsideration is sought. Copies of the request or motion shall be served on all parties of record at the time the request for reconsideration or motion is filed.

(4) A request or motion for reconsideration shall specify the grounds therefor. Grounds for reconsideration shall be limited to:

(a) A request for review was deemed denied in accordance with WAC 390-37-144(4);

(b) New facts or legal authorities that could not have been brought to the commission's attention with reasonable diligence. If errors of fact are alleged, the requester must identify the specific evidence in the prior proceeding on which the requester is relying. If errors of law are alleged, the requester must identify the specific citation; or

(c) Significant typographical or ministerial errors in the order.

(5) Upon being served with a decision, the respondent may treat that decision as final for the purpose of petitioning for judicial review. The commission may not reconsider any decision after being served with a petition for judicial review.

(6) When a request for reconsideration is served, or motion made, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the commission has acted on the reconsideration.

(7) The commission is deemed to have denied request for reconsideration or motion if, within twenty ((business)) days from the date the request or motion is filed, the commission does not either (a) dispose of the request or motion, or (b) serve the parties with written notice specifying the date it will act upon the request or motion.

(8) The commission shall act on the reconsideration request or motion, at the next meeting at which it practicably may do so, by:

(a) Deciding whether to reconsider its decision; and

(b) If it decides to do so, either:

(i) Affirming its decision; or

(ii) Withdrawing or modifying the final order; or

(iii) Setting the matter for further hearing.

Provided, That before a decision may be amended other than by lowering a penalty, the respondent shall be given notice and an opportunity to be heard if, and in the same manner as, required for the original decision.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 390-37-155 Electronic filing brief enforcement hearing penalty schedule.
- WAC 390-37-160 Statement of financial affairs (F-1) penalty schedule.
- WAC 390-37-165 Candidate registration statement (C-1)/candidate statement of financial affairs (F-1) penalty schedule.
- WAC 390-37-170 Lobbyist monthly expense report (L-2) penalty schedule.
- WAC 390-37-175 Lobbyist employer report (L-3) penalty schedule.

NEW SECTION

**WAC 390-37-143 Brief enforcement hearings (adjudicative proceeding)—Penalty schedule.** The presiding officer may assess a penalty up to one thousand dollars upon finding a violation of chapter 42.17A RCW or Title 390 WAC.

(1) Base penalty amounts:

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to timely file an accurate and complete statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600



<b>Violation</b>	<b>1st Occasion</b>	<b>2nd Occasion</b>	<b>3rd Occasion</b>
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Candidate's failure to timely file an accurate and complete registration statement (C-1)/statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 per report	\$150 - \$300 per report	\$300 - \$600 per report up to \$1,000
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 per report	\$300 per report	\$600 per report up to \$1,000
Failed to file report by date of enforcement hearing.	\$250 per report	\$500 per report	consideration by full commission
Failure to timely file an accurate and complete lobbyist monthly expense report (L-2):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Failure to timely file an accurate and complete lobbyist employer report (L-3):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
Failure to timely file accurate and complete disclosure reports:			
Political committee registration (C-1pc).	\$150	\$300	\$600
Statement of contributions deposit (C-3).	\$150	\$300	\$600
Summary of total contributions and expenditures (C-4).	\$150	\$300	\$600
Independent expenditures and electioneering communications (C-6).	\$150	\$300	\$600
Last minute contribution report (LMC).	\$150	\$300	\$600
Out-of-state committee report (C-5).	\$150	\$300	\$600
Annual report of major contributors (C-7).	\$150	\$300	\$600
Failure to timely file accurate and complete reports disclosing lobbying activities:			
Lobbyist registration (L-1).	\$150	\$300	\$600
Public agency lobbying report (L-5).	\$150	\$300	\$600
Grass roots lobbying report (L-6).	\$150	\$300	\$600
Failure to file electronically.	\$350	\$650	\$1,000
Exceeding contribution limits.	\$150	\$300	\$600
Exceeding mini reporting threshold.	\$150	\$300	\$600
Failure to comply with political advertising sponsor identification requirements.	\$150	\$300	\$600
Failure to include required candidate's party preference in political advertising.	\$150	\$300	\$600

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to comply with other political advertising requirements, RCW 42.17A.330 through 42.17A.345.	\$150	\$300	\$600
Use of public facilities to assist a campaign for election or promote a ballot measure.	\$150	\$300	\$600

"Occasion" means established violation. Only violations in the last five years will be considered for the purpose of determining second and third occasions.

(2) In determining the appropriate penalty, the presiding officer may consider the nature of the violation and aggravating and mitigating factors, including:

- (a) Whether the respondent is a first-time filer;
- (b) The respondent's compliance history for the last five years, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;
- (c) The respondent's unpaid penalties from a previous enforcement action;
- (d) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;
- (e) The amount of financial activity by the respondent during the statement period or election cycle;
- (f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;
- (g) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention;
- (h) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;
- (i) Personal emergency or illness of the respondent or member of his or her immediate family;
- (j) Other emergencies such as fire, flood, or utility failure preventing filing;
- (k) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;
- (l) Commission staff, third-party vendor, or equipment error, including technical problems at the agency preventing or delaying electronic filing.

(3) The presiding officer has authority to suspend all or a portion of an assessed penalty under the conditions to be determined by that officer including, but not limited to, payment of the nonsuspended portion of the penalty within five business days of the date of the entry of the order in that case.

(4) If, on the third occasion, a respondent has outstanding penalties or judgments, the matter will be directed to the full commission for consideration.

(5) The presiding officer may direct a matter to the full commission if the officer believes one thousand dollars would be an insufficient penalty or the matter warrants con-

sideration by the full commission. Cases will automatically be scheduled before the full commission for an enforcement action when the respondent:

- (a) Was found in violation during a previous reporting period;
- (b) The violation remains in effect following any appeals; and
- (c) The person has not filed the disclosure forms that were the subject of the prior violation at the time the current hearing notice is being sent.

**WSR 16-22-058**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed October 31, 2016, 2:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-115.

Title of Rule and Other Identifying Information: Chapter 16-403 WAC, Standards for apples marketed within the state of Washington. The purpose of this chapter is to establish standards for apples being packed and marketed within the state of Washington.

Hearing Location(s): Department of Agriculture, 270 9th Street N.E., Wenatchee, WA 98801, on December 6, 2016, at 11:00 a.m.; and at the Department of Agriculture, Conference Room 238, 21 North 1st Avenue, Yakima, WA 98902, on December 7, 2016, at 11:00 a.m.

Date of Intended Adoption: December 21, 2016.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., December 7, 2016.

Assistance for Persons with Disabilities: Contact the agency receptionist by November 23, 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 revisions to chapter 16-403 WAC is to make the rule language more clear and readable. Revisions include providing a definition section and rules for apple grades and standards criteria that more logically parallel the applicable United States Department of Agriculture grades and standards criteria that are adopted by reference, and reflecting current industry practices by adding several newer apple varieties that have entered the market under the applicable grade and standard categories.

Reasons Supporting Proposal: Amending the rule will provide a more user-friendly version of the grades and standards that will be better defined and structured.

Statutory Authority for Adoption: RCW 15.17.030, [15.17.]050, [15.17.]060, chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.17 RCW.

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

Name of Proponent: Department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jim Nelson, 270 9th Street N.E., Suite 101-A, East Wenatchee, WA 98802, (509) 662-6161.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that this rule amendment is exempt from the requirement to complete a small business economic impact statement under RCW 19.85.025(3) and 34.05.310 (4)(d) because the proposed amendments are simply clarifying the language to make it more clear and readable without changing its effect.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

October 31, 2016

Jason Ferrante

Assistant Director

#### NEW SECTION

**WAC 16-403-004 Purpose.** The purpose of this chapter is to provide for the fair and orderly marketing of fresh apples in the state of Washington by establishing uniform grades and standards and by providing for the inspection of these products.

#### NEW SECTION

**WAC 16-403-014 Definitions. "Aggregate"** means the gathering together of separate areas into one mass for the purpose of comparison to determine the extent affected.

**"Clean"** means that the apples are free from excessive dirt, dust, spray residue and other foreign material.

**"Diameter."** When measuring for minimum size, diameter means the greatest dimension of the apple measured at right angles to a line from stem to blossom end. When measuring for maximum size, diameter means the smallest dimension of the apple determined by passing the apple through a round opening in any position.

**"Fairly tight"** means that the apples are the proper size for molds or cell compartments in which they are packed and the molds or cells are filled in such a way that no more than a slight movement of apples within the molds or cells is possible.

**"Fairly well filled"** means that the net weight of the apples in containers ranging from 2,100 to 2,900 cubic inches capacity is not less than thirty-seven pounds for Jonathan, McIntosh, and Golden Delicious varieties and not less than forty pounds for all other varieties.

**"Fairly well formed"** means that the apple may be slightly abnormal in shape but not to an extent which detracts materially from its appearance.

**"Firmness terms."** The following terms are used for describing different stages of firmness of apples:

**"Hard"** means apples with a tenacious flesh and starchy flavor.

**"Firm"** means apples with a tenacious flesh but which are becoming crisp with a slightly starchy flavor, except the Delicious variety.

**"Firm ripe"** means apples with crisp flesh except that the flesh of the Rome Beauty or similar varieties may be slightly mealy.

**"Ripe"** means apples with mealy flesh and soon to become soft for the variety.

**"Fruit weight."** When measuring for minimum weight as a designation of fruit size, the individual apple must meet the minimum weight designation as marked on the container or package.

**"Mature"** means that the apples have reached the stage of development which will ensure the proper completion of the ripening process. Before a mature apple becomes overripe it will show varying degrees of firmness, depending upon the stage of the ripening process.

**"Overripe"** means apples which have progressed beyond the stage of ripe, with flesh very mealy or soft, and past commercial utility.

**"Principal display panel"** means the end or side panels, exclusive of tops and bottoms of a container for which all required markings must be placed together to comply with this regulation.

**"Well formed"** means having the normal shape characteristic of the variety, except that the shape may be slightly irregular provided it does not more than slightly detract from the appearance of the apple.

**"Worm hole"** means a puncture or hole caused by an insect that is one-eighth inch or more in depth.

**"WSDA"** means the Washington state department of agriculture and its director.

#### NEW SECTION

**WAC 16-403-024 Adoption of Washington state standards for grades of apples.** Washington state standards apple grades for extra fancy and fancy, except the Fuji variety, must be equivalent to or better than the U.S. standards for U.S. extra fancy and U.S. fancy grades of apples, 7 C.F.R. Sec. 51.300 et seq., in effect as of December 19, 2002. Apples meeting the foregoing grades may be marked either with the proper Washington or U.S. grade, or both. In no case may the Washington grade and condition requirements be interpreted as less than the standards required by the applicable U.S. standards for grades for the comparable Washington grade and variety.

#### NEW SECTION

**WAC 16-403-034 General standards for Washington grades.** General standards for Washington grades shall apply to apples of one variety (except when more than one variety is printed on the container) which must meet the following standards in addition to standards specific to each Washington grade:

(1) The apples must be mature but not overripe, clean, fairly well formed, and free from decay, internal browning, internal breakdown, brown surface discoloration, scab, freezing injury, visible water core, broken skins, and bruises, except those which are slight and incidental to proper handling and packing; and

(2) The apples must be free from damage by invisible water core after January 31st of the year following the year of production except for the Washington C grade.

(3) Invisible water core is not a quality factor of the Fuji variety at any time of the year.

(4) Apples of the red, partial red or blushed varieties must meet the color requirements specified for the variety in WAC 16-403-064.

NEW SECTION

**WAC 16-403-044 Washington extra fancy grade standards for red, partial red or blushed variety apples.** In addition to meeting the general standards under WAC 16-403-034, Washington extra fancy grade red, partial red, or blushed variety apples must be free from injury as specified in WAC 16-403-164(1) and 16-403-174(1) and damage as specified in WAC 16-403-164(2) and 16-403-174(2).

Color shade percentages for solid red varieties.

Variety	Extra Fancy Good Shade Percent	Extra Fancy Lighter Shade Percent	Fancy Good Shade Percent	Fancy Lighter Shade Percent
Beacon	33 1/3	33 1/3	15	15
Empire	50	66	33	40
Idared	66	66	40	40
Spartan	50	66	33	40
Jonathan	50	66	33	40
Melrose	66	66	40	40
Red Delicious	66	66	40	40
Red Rome	66	66	40	40
Spartan	66	66	40	40
Winesap	66	66	40	40
Other similar varieties	50	66	33	40
Red sport varieties	66	66	40	40

(4) Striped red varieties:

The percentage stated refers to the area of the surface in which stripes of a good shade of red characteristic of the variety predominate over stripes of lighter red, green or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety may be admitted to a grade provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade, subject to the limitations set forth below.

NEW SECTION

**WAC 16-403-054 Washington fancy grade standards for red, partial red or blushed variety apples.** In addition to meeting the general standards under WAC 16-403-034, Washington fancy grade red, partial red, or blushed variety apples must also be free from damage as specified in WAC 16-403-164(2) and 16-403-174(2).

NEW SECTION

**WAC 16-403-064 Color requirements.** (1) Faded brown stripes may not be considered as color.

(2) The color requirements for any variety may not be less than those required under the United States standards for the varieties and the respective variety grades of apples under 7 C.F.R. Sec. 51.305 (effective December 19, 2002), which color standards are incorporated by reference.

(3) Solid red varieties: The color percentage requirement stated below refers to the area of the surface which must be covered with a good shade of solid red characteristic of the variety. However, an apple having color of a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to a grade provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade, subject to the limitations set forth below.

Color requirements for striped or partial red varieties.

Variety	Extra Fancy Good Shade Percent	Extra Fancy Lighter Shade Percent	Fancy Good Shade Percent	Fancy Lighter Shade Percent
Akane	33 1/3	33 1/3	15	15
Cameo	33 1/3	33 1/3	15	15
Cortland	50	50	33	33
Delicious	50	50	25	25
Red Fuji	50	50	33	33
Red Gala	50	50	33	33
Honeycrisp	33 1/3	33 1/3	15	15
Jonamac	50	50	33	33
Liberty	33 1/3	33 1/3	15	15
Early McIntosh	33 1/3	33 1/3	15	15
McIntosh	35	50	15	33
Nittany	25	25	10	10
Rome	35	50	15	33
Rome Beauty	50	50	33	33
Starkrimson	33 1/3	33 1/3	15	15
Stayman	50	50	33	33
Tydeman Red	33 1/3	33 1/3	15	15
Winesap	50	50	25	25
York	50	50	33	33
Other similar varieties	50	50	25	25

(5) Red cheeked or blushed varieties.

(a) Blush cheek means at least ten percent of the surface has blush color characteristic of the variety.

(b) Tinge of color means the apples has any amount of the surface area of blush type color which predominates over the background color of the apple.

(c) Color requirements for red cheeked or blushed varieties:

Variety	Extra Fancy Percent	Fancy Percent
Ambrosia	Blush cheek	Tinge of color
Arlet or Swiss Gourmet	Blush cheek	Tinge of color
Braeburn	Blush cheek	Tinge of color
Envy	Blush cheek	Tinge of color
Elstar	Blush cheek	Tinge of color
Fuji	Blush cheek	Tinge of color
Gala	Blush cheek	Tinge of color
Gala Supreme	Blush cheek	Tinge of color
Royal Gala	Blush cheek	Tinge of color
Blushing Golden Delicious	Blush cheek	Tinge of color
Jazz	Blush cheek	Tinge of color

Variety	Extra Fancy Percent	Fancy Percent
Jonagold	Blush cheek	Tinge of color
Lady Alice	Blush cheek	Tinge of color
Molleys Delicious	Blush cheek	Tinge of color
Pacific Rose	Blush cheek	Tinge of color
Pinata	Blush cheek	Tinge of color
Pomona	Blush cheek	Tinge of color
Sonata	Blush cheek	Tinge of color
Sonya	Blush cheek	Tinge of color
Swiss Gourmet or Arlet	Blush cheek	Tinge of color
Other similar varieties	Blush cheek	Tinge of color

NEW SECTION

**WAC 16-403-074 Washington extra fancy standards for green or yellow varieties.** Washington green or yellow variety extra fancy apples must meet the following standards in addition to meeting the general standards under WAC 16-403-034. The apples must be free from:

(1) Slightly rough and rough russeting: Provided, that russeting other than rough or bark-like russeting materially

affecting the appearance of the apple may be permitted in the stem cavity or calyx basin if it cannot be seen when the apple is placed stem end and calyx end down on a flat surface.

(2) Injury as specified in WAC 16-403-164(1) and 16-403-174(1); and

(3) Damage as specified in WAC 16-403-164(2) and 16-403-174(2).

#### NEW SECTION

**WAC 16-403-084 Washington fancy standards for green or yellow varieties.** In addition to meeting the general standards under WAC 16-403-034, green or yellow variety fancy apples must be free from damage as specified in WAC 16-403-164(2) and 16-403-174(2).

#### NEW SECTION

**WAC 16-403-094 Washington C grade standards for green or yellow varieties.** The requirements for Washington C grade green or yellow variety apples include the conditions for Washington fancy grade apples under WAC 16-403-054. In addition, apples of this grade must be free from excessive damage caused by russetting as defined under the definitions of "damage by russetting," in WAC 16-403-164(2) under the following conditions:

(1) The aggregate area of an apple which is covered by smooth net-like russetting may not exceed twenty-five percent.

(2) The aggregate area of an apple which is covered by smooth solid russetting may not exceed ten percent except as follows:

(a) The aggregate area for Newtown, Granny Smith or similar varieties which is covered with smooth solid russetting may not exceed twenty percent; and

(b) The aggregate area of an apple which is covered with excessively rough or bark-like russetting or limb rubs may not exceed the area of a circle three-fourths inch in diameter.

(3) There is no requirement in this grade pertaining to invisible water core.

#### NEW SECTION

**WAC 16-403-104 Combination grades and gift grade.** Combination grades apply to all varieties of apples except red or partial red varieties which may only be packed in the combination extra fancy and fancy grade. Gift grade applies to a combination of apples and pears.

(1) Combination extra fancy and fancy. When extra fancy and fancy apples are packed together, the containers must be marked "Washington combination extra fancy and fancy" and must contain at least eighty percent extra fancy apples, except that Newtown variety combinations must contain at least fifty percent extra fancy apples.

(2) Combination extra fancy, fancy and C grade. When extra fancy, fancy and C grade apples are packed together, the containers must be marked "Washington combination extra fancy, fancy and C grade" and must contain at least eighty percent extra fancy apples, except that Newtown variety combinations must contain at least fifty percent extra fancy apples.

(3) Combination fancy and C grade. When fancy and C grade apples are packed together, the containers must be marked "Washington combination fancy and C grade" but must contain at least eighty percent fancy apples, except that Newtown variety combinations must contain at least fifty percent fancy apples.

(4) Gift grade. Gift grade consists of mixed varieties of apples and pears. Apples must be Washington extra fancy grade under WAC 16-403-044 and 16-403-064. Pears must be U.S. No. 1 or higher grade under WAC 16-442-020 and 16-442-030.

(a) Containers must be marked "gift grade" or with the individual variety and grade that applies to each commodity;

(b) Containers must be marked with the net contents by weight or count; and

(c) Containers must be marked with business name and address of the packer or shipper.

#### NEW SECTION

**WAC 16-403-114 Standards, packing and labeling for culls.** (1) Apples which are not graded in conformity with any of the grade standards in this chapter and which contain no more than five percent serious insect damage may be designated as "culls."

(2) Culls must be packed and labeled as specified in RCW 15.17.080.

#### NEW SECTION

**WAC 16-403-124 Other brands and grades.** The director may approve and register a private grade or brand of apple. The private grade or brand may not be lower than the second grade or classification established under chapter 15.17 RCW or under this chapter.

#### NEW SECTION

**WAC 16-403-134 Soluble solids and shipping dates for Red Delicious, Delicious and Golden Delicious.** (1) Red Delicious and Delicious varieties may not be shipped prior to October 1st of the current growing season unless they have at least eleven percent soluble solids as determined by refractometer.

(2) Golden Delicious varieties may not be shipped prior to September 20th of the current growing season unless they have at least ten and one-half percent soluble solids as determined by refractometer.

#### NEW SECTION

**WAC 16-403-144 Firmness at time of shipping standards for Red Delicious, Delicious, Golden Delicious, Gala, and Jonagold.** At time of shipment the following firmness standards must be met:

(1) Red Delicious and Delicious varieties must pressure test at least twelve pounds. However, apples failing to pressure test twelve pounds may be considered as meeting the requirements of this section when the individual apple exhibits its edible qualities and texture of flesh comparable to other

apples of the same variety which pressure test twelve pounds or more.

(2) Golden Delicious variety must pressure test at least ten pounds. However, apples failing to pressure test ten pounds may be considered as meeting the requirements of this section when the individual apple exhibits edible qualities and texture of flesh comparable to other apples of the same variety which pressure test ten pounds or more.

(3) Gala and Jonagold varieties must pressure test at least eleven pounds.

#### NEW SECTION

**WAC 16-403-154 Starch-iodine requirement for the Granny Smith variety.** Granny Smith variety may not be shipped prior to October 10th unless ninety percent or more of any lot of apples meets the stage of maturity as indicated by starch-iodine rating of 1.2 using a starch-iodine rating scale from Cascade Analytical, Inc. or any equivalent rating scale applicable to the Granny Smith variety.

#### NEW SECTION

**WAC 16-403-164 Defects—Injury, damage and serious damage.** (1) "Injury" means any specific defect defined in this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which more than slightly detracts from the appearance or the edible or shipping quality of the apple. The following specific defects are considered as injury:

(a) Russetting.

(i) Russetting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface is not considered in determining whether or not an apple is injured by russetting.

(ii) Smooth net-like russetting when an aggregate area of more than ten percent of the surface is covered for red, partial red and blushed varieties and five percent of the surface for green and yellow varieties, and when the color of the russetting shows no very pronounced contrast with the background color of the apple.

(iii) Lesser amounts of more conspicuous net-like russetting when the appearance is affected to a greater extent than the above amount permitted is considered injury.

(iv) Smooth solid russetting when the aggregate area in the green and yellow varieties exceeds more than one-quarter inch in diameter and in the red and partial red varieties when the aggregate area exceeds three-eighths inch in diameter is also considered as injury.

(b) Sunburn or sprayburn, when the discolored area does not blend into the normal color of the fruit.

(c) Dark brown or black limb rubs which affect an aggregate area of more than one-quarter inch in diameter for red, partial red or blushed varieties and one-eighth inch for green or yellow varieties. However, light brown limb rubs of a russet character are considered injury by russetting under definition in (a) of this subsection.

(d) Hail marks, drought spots, other similar depressions or scars:

(i) When the skin is broken, whether healed or unhealed;

(ii) When there is appreciable discoloration of the surface;

(iii) When any surface indentation exceeds one-sixteenth inch in depth;

(iv) When any surface indentation exceeds one-eighth inch in diameter; or

(v) When the aggregate affected area of such spots exceeds one-half inch in diameter for red, partial red and blushed varieties or one-quarter inch for green or yellow varieties.

(e) Disease:

(i) Cedar rust infection which affects an aggregate area of more than three-sixteenths inch in diameter.

(ii) Sooty blotch or fly speck which is thinly scattered over more than five percent of the surface, or dark, heavily concentrated areas which affect an area of more than one-quarter inch in diameter.

(iii) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-quarter inch in diameter.

(f) Insects:

(i) Any healed sting or healed stings which affect an aggregate area of more than one-eighth inch in diameter including any encircling discolored rings.

(ii) Worm holes.

(g) Stem cavity or calyx basin cracks.

(i) Which more than slightly detract from the appearance or the edible or shipping quality of the apple;

(ii) Are not well healed; or

(iii) Are well healed which exceed an aggregate length of one-eighth inch.

(2) "Damage" means any specific defect defined in this subsection or an equally objectionable variation of any one of these defects, any other defect or any combination of defects which materially detracts from the appearance or the edible or shipping quality of the apple. The following specific defects are considered damage:

(a) Russetting. Russetting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface is not considered in determining whether or not an apple is damaged by russetting: Provided, that excessively rough or bark-like russetting in the stem cavity or calyx basin are considered damage when the appearance of the apple is materially affected. The following types and amounts of russetting outside of the stem cavity or calyx basin are considered damage:

(i) Russetting which is excessively rough or rough on green and yellow varieties.

(ii) Smooth net-like russetting when an aggregate area of more than fifteen percent of the surface is covered and the color of the russetting shows no very pronounced contrast with the background color of the apple;

(iii) Smooth solid russetting when an aggregate area of more than five percent of the surface is covered and the pattern and color of the russetting shows no very pronounced contrast with the background color of the apple;

(iv) Lesser amounts of smooth net-like or smooth solid russetting when more conspicuous and the appearance is

affected to a greater extent than the amount permitted in this section;

(v) Slightly rough russeting which covers an aggregate area of more than one-half inch in diameter; or

(vi) Rough russeting in the red and partial red varieties which covers an aggregate area of more than one-quarter inch in diameter.

(b) Sunburn or sprayburn which has caused blistering or cracking of the skin or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting under the definition in (a) of this subsection.

(c) Limb rubs which affect an aggregate area of more than one-half inch in diameter. However, light brown limb rubs of a russet character are considered damage by russeting under the definition in (a) of this subsection.

(d) Hail marks, drought spots, other similar depressions or scars when:

(i) Any unhealed mark is present;

(ii) Any surface indentation exceeds one-eighth inch in depth;

(iii) The skin has not been broken and the aggregate affected area exceeds one-half inch in diameter; or

(iv) The skin has been broken and well healed and the aggregate area exceeds one-quarter inch in diameter.

(e) Stem cavity or calyx basin cracks which are not well healed or well healed stem cavity or calyx basin cracks which exceed an aggregate length of one-quarter inch.

(f) Disease:

(i) Scab spots which affect an aggregate area of more than one-quarter inch in diameter;

(ii) Cedar rust infection which affects an aggregate area of more than one-quarter inch in diameter;

(iii) Sooty blotch or fly speck which is thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated areas which affect an area of more than one-half inch in diameter;

(iv) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter;

(v) Bitter pit or Jonathan spot when one or more spots affects the surface of the apple.

(g) Insects:

(i) Any healed sting or healed stings which affect an aggregate area of more than three-sixteenths inch in diameter including any encircling discolored rings; or

(ii) Worm holes.

(3) "Serious damage" means any specific defect defined in this subsection or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the appearance or the edible or shipping quality of the apple. The following specific defects are considered as serious damage:

(a) Russeting. The following types and amounts of russeting are considered as serious damage:

(i) Smooth solid russeting, when more than one-half of the surface in the aggregate is covered, including any russeting in the stem cavity or calyx basin; or

(ii) Slightly rough, excessively rough or bark-like russeting which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted in (a)(i) of this subsection.

(b) Sunburn or sprayburn which seriously detracts from the appearance of the fruit.

(c) Limb rubs which affect more than one-tenth of the surface in the aggregate.

(d) Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit, or if such defects affect more than one-tenth of the surface in the aggregate. However; no hail marks which are unhealed are permitted and not more than an aggregate area of one-half inch is allowed for well healed hail marks where the skin has been broken.

(e) Stem or calyx cracks which are not well healed or well healed stem or calyx cracks which exceed an aggregate length of one-half inch.

(f) Visible water core which affects an area of more than one-half inch in diameter.

(g) Disease:

(i) Scab spots which affect a total area of more than three-fourths inch in diameter;

(ii) Cedar rust infection which affects a total area of more than three-fourths inch in diameter;

(iii) Sooty blotch or fly speck which affects more than one-third of the surface;

(iv) Red skin spots which affect more than one-third of the surface;

(v) Bitter pit or Jonathan spot which is thinly scattered over more than one-tenth of the surface and does not materially deform or disfigure the fruit.

(h) Insects:

(i) Healed stings which affect an aggregate area of more than one-quarter inch in diameter including any encircling discolored rings; or

(ii) Worm holes.

#### NEW SECTION

**WAC 16-403-174 Bruises—Injury, damage and serious damage.** The standard for bruises under the categories of injury, damage or serious damage is as follows:

(1) Injury consists of bruises which are not slight and incident to proper handling and packing, and which are greater than:

(a) One-eighth inch in depth;

(b) Five-eighths inch in diameter; or

(c) Any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in (a) or (b) of this subsection.

(2) Damage consists of bruises which are not slight and incident to proper handling and packing, and which are greater than:

(a) Three-sixteenths inch in depth;

(b) Seven-eighths inch in diameter; or

(c) Any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in (a) or (b) of this subsection.



(3) Serious damage consists of bruises which are not slight and incident to proper handling and packing, and which are greater than:

- (a) Three-eighths inch in depth;
- (b) One and one-eighth inch in diameter; or
- (c) Any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in (a) or (b) of this subsection.

#### NEW SECTION

**WAC 16-403-184 Invisible water core.** Invisible water core will be considered as "damage" when existing around the core and extending to water core in the vascular bundles, or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce, or existing in more than a slight degree outside the circular area formed by the vascular bundles: Provided, that invisible water core shall not be scored as damage against the Fuji variety of apples under any circumstances.

AMENDATORY SECTION (Amending WSR 06-12-117, filed 6/7/06, effective 7/8/06)

**WAC 16-403-190 Tolerances.** In order to allow for variations incident to proper grading, sizing and ~~((handling))~~ firmness in each of the foregoing grades, the following tolerances are provided as specified:

(1) Defects: Washington extra fancy, Washington fancy and Washington C grade.

Ten percent of the apples in any lot may fail to meet the requirements of the grade, but not more than ~~((one-half of this amount, or 5))~~ five percent ~~((;))~~ shall be allowed for apples which are seriously damaged, including therein not more than one percent for apples affected by decay or internal breakdown.

(2) Combination grades. When applying the foregoing tolerances to combination grades, no part of any tolerance ~~((shall))~~ may be allowed to reduce, for the lot as a whole, the percent of apples of the higher grade required in the combination.

Combinations requiring ~~((80))~~ eighty percent of the higher grade for the lot shall not have ~~((not))~~ less than ~~((65))~~ sixty-five percent of the higher grade in individual samples.

Combinations requiring ~~((50))~~ fifty percent of the higher grade for the lot shall not have ~~((not))~~ less than ~~((40))~~ forty percent of the higher grade in individual samples.

(3) Size. When size is designated by the numerical count for a container, not more than ~~((5))~~ five percent of the apples in the lot may vary more than ~~((1/2))~~ one-half inch in diameter. When size is designated by minimum or maximum diameter or weight, not more than ~~((5))~~ five percent of the apples in any lot may be smaller than the designated minimum and not more than ~~((10))~~ ten percent may be larger than the designated maximum.

(4) Firmness. Not more than ten percent of the apples in any lot of Red Delicious, Delicious, Golden Delicious, Jonagold, and Gala varieties ~~((shall))~~ may fail to meet the firmness requirements as defined in WAC ~~((16-403-142))~~ 16-403-144.

AMENDATORY SECTION (Amending WSR 06-12-117, filed 6/7/06, effective 7/8/06)

**WAC 16-403-195 Application of tolerances.** The contents of individual samples in the lot ~~((;))~~ are subject to the following limitations: Provided, that the averages for the entire lot are within the tolerances specified for the grade in WAC 16-403-190.

(1) Packages which contain more than ~~((10))~~ ten pounds ~~((;~~

~~samples shall))~~ may not have ~~((not))~~ more than one and one-half times a specified tolerance of ~~((10))~~ ten percent or more ~~((and not))~~ or more than double a tolerance of less than ~~((10))~~ ten percent, except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any sample.

(2) Packages which contain ~~((10))~~ ten pounds or less ~~((;~~ No packages ~~))~~ may have no more than three times the tolerance specified, except that at least three defective apples may be permitted in any package: Provided, that not more than three apples or more than ~~((18))~~ eighteen percent (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

AMENDATORY SECTION (Amending WSR 92-15-056, filed 7/13/92, effective 8/13/92)

**WAC 16-403-200 Calculation of percentages.** ~~((+))~~ When the numerical count is marked on the container, or when containers are packed to weigh ten pounds or less, or in any container where the minimum diameter of the smallest apple does not vary more than one-half inch from the minimum diameter of the largest apple, percentages shall be calculated on the basis of count ~~((;~~

~~2) When the minimum diameter and/or minimum weight of individual apples, or minimum and maximum diameters and/or weights of individual apples are marked on a container or when the apples are jumbled in a container or in bulk))~~. In all other cases, percentages shall be calculated on the basis of weight ~~((or an equivalent basis))~~.

AMENDATORY SECTION (Amending WSR 06-12-117, filed 6/7/06, effective 7/8/06)

**WAC 16-403-215 Packing requirements. Tolerances.** In order to allow for variations incident to proper packing, not more than ten percent of the containers in any lot may fail to meet the following requirements:

(1) Apples tray packed or cell packed in cartons shall be arranged according to approved and recognized methods. Packs shall be at least fairly tight ~~((;))~~ or fairly well filled ~~((;))~~.

(2) Closed cartons containing apples not tray or cell packed shall be fairly well filled ~~((;))~~ or the pack shall be sufficiently tight to prevent any appreciable movement of the apples.

(3) Apples on the shown face of any container shall be reasonably representative in size, color and quality of the contents.

~~((4) Tolerances: In order to allow for variations incident to proper packing, not more than 10 percent of the containers in any lot may fail to meet these requirements.~~

- a— "Fairly tight" means that apples are of the proper size for molds or cell compartments in which they are packed and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible.
- b— "Fairly well filled" means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 38 pounds for Jonathan, McIntosh and Golden Delicious varieties and not less than 40 pounds for all other varieties.)

AMENDATORY SECTION (Amending WSR 06-12-117, filed 6/7/06, effective 7/8/06)

**WAC 16-403-220 Marking requirements—Open or closed containers.** (1) Individual destination states or countries may have specific requirements for letter heights and placement of markings.

(2) All required markings must be displayed together on the principal display panel of the containers.

(3) All required markings must be a minimum of one-quarter inch in height for a principal display panel of one hundred to four hundred square inches. Markings on consumer-type packages must be at least one-quarter inch in height.

(4) Containers must have the following markings:

(a) ~~The ((containers shall bear the))~~ correct name of the variety or when more than one variety or commodity is in the container, each variety and commodity must be shown((;));

(b) The name and address of the grower, packer, or distributor((- and his address;));

(c) The grade(;;);

(d) The net contents either in terms of dry measure or weight; and

(e) ~~The numerical count or the minimum diameter of apples packed in a closed container((- and the net contents either in terms of dry measure or weight. The minimum weight of individual apples within the container may be stated in lieu of, in combination with, or in addition to, minimum diameter as a declaration of size. All open containers and consumer packages must bear statement of net weight or volume.~~

~~(a))~~ All open containers and consumer packages must bear a statement of net weight or volume. Over-wrapped consumer units may be marked with count, if all specimens can be counted.

(i) When containers are marked as to number of apples in the container, each container contains the correct number of apples designated by the markings.

(ii) When the numerical count is not shown, the minimum diameter or minimum weight of individual apples shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, or whole inches and not less than ((eight)) eighth inch fractions thereof or in terms of whole grams.

~~((b))~~ (iii) The minimum weight of individual apples within the container may only be stated in combination with the minimum diameter as a declaration of size for Red Delicious and Golden Delicious. All other varieties and sizes may

only have a minimum diameter or minimum weight designated.

(iv) When used in combination with minimum diameter as a size designation, the following minimum fruit weights shall be used:

Red Delicious		Golden Delicious	
2 1/8 in. (( <del>or</del> ) and 65	grams	2 1/8 in. and 63	grams
2 1/4 in. (( <del>or</del> ) and 75	grams	2 1/4 in. and 70	grams
2 3/8 in. (( <del>or</del> ) and 84	grams	2 3/8 in. and 82	grams
2 1/2 in. (( <del>or</del> ) and 100	grams	2 1/2 in. and 95	grams
2 5/8 in. (( <del>or</del> ) and 115	grams	2 5/8 in. and 109	grams
2 3/4 in. (( <del>or</del> ) and 139	grams	2 3/4 in. and 134	grams

~~((e))~~ (v) The word "minimum," or its abbreviation, when following a diameter size or weight size marking, means that the apples are of the size marked or larger.

~~((2))~~ Over-wrapped consumer units may be marked with count, if all specimens can be counted.

(3) Any of these marks may be placed on either the end or side of the container. (California requires end markings.)

(4) When containers are marked as to number, each container shall contain the correct number of apples designated by the markings.

~~(5) Grade markings on consumer type packages must be at least one-fourth inch in height.~~

~~(6))~~ (f) Apples which were produced outside of the state of Washington and which are graded, packed, or repacked in the state of Washington, shall be correctly labeled as to the state or country of origin, e.g., "Product of Oregon," "Grown in Oregon," "Produced in Canada."

~~((Such marking shall be placed on the same end or side panel of the container as other markings related to grade, variety, net contents, and name and address of the grower, packer, or distributor, and shall be of similar print size.))~~ (g) Consumer type packages ((shall)) are not ((be)) required to bear a statement as to origin when such marking has been placed on the master shipping ((container.

(7) Containers shall be marked with the harvest year beginning on October 1 of each year and be applied only to apples harvested in the previous year; that this marking shall occur at the time of shipment; and be displayed on the principal display panel with letters of a minimum of one-half inch in height)) container's principal display panel.

NEW SECTION

**WAC 16-403-224 Crop year designation.** Apples from the previous year's crop that are packed and shipped on or after October 1st must be marked with the crop year on each carton or shipping container at the time of shipment. The markings must be displayed on the principal display panel with letters of a minimum of one-half inch in height.

NEW SECTION

**WAC 16-403-234 Condition after storage or transit.** At the shipping point all defects are considered quality factors at the time of packing; Provided, that if the apples have been in storage for more than seven days after packing, fac-

tors listed as condition in the *USDA Apples Shipping Point and Market Inspection Instructions* handbook dated March 2005 are scored as condition factors, and: Provided further, that decay, brown surface discoloration or any other deterioration which may have developed on apples after they have been in storage or transit are considered as affecting condition and not the grade.

**AMENDATORY SECTION** (Amending WSR 03-24-007, filed 11/20/03, effective 12/21/03)

**WAC 16-403-280 Adoption of United States standards as state standards.** ~~((In addition to the standards for apples prescribed in WAC 16-403-140 through 16-403-275, there are hereby adopted, as additional standards of the state of Washington for apples,))~~ Except as otherwise modified in this chapter and under this section, WSDA adopts the United States standards for grades of apples, 7 C.F.R. Part 51, Subpart "United States Standards for Grades of Apples" (effective December 19, 2002), ((adopted by the United States Department of Agriculture, as they)) as the standards apply to U.S. extra fancy, U.S. fancy, U.S. No. 1 and U.S. No. 1 hail, ((provided,)) subject to and including the following requirements.

(1) The color requirements specified for U.S. No. 1 and U.S. No. 1 hail must be a good shade of red color ((and the));

(2) The percentage of color required for U.S. No. 1 and U.S. No. 1 hail for Delicious ((shall)) must be ((25)) twenty-five percent a good shade of red color ((and provided further, that all the));

(3) The United States grades as applied to Red Delicious, Delicious, Golden Delicious, Gala, and Jonagold varieties ((shall)) must meet the firmness requirements of WAC ((46-403-142)) 16-403-144; and

(4) The United States grades as applied to the Granny Smith variety must meet the starch-iodine requirements of WAC 16-403-154.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-403-140 Washington state standards for apples.
- WAC 16-403-141 Red Delicious, Delicious, Golden Delicious—Minimum soluble solids.
- WAC 16-403-142 Red Delicious, Delicious, Golden Delicious, Gala, and Jonagold—Minimum firmness.
- WAC 16-403-143 Granny Smith—Starch-iodine requirements.
- WAC 16-403-155 Color requirements.
- WAC 16-403-175 Green or yellow varieties—Color requirements.
- WAC 16-403-205 Condition after storage or transit.
- WAC 16-403-225 Other brands and grades.
- WAC 16-403-230 Well formed.

- WAC 16-403-235 Fairly well formed.
- WAC 16-403-240 Diameter or fruit weight.
- WAC 16-403-245 Mature.
- WAC 16-403-250 Override.
- WAC 16-403-260 Clean.
- WAC 16-403-265 Injury.
- WAC 16-403-270 Damage.
- WAC 16-403-275 Serious damage.
- WAC 16-403-285 Spots showing diameters in fractions of an inch.
- WAC 16-403-290 Damage by invisible watercore.
- WAC 16-403-295 Inspector's guide for apple bruises at shipping point and market.

#### **WSR 16-22-067**

#### **WITHDRAWAL OF PROPOSED RULES GAMBLING COMMISSION**

(By the Code Reviser's Office)

[Filed November 1, 2016, 9:57 a.m.]

WAC 230-07-125, 230-13-005, 230-13-075 and 230-13-170, proposed by the gambling commission in WSR 16-09-043, appearing in issue 16-09 of the Washington State Register, which was distributed on May 4, 2016, 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 16-22-068**

#### **PROPOSED RULES DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed November 1, 2016, 10:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-011.

Title of Rule and Other Identifying Information: The department is creating new sections in chapter 388-106 WAC, Long-term care services, for a new benefit package for supportive housing.

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 December 6, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 7, 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., December 6, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by November 22, 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 creating new sections in chapter 388-106 WAC in order to define the benefit package for supportive housing as part of Washington's medicaid transformation waiver.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.283, 74.08.390.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Debbie Johnson, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2531; and Enforcement: Elizabeth Prince, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2561.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The preparation of a small business economic impact statement is not required, as no new costs will be imposed on small businesses or nonprofits as a result of this rule amendment.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(v), rules the content of which is explicitly and specifically dictated by statute.

October 28, 2016  
Katherine I. Vasquez  
Rules Coordinator

#### NEW SECTION

**WAC 388-106-1700 What definitions apply to supportive housing?** The following definitions apply to WAC 388-106-1700 through 388-106-1765:

"Chronically homeless" means an individual who is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter.

"PRISM" means predictive risk intelligence system and is a web-based clinical decision support application that features predictive modeling tools and data integration to support care management for high-risk medicaid clients.

#### NEW SECTION

**WAC 388-106-1705 What services may I receive under supportive housing?** (1) The services you may receive under supportive housing include but are not limited to activities that assist you to:

- (a) Identify appropriate housing;
- (b) Prepare for and transition to housing;
- (c) Connect with direct and collateral services;
- (d) Maintain your housing; and

(e) Develop and maintain a positive relationship with your landlord and other tenants.

(2) The services you receive will be identified in your assessment as defined in WAC 388-106-0010.

#### NEW SECTION

**WAC 388-106-1710 Where may I receive supportive housing services?** (1) You may receive supportive housing services in:

- (a) Your place of residence; or
- (b) The community setting where the authorized service occurs.

(2) Supportive housing services must be provided in:

- (a) Washington state or a recognized out-of-state bordering city as defined in WAC 382-501-0175;
- (b) An integrated setting of your choice; and
- (c) A manner that ensures your individual right of privacy, dignity, respect, and freedom from coercion and restraint.

(3) Once you are a supportive housing tenant, your supportive housing services must be provided in a setting that:

- (a) Does not have the qualities of an institution;
- (b) Is not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;
- (c) Is not on the grounds of, or immediately adjacent to a public institution; or
- (d) Does not have the effect of isolating you from community members who are not receiving medicaid services.

#### NEW SECTION

**WAC 388-106-1715 Who may provide supportive housing services?** Supportive housing providers must meet minimum qualifications as established by DSHS supportive housing contract language and must pass a DSHS criminal history background check.

#### NEW SECTION

**WAC 388-106-1720 Am I eligible for supportive housing funded services?** You are eligible for supportive housing services if you meet the following criteria:

- (1) Meet functional eligibility as defined in WAC 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410;
- (2) Meet financial eligibility as defined in chapters 182-513 and 185-515 WAC; and
- (3) Must have at least one of the following:
  - (a) Be chronically homeless;
  - (b) History of frequent or lengthy institutional stays;
  - (c) History of frequent or lengthy adult residential care or treatment stays;
  - (d) Experienced frequent turnover of in-home caregivers or providers; or
  - (e) A PRISM risk score of at least 1.5.

NEW SECTION

**WAC 388-106-1725 When do supportive housing services begin?** Your supportive housing services begin on the date the department authorizes your supportive housing services.

NEW SECTION

**WAC 388-106-1730 How do I remain eligible for supportive housing?** (1) To remain eligible for supportive housing you must remain functionally eligible as defined in WAC 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410 and financially eligible as defined in chapters 182-513 and 182-515 WAC.

(2) If eligibility laws, regulations, or rules for supportive housing change, and if you do not meet the changed eligibility requirements, the department will terminate your services, even if your functional or financial circumstances have not changed.

NEW SECTION

**WAC 388-106-1735 How do I pay for supportive housing services?** The department will not require you to pay toward the cost of your supportive housing services.

NEW SECTION

**WAC 388-106-1740 What are my rights when I receive supportive housing services in a setting owned by a service provider?** (1) In a provider owned supportive housing setting, you have the right to:

(a) A lease or legally enforceable agreement that provides you with similar responsibilities and protection from eviction that tenants have under landlord tenant law;

(b) Privacy in your living unit, including a lock on your door;

(c) A choice of roommates, if you choose to have a roommate;

(d) Decorate your living unit within the parameters of your lease agreement;

(e) Control your schedule and choose the activities you participate in; and

(f) Have visitors when you choose.

(2) Before the supportive housing services provider may change any of your rights under subsection (1) of this section, the supportive housing services provider must:

(a) Obtain your consent to make a change to one of your rights;

(b) Discuss with you the specific assessed need that the change is based on;

(c) Try positive interventions and less intrusive ways to deal with the specific assessed need and then review these with you;

(d) Document the discussion and the change to be made; and

(e) Provide this documentation to you and your case manager.

(3) The supportive housing services provider and your case manager must review with you any modifications to

your rights as described in subsection (2) of this section at least yearly to determine if it is still effective and needed.

NEW SECTION

**WAC 388-106-1745 May I be employed and receive supportive housing services?** You may be employed and receive supportive housing services as long as you remain medicaid eligible under the categorically needy (CN) program or alternative benefit plan (ABP) program.

NEW SECTION

**WAC 388-106-1750 Are there limits to the supportive housing services I receive?** There are limits to the supportive housing services you receive. Supportive housing services must not:

(1) Replace or duplicate existing services already available to you; or

(2) Include payment for rent, food, and utilities.

NEW SECTION

**WAC 388-106-1755 Are there waiting lists for supportive housing?** The department may create a waiting list for supportive housing services in accordance with funding appropriation.

NEW SECTION

**WAC 388-106-1760 Do I have the right to an administrative hearing while receiving supportive housing services?** Yes, you may request an administrative hearing based on the rules outlined in WAC 388-106-1305 to contest the department's supportive housing service eligibility decisions.

NEW SECTION

**WAC 388-106-1765 When may the department terminate or deny supportive housing services?** The department may deny or terminate supportive housing services if you are not eligible for long-term care services pursuant to WAC 388-106-0047, 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410.

**WSR 16-22-069****PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed November 1, 2016, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-047.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool

and who reside in adult family homes (AFH) and assisted living facilities contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) 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 December 6, 2016, at 10:00 a.m.

Date of Intended Adoption: Not earlier than December 7, 2016.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m., December 6, 2016.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by November 22, 2016, phone (360) 664-6092, TTY (360) 664-6178, or e-mail [KildaJA@dshs.wa.gov](mailto:KildaJA@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The daily medicare payment rates are changing per collective bargaining and the fiscal year 2017 (FY17) state budget. The WAC language is merely a record of the rates being paid. This rule change will not change the actual rates.

Reasons Supporting Proposal: This change is necessary to ensure that the public record is accurate.

Statutory Authority for Adoption: RCW 74.39A.030.

Statute Being Implemented: 2ESHB 2376 (FY17 budget) and collective bargaining agreement.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Elizabeth Pashley, 4450 10th Avenue S.E., Lacey, WA 98503, (360) 725-2270; Implementation and Enforcement: Peter Graham, 4450 10th Avenue S.E., Lacey, WA 98503, (360) 725-2499.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule change is adjusting rates pursuant to legislative standards. Exemption: RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. The rule change is adjusting rates pursuant to legislative standards. Exemption: RCW 34.05.328 (5)(b)(vi).

October 24, 2016  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-05-028, filed 2/9/16, effective 3/11/16)

**WAC 388-105-0005** ~~The daily medicaid payment rates for clients who have been assessed using the ((comprehensive assessment reporting evaluation (CARE))) CARE tool and ((that)) reside ((in adult family homes (AFH) and)) at an AFH or assisted living ((facilities)) facility contracted to provide ((assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC))) AL, ARC, or EARC services. For contracted ((AFH)) adult family homes (AFH) and assisted living facilities contracted to provide ((AL, ARC, and EARC)) assisted living (AL), adult residential care (ARC), or enhanced adult residential care (EARC) services, the department pays the following daily rates for ((care of a)) medicaid residents who have been assessed using the comprehensive assessment reporting evaluation (CARE) tool:~~

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE						
CARE CLASSIFICATION	KING COUNTY		ARC	EARC	AFH	
	AL Without Capital	AL With Capital				
	Add-on	Add-on				
A Low	\$67.22	\$72.64	\$47.67	\$47.67	<del>(\$49.97)</del>	<u>\$52.47</u>
A Med	\$72.74	\$78.16	\$54.03	\$54.03	<del>(\$56.53)</del>	<u>\$59.36</u>
A High	\$81.57	\$86.99	\$59.30	\$59.30	<del>(\$63.11)</del>	<u>\$66.27</u>
B Low	\$67.22	\$72.64	\$47.67	\$47.67	<del>(\$50.21)</del>	<u>\$52.72</u>
B Med	\$74.96	\$80.39	\$60.39	\$60.39	<del>(\$63.41)</del>	<u>\$66.58</u>
B Med-High	\$84.83	\$90.25	\$64.19	\$64.19	<del>(\$67.85)</del>	<u>\$71.24</u>
B High	\$89.28	\$94.70	\$73.31	\$73.31	<del>(\$77.40)</del>	<u>\$81.27</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
C Low	\$72.74	\$78.16	\$54.03	\$54.03	<del>(\$56.53)</del> <u>\$59.36</u>
C Med	\$81.57	\$86.99	\$67.70	\$67.70	<del>(\$71.84)</del> <u>\$75.43</u>
C Med-High	\$101.43	\$106.85	\$90.09	\$90.09	<del>(\$93.72)</del> <u>\$98.41</u>
C High	\$102.44	\$107.86	\$90.95	\$90.95	<del>(\$95.01)</del> <u>\$99.76</u>
D Low	\$74.96	\$80.38	\$72.87	\$72.87	<del>(\$73.21)</del> <u>\$76.87</u>
D Med	\$83.23	\$88.65	\$84.35	\$84.35	<del>(\$89.32)</del> <u>\$93.79</u>
D Med-High	\$107.49	\$112.91	\$107.13	\$107.13	<del>(\$107.23)</del> <u>\$112.59</u>
D High	\$115.79	\$121.21	\$115.79	\$115.79	<del>(\$121.91)</del> <u>\$128.01</u>
E Med	\$139.84	\$145.26	\$139.84	\$139.84	<del>(\$147.04)</del> <u>\$154.39</u>
E High	\$163.89	\$169.31	\$163.89	\$163.89	<del>(\$172.19)</del> <u>\$180.80</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$61.69	\$66.61	\$47.67	\$47.67	<del>(\$49.97)</del> <u>\$52.47</u>
A Med	\$65.02	\$69.94	\$51.91	\$51.91	<del>(\$54.34)</del> <u>\$57.06</u>
A High	\$79.37	\$84.29	\$56.56	\$56.56	<del>(\$59.81)</del> <u>\$62.80</u>
B Low	\$61.69	\$66.61	\$47.67	\$47.67	<del>(\$50.21)</del> <u>\$52.72</u>
B Med	\$70.52	\$75.44	\$57.22	\$57.22	<del>(\$60.10)</del> <u>\$63.11</u>
B Med-High	\$79.83	\$84.75	\$60.81	\$60.81	<del>(\$64.37)</del> <u>\$67.59</u>
B High	\$87.07	\$91.99	\$71.25	\$71.25	<del>(\$75.24)</del> <u>\$79.00</u>
C Low	\$65.02	\$69.94	\$52.12	\$52.12	<del>(\$54.74)</del> <u>\$57.48</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
C Med	\$79.37	\$84.29	\$66.84	\$66.84	<del>(\$70.12)</del> <u>\$73.63</u>
C Med-High	\$98.10	\$103.02	\$83.73	\$83.73	<del>(\$87.17)</del> <u>\$91.53</u>
C High	\$99.09	\$104.01	\$89.04	\$89.04	<del>(\$92.41)</del> <u>\$97.03</u>
D Low	\$70.52	\$75.44	\$71.87	\$71.87	<del>(\$71.62)</del> <u>\$75.20</u>
D Med	\$80.98	\$85.90	\$82.67	\$82.67	<del>(\$86.95)</del> <u>\$91.30</u>
D Med-High	\$103.98	\$108.90	\$104.50	\$104.50	<del>(\$103.99)</del> <u>\$109.19</u>
D High	\$112.63	\$117.55	\$112.63	\$112.63	<del>(\$117.98)</del> <u>123.88</u>
E Med	\$135.52	\$140.44	\$135.52	\$135.52	<del>(\$141.91)</del> <u>\$149.01</u>
E High	\$158.40	\$163.32	\$158.40	\$158.40	<del>(\$165.84)</del> <u>\$174.13</u>

\*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$60.61	\$65.85	\$47.67	\$47.67	<del>(\$49.97)</del> <u>\$52.47</u>
A Med	\$65.02	\$70.26	\$50.86	\$50.86	<del>(\$53.26)</del> <u>\$55.92</u>
A High	\$79.37	\$84.61	\$55.66	\$55.66	<del>(\$58.73)</del> <u>\$61.67</u>
B Low	\$60.61	\$65.85	\$47.67	\$47.67	<del>(\$50.21)</del> <u>\$52.72</u>
B Med	\$70.52	\$75.76	\$56.16	\$56.16	<del>(\$59.01)</del> <u>\$61.96</u>
B Med-High	\$79.83	\$85.07	\$59.68	\$59.68	<del>(\$63.13)</del> <u>\$66.29</u>
B High	\$87.07	\$92.31	\$67.41	\$67.41	<del>(\$71.23)</del> <u>\$74.79</u>
C Low	\$65.02	\$70.26	\$50.86	\$50.86	<del>(\$53.26)</del> <u>\$55.92</u>



COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
C Med	\$79.37	\$84.61	\$63.20	\$63.20	<del>(\$67.48)</del> <u>\$70.85</u>
C Med-High	\$98.10	\$103.34	\$80.54	\$80.54	<del>(\$83.90)</del> <u>\$88.10</u>
C High	\$99.09	\$104.33	\$84.18	\$84.18	<del>(\$87.47)</del> <u>\$91.84</u>
D Low	\$70.52	\$75.76	\$67.96	\$67.96	<del>(\$67.80)</del> <u>\$71.19</u>
D Med	\$80.98	\$86.22	\$78.17	\$78.17	<del>(\$82.29)</del> <u>\$86.40</u>
D Med-High	\$103.98	\$109.22	\$98.79	\$98.79	<del>(\$98.41)</del> <u>\$103.33</u>
D High	\$106.48	\$111.72	\$106.48	\$106.48	<del>(\$111.62)</del> <u>\$117.20</u>
E Med	\$128.11	\$133.35	\$128.11	\$128.11	<del>(\$134.23)</del> <u>\$140.94</u>
E High	\$149.75	\$154.99	\$149.75	\$149.75	<del>(\$156.86)</del> <u>\$164.70</u>

\*\* Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

**Reviser's note:** The spelling 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.

**WSR 16-22-078  
PROPOSED RULES  
OLYMPIC REGION  
CLEAN AIR AGENCY**

[Filed November 1, 2016, 2:49 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: Olympic Region Clean Air Agency regulations, Regulation 3—Fees, Rule 3.5 Asbestos Fees.

Hearing Location(s): Olympic Region Clean Air Agency (ORCAA), 2940 Limited Lane N.W., Olympia, WA 98502, on December 14, 2016, at 10:00 a.m.

Date of Intended Adoption: December 14, 2016.

Submit Written Comments to: Robert Moody, 2940 Limited Lane N.W., Olympia, WA 98502, e-mail robert.moody@orca.org, fax (360) 491-6308, by December 9, 2016.

Assistance for Persons with Disabilities: Contact Dan Nelson by December 2, 2016, (360) 539-7610.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ORCAA is proposing to change the wording in Rule 3.5. The proposal deletes Rule 3.5(a) which will align Rules 3.5 and 6.3. This change does not affect the existing fee structure.

Reasons Supporting Proposal: This change will remove redundant language and simplify the organization of Rule 3.5.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: ORCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Robert Moody, 2940 Limited Lane N.W., Olympia, (360) 539-7610; Implementation and Enforcement: Franca L. McNair, 2940 Limited Lane N.W., Olympia, (360) 539-7610.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act, and the agency is not a school district.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

November 1, 2016  
 Francea L. McNair  
 Executive Director

## AMENDATORY SECTION

### **RULE 3.5 ASBESTOS AND DEMOLITION FEES**

The applicable fee(s) for Asbestos and Demolition Notifications shall be established in the current fee schedule adopted by Resolution of the Board of Directors of ORCAA.

The fees shall be sufficient to cover the direct and indirect cost of the asbestos program and shall be determined through a workload-driven process.

~~((a) Any permit required by Rule 6.3.2(a) shall be considered incomplete until all the information required by Rule 6.3.2(a) is received by ORCAA and accompanied by the appropriate, nonrefundable fee. The fee is specified in the Asbestos Fee Schedule.~~

~~(b) The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of ORCAA.~~

~~(c) The fees shall be sufficient to cover the direct and indirect cost of the asbestos program and shall be determined through a workload-driven process.))~~

**WSR 16-22-079**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Credit Union Division)  
 [Filed November 1, 2016, 3:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-013.

Title of Rule and Other Identifying Information: Repealing all rules under chapter 208-424 WAC promulgated through the Washington State Credit Union Act (WCUA) (chapter 31.12 RCW).

Hearing Location(s): Department of Financial Institutions, 150 Israel Road S.W., Olympia, WA 98501, (360) 902-8700, on December 6, 2016, at 1:30 - 2:30 p.m.

Date of Intended Adoption: January 4, 2017.

Submit Written Comments to: Cristina Diaz, Division of Credit Unions, 150 Israel Road S.W., P.O. Box 41200, Olympia, WA 98504-1200, e-mail [cristina.diaz@dfi.wa.gov](mailto:cristina.diaz@dfi.wa.gov) or [dcu@dfi.wa.gov](mailto:dcu@dfi.wa.gov), fax (877) 330-6870, by December 5, 2016.

Assistance for Persons with Disabilities: Contact Cristina Diaz by December 5, 2016, (360) 902-8718.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 208-424 WAC is not in compliance with recent amendments to WCUA and National Credit Union Administration (NCUA) policy interpretations. WAC 208-424-010 is no longer appli-

cable because in September 2015, NCUA defined a small credit union as under \$100 million in assets. WAC 208-424-020 is out of compliance with RCW 31.12.195, amended by chapter 34, Laws of 2013 (SB 5302) which now requires a credit union to hold its special membership meeting no later than ninety days after the secretary receives a valid request. WAC 208-424-030 is out of compliance with RCW 31.12.-225, amended by chapter 34, Laws of 2013 (SB 5302), which requires a credit union to hold no less than six regular board meetings per year.

Reasons Supporting Proposal: We are repealing the rules because the industry requested the repeal. The rules are not in compliance with WCUA's amendments in the above citations, and NCUA's interpretations.

Statutory Authority for Adoption: Chapter 43.320 RCW, RCW 31.12.516.

Statute Being Implemented: RCW 31.12.195 and 31.12.-225.

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

Name of Proponent: Department of financial institutions, consumer services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Linda Jekel, 150 Israel Road S.W., Olympia, WA 98501, (360) 902-8778.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Repealing this rule will not require a credit union to take actions that are not already in WCUA.

A cost-benefit analysis is not required under RCW 34.05.328. Repealing this rule will not require a credit union to take actions that are not already in WCUA.

November 1, 2016  
 Linda Jekel, Director  
 Division of Credit Unions

## REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 208-424-010 Definition of small credit union.

WAC 208-424-020 Timing of special membership meetings of small credit unions.

WAC 208-424-030 Frequency of regular meetings of board of directors of small credit unions.

**WSR 16-22-081**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed November 2, 2016, 8:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-076.

Title of Rule and Other Identifying Information: WAC 458-40-540 Forest land values and 458-40-660 Timber

excise tax—Stumpage value tables—Stumpage value adjustments.

Hearing Location(s): Conference Center Room 114A, 6400 Linderson Way S.W., Tumwater, WA (copies of draft rules are available for viewing and printing on our web site at dor.wa.gov), on December 6, 2016, at 1:00 p.m. *Call-in option can be provided upon request no later than three days before the hearing date.*

Date of Intended Adoption: December 9, 2016.

Submit Written Comments to: Danitza M. Casselman, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail danitzac@dor.wa.gov, fax (360) 534-1606, by December 9, 2016.

Assistance for Persons with Disabilities: Contact Julie King, (360) 704-5717, 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 (WAC 458-40-660) will apply to the first half of 2016.

Further, RCW 84.33.140 requires that forest land values be adjusted annually by a statutory formula contained in RCW 84.33.140(3). The department anticipates amending the forest land values rule (WAC 458-40-540) to adjust the table of forest land values in Washington as required by statute. County assessors will use these published land values for property tax purposes in 2016.

Reasons Supporting Proposal: Required by statutes and values needed to calculate timber excise and property taxes.

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: Danitza M. Casselman, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1583; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #500, Olympia, WA, (360) 534-1300.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic statement has not been prepared as the proposed rules do not impose more than a minor cost on small businesses. Only large businesses are statutorily required to utilize the values contained in the rules, while small businesses have other statutory authority for their tax reporting obligations.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Danitza M. Casselman, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1583, fax (360) 534-1606, e-

mail danitzac@dor.wa.gov. The proposed rule is a significant legislative rule as defined by RCW 34.05.328.

November 2, 2016  
Kevin Dixon  
Rules Coordinator

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

**WAC 458-40-540 Forest land values—~~((2016)) 2017.~~** The forest land values, per acre, for each grade of forest land for the ~~((2016)) 2017~~ assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	<del>((2016))</del> 2017 VALUES PER ACRE
1	1	<del>\$(203))</del> 209
	2	<del>((201))</del> 207
	3	<del>((188))</del> 193
	4	<del>((137))</del> 141
2	1	<del>((172))</del> 177
	2	<del>((166))</del> 171
	3	<del>((159))</del> 164
	4	<del>((113))</del> 116
3	1	<del>((133))</del> 137
	2	<del>((129))</del> 133
	3	<del>((128))</del> 132
	4	<del>((99))</del> 102
4	1	<del>((103))</del> 106
	2	<del>((100))</del> 103
	3	<del>((99))</del> 102
	4	<del>((75))</del> 77
5	1	<del>((75))</del> 77
	2	<del>((66))</del> 68
	3	<del>((65))</del> 67
	4	<del>((46))</del> 47
6	1	<del>((38))</del> 39
	2	<del>((36))</del> 37
	3	<del>((36))</del> 37
	4	<del>((34))</del> 35
7	1	17
	2	17
	3	16
	4	16
8	1	1

AMENDATORY SECTION (Amending WSR 16-14-035, filed 6/28/16, effective 7/1/16)

**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 stump-

age harvested from ((July)) January 1 through ((December 31, 2016)) June 30, 2017:

**Washington State Department of Revenue  
STUMPAGE VALUE TABLE**

((July)) January 1 through ((December 31, 2016)) June 30, 2017

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

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 <sup>(2)</sup> )	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 <sup>(3)</sup>	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 <sup>(4)</sup>	RC	1-5	1048	1041	1034	1027	1020
		6	887	880	873	866	859
Ponderosa Pine <sup>(5)</sup>	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
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 Red-cedar Poles	RCL	1-5	1576	1569	1562	1555	1548
		6	1104	1097	1090	1083	1076
Chipwood <sup>(6)</sup>	CHW	1-5	13	12	11	10	9
		6	3	2	1	1	1
Small Logs <sup>(6)</sup>	SML	6	25	24	23	22	21
RC Shake & Shingle Blocks <sup>(7)</sup>	RCS	1-6	289	282	275	268	261
Posts <sup>(8)</sup>	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF Christmas Trees <sup>(9)</sup>	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	TFX	1-6	0.50	0.50	0.50	0.50	0.50
Douglas-fir <sup>(2)</sup>	DF	1	\$318	\$311	\$304	\$297	\$290
		2	420	413	406	399	392
		3	410	403	396	389	382
		4	456	449	442	435	428
		5	423	416	409	402	395
		6	273	266	259	252	245

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
Western Hemlock and Other Conifer <sup>(3)</sup>	WH	1	240	233	226	219	212
		2	281	274	267	260	253
		3	262	255	248	241	234
		4	286	279	272	265	258
		5	282	275	268	261	254
		6	236	229	222	215	208
Western Red-cedar <sup>(4)</sup>	RC	1-5	1111	1104	1097	1090	1083
		6	935	928	921	914	907
Ponderosa Pine <sup>(5)</sup>	PP	1-6	193	186	179	172	165
Red Alder	RA	1-5	477	470	463	456	449
Black Cottonwood	BC	1-5	80	73	66	59	52
Other Hardwood	OH	1-5	282	275	268	261	254
		6	23	16	9	2	1
Douglas-fir Poles & Piles	DFL	1-5	711	704	697	690	683
Western Red-cedar Poles	RCL	1-5	1545	1538	1531	1524	1517
		6	1228	1221	1214	1207	1200
Chipwood <sup>(6)</sup>	CHW	1-5	13	12	11	10	9
		6	3	2	1	1	1
Small Logs <sup>(6)</sup>	SML	6	23	22	21	20	19
RC Shake & Shingle Blocks <sup>(7)</sup>	RCS	1-6	289	282	275	268	261
Posts <sup>(8)</sup>	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF Christmas Trees <sup>(9)</sup>	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	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 acre-

age 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 ~~((July)) January 1 through ((December 31, 2016)) June 30, 2017:~~

**TABLE 9—Harvest Adjustment Table  
Stumpage Value Areas 1, 2, 3, 4, and 5**

~~((July)) January 1 through ((December 31, 2016)) June 30, 2017~~

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
<b>I. Volume per acre</b>		
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
<b>II. Logging conditions</b>		
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

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
<b>III. Remote island adjustment:</b>		
	For timber harvested from a remote island	-\$50.00
<b>IV. Thinning</b>		
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**

~~((July)) January 1 through ((December 31, 2016)) June 30, 2017~~

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
<b>I. Volume per acre</b>		
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
<b>II. Logging conditions</b>		
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.	
<b>III. Remote island adjustment:</b>		
	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.

amendment is being proposed to update the air dispersion screening model(s) the agency would allow to be used to show whether ambient concentrations of toxic air contaminants from new, modified or existing sources are acceptable. Regulation III, Section 2.07 specifies the process that the agency and sources will use when reviewing new, modified or existing sources both during the new source review permitting process and outside this permitting process. In order to show whether the impact from toxic air contaminants for the source will be acceptable, a computer model is used that predicts the ambient concentrations based on the predicted (or known) emissions from the source. The United States Environmental Protection Agency (EPA) develops the models for use by other agencies and sources. There are various types of models, including screening models and more in-depth models. The agency rule currently requires a screening model called TSCREEN to be used. This model is outdated, no longer supported by EPA, difficult to obtain, and does not function on modern-day computers. The proposed rule revisions would eliminate the requirement to use TSCREEN and instead would allow any screening model recommended by EPA to be used. This would allow flexibility to accommodate new models when EPA adopts them as their recommended model(s).

Reasons Supporting Proposal: The newer models are more accurate, potentially easier to use, readily available, and can be run on any modern computer. The agency and sources will save time and money by using these readily available models rather than struggling to accommodate the older outdated model. Residents living near sources of air contaminants that are being modeled will benefit from the newer models which generally result in more accurate modeling results, giving all involved a better understanding of the existing or added impacts from toxic air contaminants.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Carole Cenci, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4061; Implementation and Enforcement: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4052.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedures [Procedure] Act, and the agency is not a school district.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

**WSR 16-22-084**  
**PROPOSED RULES**  
**PUGET SOUND**  
**CLEAN AIR AGENCY**

[Filed November 2, 2016, 10:04 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: Amend Regulation III, Section 2.07 (Evaluating the Impacts of Toxic Air Contaminants).

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on December 15, 2016, at 8:45 a.m.

Date of Intended Adoption: December 15, 2016.

Submit Written Comments to: Rob Switalski, Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, e-mail robs@pscleanair.org, fax (206) 343-7522, by December 14, 2016.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by December 8, 2016, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This technical

November 2, 2016

Craig Kenworthy

Executive Director

**AMENDATORY SECTION****REGULATION III, SECTION 2.07 EVALUATING THE IMPACTS OF TOXIC AIR CONTAMINANTS**

(a) Applicability. This section describes the procedures that shall be used for quantifying emissions and analyzing impacts of toxic air contaminants in order to meet the requirements for new or modified toxic air contaminant sources (see Article 6 of Regulation I) and for existing toxic air contaminant sources (see Section 2.05 of this regulation). In addition, definitions and procedures contained in chapter 173-460 WAC and adopted by reference in Regulation I, Section 6.01(a) apply to this section.

(b) Quantifying Emissions of Toxic Air Contaminants.

(1) The owner or operator of a new or modified toxic air contaminant source subject to Article 6 of Regulation I shall quantify toxic air contaminant emissions that may be discharged to the atmosphere after applying the required control technology, and shall submit this information as part of a Notice of Construction and Application for Approval.

(2) The owner or operator of an existing toxic air contaminant source subject to Section 2.05 of this regulation shall, upon request by the Agency, quantify toxic air contaminant emissions emitted by the facility and submit that information within 30 days.

(3) When quantifying toxic air contaminant emissions, the owner or operator shall assume that each toxic air contaminant is introduced into the atmosphere in an unaltered form continuously, at the maximum concentration known to exist at the source unless there is reliable data to the contrary or there is a physical or legal restriction.

(c) Analyzing Impacts of Toxic Air Contaminants. The air quality impact analysis for toxic air contaminant sources shall be performed using one of the following procedures:

(1) First Tier Review.

(A) Emissions of each toxic air contaminant discharged to the atmosphere shall be shown to be below the corresponding SQER listed in WAC 173-460-150; or

(B) ~~(The)~~ An EPA ((guideline)) recommended screening dispersion model((, TSCREEN,)) shall be used to demonstrate that the predicted concentration of each contaminant is below the corresponding ASIL listed in WAC 173-460-150. Stack parameters shall be submitted with the notice of construction application, or, for existing sources, within 30 days after the Agency requests the information. The maximum 1-hour concentration calculated by the model shall be converted with a persistence factor of 0.4 to a 24-hour average concentration or 0.08 to an annual average concentration; or

(C) The owner or operator shall submit a more comprehensive evaluation including the use of other EPA guideline models and more accurate emission estimation techniques to demonstrate that the predicted concentration of each contaminant is below the corresponding ASIL listed in WAC 173-460-150 in all areas where the general public has access; or

(2) Second and Third Tier Reviews. If predicted ambient concentrations from the first tier review are not below the ASILs listed in WAC 173-460-150, the owner or operator shall submit a petition to the Department of Ecology requesting a second tier or third tier review, and must receive Ecology's recommendation of approval for either the second or

third tier petition. Second tier petitions shall follow the procedures in WAC 173-460-090. Third tier petitions shall follow the procedures in WAC 173-460-100.

**WSR 16-22-085****PROPOSED RULES****PUGET SOUND****CLEAN AIR AGENCY**

[Filed November 2, 2016, 10:05 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: Amend Regulation I, Sections 5.05 (Registration Requirements) and 7.09 (General Reporting Requirements for Operating Permits).

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on December 15, 2016, at 8:45 a.m.

Date of Intended Adoption: December 15, 2016.

Submit Written Comments to: Rob Switalski, Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, e-mail robs@psc-cleanair.org, fax (206) 343-7522, by December 14, 2016.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by December 8, 2016, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This technical amendment is being proposed to address changes to the federal Air Emissions Reporting Rule (AERR). More specifically, this amendment pertains to reporting requirements for lead (Pb) emissions. Every three years the agency reports to the United States Environmental Protection Agency (EPA), the amount of lead and/or lead compounds that stationary sources emitted, but only if they are above the reporting threshold specified by EPA. EPA's thresholds and other reporting requirements are in the federal AERR rule found at 40 C.F.R. Part 51. Currently, the agency has in place reporting thresholds for lead of 2.5 tons per year for smaller sources (Regulation I, Section 5.05) and 2 tons per year of "lead and lead compounds" for larger sources (Regulation I, Section 7.09). In an update to the AERR (finalized in the Federal Register on February 19, 2015), EPA lowered their lead reporting threshold from 5 tons per year to 0.5 tons per year, making the agency's regulations out of sync with federal requirements. To address this discrepancy between EPA's and the agency's lead reporting thresholds, we are proposing that Regulation I, Sections 5.05 and 7.09 both explicitly include a lead reporting threshold and reduce the reporting threshold to 0.5 ton/year for all sources.

Reasons Supporting Proposal: The benefit of this proposal is ensuring that the agency is fully, and accurately, complying with all aspects of EPA's AERR regulation. This particular amendment would put us in line with EPA lead reporting standards. Because sources currently are required to calculate their emissions of lead and/or lead compounds to

determine if they are over the agency's current reporting thresholds, there would be an insignificant, if any, additional cost to the small number of sources that potentially emit lead and/or lead compounds.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Carole Cenci, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4061; Implementation and Enforcement: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4052.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedures [Procedure] Act, and the agency is not a school district.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

November 2, 2016  
Craig Kenworthy  
Executive Director

**AMENDATORY SECTION**

**REGULATION I, SECTION 5.05 REGISTRATION REQUIREMENTS**

(a) The owner or operator of a source requiring registration under Section 5.03 of this regulation shall make reports containing information as required by the Agency concerning location, size, and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The owner or operator shall be responsible for obtaining the proper forms from the Agency, notifying the Agency of its existence (including changes in its ownership or name), and for the accuracy, completeness, and timely submittal of all registration reports and fees.

(b) The owner or operator of a source requiring registration under Section 5.03 of this regulation shall submit a report by June 30th of each year, listing the emissions of those air contaminants emitted during the previous calendar year that equaled or exceeded:

- (1) 2.50 tons of any single hazardous air pollutant (HAP);
- (2) 6.25 tons of total hazardous air pollutants (HAP);
- ~~((or))~~
- (3) 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>2.5</sub> or PM<sub>10</sub>), sulfur oxides (SO<sub>x</sub>), or volatile organic compounds (VOC); or
- (4) 0.5 tons of lead.

(c) The owner or operator of a registered source shall develop and implement an operation and maintenance plan to ensure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer

upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

- (1) Periodic inspection of all equipment and control equipment;
- (2) Monitoring and recording of equipment and control equipment performance;
- (3) Prompt repair of any defective equipment or control equipment;
- (4) Procedures for start up, shut down, and normal operation;
- (5) The control measures to be employed to ensure compliance with Section 9.15 of this regulation; and
- (6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

**AMENDATORY SECTION**

**REGULATION I, SECTION 7.09 GENERAL REPORTING REQUIREMENTS FOR OPERATING PERMITS**

(a) **Emission Reporting.** An emission report shall be required from each owner or operator of an operating permit source, listing those air contaminants emitted during the previous calendar year that equal or exceed the following (tons/year):

carbon monoxide (CO) emissions . . . . .	25
facility combined total of all toxic air contaminant (TAC) emissions . . . . .	6
any single toxic air contaminant (TAC) emissions <u>(excluding lead, but including lead compounds)</u> . . . . .	2
nitrogen oxide (NO <sub>x</sub> ) emissions . . . . .	25
particulate matter (PM <sub>10</sub> ) emissions . . . . .	25
particulate matter (PM <sub>2.5</sub> ) emissions . . . . .	25
sulfur oxide (SO <sub>x</sub> ) emissions . . . . .	25
volatile organic compounds (VOC) emissions . . . . .	25
<u>lead</u> . . . . .	<u>0.5</u>

Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above, except lead which must be reported to the nearest tenth of a ton. The owner or operator of a source requiring a Title V operating permit under this Article shall maintain records of information necessary to document any reported emissions or to demonstrate that the emissions were less than the above amounts.

(b) **Operation and Maintenance Plan.** Owners or operators of air contaminant sources subject to Article 7 of this regulation shall develop and implement an operation and maintenance plan to assure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

- (1) Periodic inspection of all equipment and control equipment;
- (2) Monitoring and recording of equipment and control equipment performance;
- (3) Prompt repair of any defective equipment or control equipment;



(4) Procedures for start up, shut down, and normal operation;

(5) The control measures to be employed to assure compliance with Section 9.15 of this regulation; and

(6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

(c) **Compliance Reports.** After June 30, 2009, owners or operators of air contaminant sources subject to Article 7 of this regulation shall submit complete copies of all required compliance reports to this Agency in electronic format as an attachment to an e-mail message. The date the document is received by the Agency e-mail system shall be considered the submitted date of the report. Original written documents shall also be submitted for record purposes. Nothing in this section waives or modifies any requirements established under other applicable regulations.

### WSR 16-22-086

#### PROPOSED RULES

#### PUGET SOUND

#### CLEAN AIR AGENCY

[Filed November 2, 2016, 10:05 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: Amend Regulation I, Sections 14.02 (Agency Description, Contact Information, Public Records Officer) and 14.08 (Review of Denials of Public Records).

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on December 15, 2016, at 8:45 a.m.

Date of Intended Adoption: December 15, 2016.

Submit Written Comments to: Rob Switalski, Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, e-mail robs@psccleanair.org, fax (206) 343-7522, by December 14, 2016.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by December 8, 2016, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is proposing amendments to Regulation I, Section 14.02 to remove the name of a retiring staff person and to make the language regarding the identity of the public records officer at the agency not name specific.

The agency is proposing amendments to Regulation I, Section 14.08 to remove reference to a position no longer at the agency and to identify the agency executive director as the person at the agency who will consider a petition for internal administrative review a denial, or partial denial, of a public records request. The proposed amendments also expand the time period for the executive director to consider a petition from two to five business days, and modify a corre-

sponding provision regarding judicial appeals with the same time frame (from two to five business days).

Reasons Supporting Proposal: To reflect changes in agency contact information and policy.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Dold, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4015.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedures [Procedure] Act, and the agency is not a school district.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70.94.141.

November 2, 2016

Craig Kenworthy

Executive Director

### AMENDATORY SECTION

#### **SECTION 14.02 AGENCY DESCRIPTION, CONTACT INFORMATION, PUBLIC RECORDS OFFICER**

(a) **Location of Agency's offices.** The Agency's offices are located at 1904 3rd Avenue, Suite 105, Seattle, WA 98101-3317.

(b) **Identification of and contact information for Agency's public records officer.** Any person wishing to request access to public records of the Agency, or seeking assistance in making such a request should contact the Agency((~~s~~)) and request assistance from the Agency's ((public records officer)) Public Records Officer:

((~~Stella Nehen,~~))

Public Records Officer

1904 3rd Avenue, Suite 105

Seattle, WA 98101-3317

(206) 689-((4011)) 4030 (phone)

or (800) 552-3565, Ext. ((4011))

4030 (toll free phone)

(206) 343-7522 (facsimile)

recordsrequest@psccleanair.org

Information is also available on the Agency's website at: <http://www.pscleanair.org>.

(c) **Duties of public records officer.** The public records officer oversees compliance with the Act but another Agency staff member may process the request. Therefore, any reference to the public records officer in these rules may refer to the officer or a designee. The public records officer and the Agency will provide the "fullest assistance" to requesters as required by the Act; will ensure that public records are protected from damage or disorganization; and will prevent fulfilling public records requests from causing excessive interference with essential functions of the Agency.

**AMENDATORY SECTION**

**SECTION 14.08 REVIEW OF DENIALS OF PUBLIC RECORDS**

(a) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a public records request may petition in writing (including by e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer denying the request.

(b) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the ~~((Director of Compliance and Legal))~~ Executive Director. The ~~((Director of Compliance and Legal))~~ Executive Director will immediately consider the petition; will either affirm or reverse the denial within ~~((two))~~ five business days following the Agency's receipt of the petition, or within such other time period to which the Agency and the petitioner mutually agree; and will promptly inform the petitioner of the decision made.

(c) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of ~~((two))~~ five business days after the initial denial regardless of any internal administrative appeal.

- Outlining the general steps that PBMs will take to register with OIC, renew their registrations, and pay registration and renewal fees.
- Describing how OIC will process appeals.

Reasons Supporting Proposal: During the 2016 legislative session, the legislature passed 5ESSB 5857. Section 1 requires OIC to do rule making to establish the registration and renewal fees, while Sections 2 and 5 give OIC enforcement authority over chapter 19.340 RCW and allow the agency to adopt rules to implement chapter 19.340 RCW.

Statutory Authority for Adoption: RCW 48.02.060, 19.340.010, 19.340.030, 19.340.100, 19.340.110, 5ESSB 5857 (chapter 210, Laws of 2016).

Statute Being Implemented: 5ESSB 5857 (chapter 210, Laws of 2016) - effective June 9, 2016, but Section 1 is effective January 1, 2017.

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 40260, Olympia, WA 98504-0260, (360) 725-7041; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: AnnaLisa Gellermann, 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. The primary impact of this rule is that imposed by the legislature, which by law required that the appeals, oversight and registration provisions of this law and related rules would be self-sustaining; as a result these impacts are not subject to the provisions of chapter 19.85 RCW. The remaining requirements of the new rules - the filing of information for registration, the provision of information about business income for purposes of determining proportional fees and use of any prescribed forms for appeals all represent minimal costs, below the thresholds specified in chapter 19.85 RCW, to the PBMs required to comply.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Bianca Stoner, P.O. Box 40260, Olympia, WA 98504, phone (360) 725-7041, fax (360) 586-3109, e-mail rulesec@oic.wa.gov.

November 2, 2016  
Mike Kreidler  
Insurance Commissioner

**WSR 16-22-088  
PROPOSED RULES  
OFFICE OF**

**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2016-07—Filed November 2, 2016, 10:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-10-049.

Title of Rule and Other Identifying Information: Registration and regulation of pharmacy benefit managers.

Hearing Location(s): Office of the Insurance Commissioner (OIC), 5000 Capitol Boulevard, Tumwater, WA 98504, on Tuesday, December 6, 2016, at 1:00 p.m.

Date of Intended Adoption: December 7, 2016.

Submit Written Comments to: Bianca Stoner, P.O. Box 40260, Olympia, WA 98504, e-mail rulesec@oic.wa.gov, fax (360) 586-3109, by December 6, 2016.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by December 6, 2016, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule provides specific details regarding how OIC will implement 5ESSB 5857, including but not limited to:

- Describing the scope of OIC's jurisdiction regarding pharmacy benefit managers (PBM).
- Defining some key terms, such as "corporate umbrella" and "retaliate."

**Chapter 284-180 WAC**

**PHARMACY BENEFIT MANAGERS**

**SUBCHAPTER A**

**GENERAL PROVISIONS**

NEW SECTION

**WAC 284-180-110 Purpose.** These regulations implement chapter 19.340 RCW including, but not limited to, the

processes and procedures for registration and regulation of pharmacy benefit managers by the office of the insurance commissioner (commissioner).

#### NEW SECTION

**WAC 284-180-120 Applicability and scope.** This chapter applies to pharmacy benefit managers as defined in RCW 19.340.010.

(1) Specifically, this chapter applies to the actions of pharmacy benefit managers regarding contracts with pharmacies on behalf of an insurer, a third-party payor, or the prescription drug purchasing consortium established under RCW 70.14.060 in regard to:

- (a) Fully insured health plans; and
- (b) Medicaid plans. However, the appeal requirements of RCW 19.340.100 do not apply to medicaid plans.

(2) This chapter does not apply to the actions of pharmacy benefit managers acting as third-party administrators regarding contracts with pharmacies on behalf of an insurer, a third-party payor, or the prescription drug purchasing consortium established under RCW 70.14.060 in regard to:

- (a) Self-insured health plans; and
- (b) Medicare plans.

#### NEW SECTION

**WAC 284-180-130 Definitions.** Except as defined in other subchapters and unless the context requires otherwise, the following definitions apply throughout this chapter:

(1) "Corporate umbrella" means an arrangement consisting of, but not limited to, subsidiaries and affiliates operating under common ownership or control.

(2) "Generally available for purchase" means available for purchase by multiple pharmacies within the state of Washington from national or regional wholesalers.

(3) "Net amount" means the invoice price that the pharmacy paid to the supplier for a prescription drug that it dispensed, plus any taxes, fees or other costs, minus the amount of all discounts and other cost reductions attributable to the drug.

(4) "Oversight activities" includes all work done by the commissioner to ensure that the requirements of chapter 19.340 RCW are properly followed and in fulfilling its duties as required under chapter 19.340 RCW.

(5) "Predetermined reimbursement cost" means maximum allowable cost, maximum allowable cost list, or any other benchmark price utilized by the pharmacy benefit manager, including the basis of the methodology and sources utilized to determine multisource generic drug reimbursement amounts. However, dispensing fees are not included in the calculation of predetermined reimbursement costs for multisource generic drugs.

(6) "Readily available for purchase" means manufactured supply is held in stock and available for order by more than one pharmacy in Washington state when such pharmacies are not under the same corporate umbrella.

(7) "Retaliate" means action, or the implied or stated threat of action, to decrease reimbursement or to terminate, suspend, cancel or limit a pharmacy's participation in a pharmacy benefit manager's provider network solely or in part

because the pharmacy has filed or intends to file an appeal under RCW 19.340.100.

(8) "Unsatisfied" means that the network pharmacy did not receive the reimbursement that it requested at the first tier appeal.

#### NEW SECTION

**WAC 284-180-140 Computation of time.** In computing any period of time prescribed by this rule, the commissioner:

- (1) Will not count the first day;
- (2) Will count the last day, unless the last day is a weekend or a state legal holiday; and
- (3) Will count the next day that is not a weekend or a state legal holiday as the last day if the last day is a weekend or a state legal holiday.

#### NEW SECTION

**WAC 284-180-150 Severability.** If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter or its application of the provision to other persons or circumstances is not affected.

## SUBCHAPTER B

### REGISTRATION AND RENEWAL

#### NEW SECTION

**WAC 284-180-210 Registration and renewal fees.** (1) The registration, renewal and oversight activities for pharmacy benefit managers must be self-supporting. Each pharmacy benefit manager must contribute a sufficient amount to the commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating pharmacy benefit managers.

(2) The registration fee is two hundred dollars.

(3) For the renewal fee, the commissioner will charge a proportional share of the annual cost of renewal and oversight activities to all pharmacy benefit managers. The pharmacy benefit managers' proportional share shall be based on their Washington state annual gross pharmacy benefit manager business income for the previous calendar year. The minimum renewal fee is five hundred dollars.

(4) No later than March 1st of each year, pharmacy benefit managers must report their Washington state annual gross pharmacy benefit manager business income for the previous calendar year on a form prescribed by the commissioner.

(5) On or before June 1st of each year, the commissioner will calculate and set the renewal fees for the ensuing fiscal year of July 1st through June 30th.

(6) If an unexpended balance of pharmacy benefit manager registration and renewal funds remain in the insurance commissioner's regulatory account at the close of a fiscal year, the commissioner will carry the unexpended funds forward and use them to reduce future renewal fees.

NEW SECTION

**WAC 284-180-220 Pharmacy benefit manager registration.** (1) Beginning January 1, 2017, and thereafter, to conduct business in this state, pharmacy benefit managers must register with the commissioner and must annually renew the registration.

(2) Pharmacy benefit managers must register using the commissioner's electronic system, which is available at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(3) The registration period is valid from the date of registration through June 30th of the same fiscal year.

(4) The registration is not complete until the commissioner receives both the complete registration form and the correct registration fee.

NEW SECTION

**WAC 284-180-230 Pharmacy benefit manager renewal.** (1) Pharmacy benefit managers must annually renew their registrations by paying the renewal fee. Pharmacy benefit managers must access invoices through the commissioner's electronic system, which is available at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(2) The renewal is valid for one fiscal year, from July 1st through June 30th.

(3) The renewal fee is due and payable no later than July 15th of each year. Failure to timely pay the renewal fee may subject a pharmacy benefit manager to a civil penalty under RCW 19.340.110(2).

(4) The renewal is not complete until the commissioner receives the correct renewal fee.

NEW SECTION

**WAC 284-180-240 Providing and updating registration information.** (1) At the time of registration, a pharmacy benefit manager must provide its legal name as well as any and all additional names that it uses to conduct business.

(2) Registered pharmacy benefit managers must provide the commissioner with a valid e-mail address, which the commissioner will use as the official contact address for all communications regarding registrations, renewals and oversight activities.

(3) Registered pharmacy benefit managers must ensure that the information that they disclosed when they registered with the commissioner remains current by notifying the commissioner of any changes or additions.

(a) This information includes, but is not limited to:

(i) Any and all additional names that pharmacy benefit managers use to conduct business; and

(ii) The e-mail address for official communications between the commissioner and the pharmacy benefit manager.

(b) Within thirty days of any change, pharmacy benefit managers must report changes to the commissioner using the commissioner's electronic system.

## SUBCHAPTER C

## ENFORCEMENT

NEW SECTION

**WAC 284-180-310 Pharmacy benefit manager records.** (1) Pharmacy benefit managers must maintain records and make them available to the commissioner upon request. Records include, but are not limited to:

(a) Registration and renewal materials that pharmacy benefit managers submit to the commissioner to request registration and renewal; and

(b) Information about appeals under chapter 19.340 RCW.

(2) These materials are subject to review by the commissioner's representatives.

(3) The commissioner may require pharmacy benefit managers to provide copies of records.

(4) When the commissioner requests copies of records for inspection, pharmacy benefit managers must transmit these documents to the commissioner electronically.

NEW SECTION

**WAC 284-180-320 Deadline to provide copies of records.** If the commissioner requests records for inspection for a purpose other than to resolve an appeal under RCW 19.340.100(6), a pharmacy benefit manager must make the records available to the commissioner within fifteen days from the date on the written request. If the commissioner grants a written extension, then the records are due by the date indicated on the extension.

NEW SECTION

**WAC 284-180-330 Actions that may result in a fine.** The commissioner may issue a fine against any person, corporation, third-party administrator of prescription drug benefits, pharmacy benefit manager, or business entity for failing to comply with any statute or rule pertaining to pharmacy benefit managers as specified in chapter 19.340 RCW and Title 284 WAC.

NEW SECTION

**WAC 284-180-340 When a violation is knowing and willful.** (1) A violation is knowing and willful for the purpose of chapter 19.340 RCW when the actor as defined in WAC 284-180-330 who committed the violation was aware or should have been aware of each act, failure to act, or other facts or circumstances that led to the violation. A violation is knowing and willful regardless of whether the person who committed the violation had a malicious motive, intended to violate the law, or knew that the law was being violated.

(2) A person should have been aware of an act, failure to act, or other facts or circumstances when the person had information that would lead a reasonable person in the same situation to be aware of the act, failure to act, or other facts or circumstances. A person is presumed to have intended the natural and probable consequences of their voluntary acts.

## SUBCHAPTER D

## APPEALS

NEW SECTION

**WAC 284-180-400 Appeals by network pharmacies to pharmacy benefit managers.** A network pharmacy may appeal a reimbursement to a pharmacy benefit manager (first tier appeal) if the reimbursement for the drug is less than the net amount the network pharmacy paid to the supplier of the drug. "Network pharmacy" has the meaning set forth in RCW 19.340.100 (1)(d). "Pharmacy benefit manager" has the meaning set forth in RCW 19.340.010 (6)(a). A pharmacy benefit manager must process the network pharmacy's appeal as follows:

(1) A pharmacy benefit manager must include language in the pharmacy provider contract and on the pharmacy benefit manager's web site fully describing the right to appeal under RCW 19.340.100. The description must include, but is not limited to:

(a) Contact information, including:

(i) A telephone number by which the pharmacy may contact the pharmacy benefit manager during normal business hours and speak with an individual responsible for processing appeals;

(ii) A summary of the specific times when the pharmacy benefit manager will answer calls from network pharmacies at that telephone number;

(iii) A fax number that a network pharmacy can use to submit information regarding an appeal; and

(iv) An e-mail address that a network pharmacy can use to submit information regarding an appeal.

(b) A detailed description of the actions that a network pharmacy must take to file an appeal; and

(c) A detailed summary of each step in the pharmacy benefit manager's appeals process.

(2) The pharmacy benefit manager must reconsider the reimbursement. A pharmacy benefit manager's review process must provide the network pharmacy or its representatives with the opportunity to submit information to the pharmacy benefit manager including, but not limited to, documents or written comments. The pharmacy benefit manager must review and investigate the reimbursement and consider all information submitted by the network pharmacy or its representatives prior to issuing a decision.

(3) The pharmacy benefit manager must complete the appeal within thirty calendar days from the time the network pharmacy submits the appeal. If the network pharmacy does not receive the pharmacy benefit manager's decision within that time frame, then the appeal is deemed denied.

(4) The pharmacy benefit manager must uphold the appeal of a network pharmacy with fewer than fifteen retail outlets within the state of Washington, under its corporate umbrella, if the pharmacy demonstrates that they are unable to purchase therapeutically equivalent interchangeable product from a supplier doing business in the state of Washington at the pharmacy benefit manager's list price. "Therapeutically equivalent" is defined in RCW 69.41.110(7).

(5) If the pharmacy benefit manager denies the network pharmacy's appeal, the pharmacy benefit manager must provide the network pharmacy with a reason for the denial and the national drug code of a drug that has been purchased by other network pharmacies located in the state of Washington at a price less than or equal to the predetermined reimbursement cost for the multisource generic drug. "Multisource generic drug" is defined in RCW 19.340.100 (1)(c).

(6) If the pharmacy benefit manager upholds the network pharmacy's appeal, the pharmacy benefit manager must make a reasonable adjustment no later than one day after the date of the determination. If the request for an adjustment is from a critical access pharmacy, as defined by the state health care authority by rule for purpose related to the prescription drug purchasing consortium established under RCW 70.14.060, any such adjustment shall apply only to such pharmacies.

(7) If otherwise qualified, the following may file an appeal with a pharmacy benefit manager:

(a) Persons who are natural persons representing themselves;

(b) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;

(c) Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law;

(d) Public officials in their official capacity;

(e) A duly authorized director, officer, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation;

(f) Partners, joint venturers or trustees representing their respective partnerships, joint ventures, or trusts; and

(g) Other persons designated by a person to whom the proceedings apply.

NEW SECTION

**WAC 284-180-410 Use of brief adjudicative proceedings for appeals by network pharmacies to the commissioner.** The commissioner has adopted the procedure for brief adjudicative proceedings provided in RCW 34.05.482 through 34.05.494 for actions involving a network pharmacy's appeal of a pharmacy benefit manager's reimbursement for a drug subject to predetermined reimbursement costs for multisource generic drugs (reimbursement). WAC 284-180-410 through 284-180-440 describe the procedures for how the commissioner processes a network pharmacy's appeal of the pharmacy benefit manager's decision in the first tier appeal (second tier appeal) through a brief adjudicative proceeding.

This rule does not apply to adjudicative proceedings under WAC 284-02-070, including converted brief adjudicative proceedings.

NEW SECTION

**WAC 284-180-420 Appeals by network pharmacies to the commissioner.** The following procedure applies to brief adjudicative proceedings before the commissioner for

actions involving a network pharmacy's appeal of a pharmacy benefit manager's decision in a first tier appeal regarding reimbursement for a drug subject to predetermined reimbursement costs for multisource generic drugs, unless the matter is converted to a formal proceeding as provided in WAC 284-180-440(3).

(1) **Grounds for appeal.** A network pharmacy or its representative may appeal a pharmacy benefit manager's decision to the commissioner if it meets all the following requirements:

(a) The pharmacy benefit manager's decision must have denied the network pharmacy's appeal, or the network pharmacy must be unsatisfied with the outcome of its appeal to the pharmacy benefit manager;

(b) The network pharmacy must request review of the pharmacy benefit manager's decision by filing a written petition for review form. A form for this purpose is available at [www.insurance.wa.gov](http://www.insurance.wa.gov).

The petition for review must include:

(i) The network pharmacy's basis for appealing the pharmacy benefit manager's decision in the first tier appeal;

(ii) The network pharmacy's federal identification number, unified business identifier number, business address, and mailing address;

(iii) The documents from the first tier review, including the documents that the pharmacy submitted to the pharmacy benefit manager as well as the documents that the pharmacy benefit manager provided to the pharmacy in response to the first tier review; and

(iv) Any additional information that the commissioner may require.

(c) The network pharmacy must deliver the petition for review to the commissioner's Tumwater office by mail, hand delivery, or by other methods that the commissioner may make available;

(d) The network pharmacy must file the petition for review with the commissioner within thirty days of receipt of the pharmacy benefit manager's decision; and

(e) The network pharmacy making the appeal must have less than fifteen retail outlets within the state of Washington under its corporate umbrella. The petition for review that the network pharmacy submits to the commissioner must state that this requirement is satisfied, and must be signed and verified by an officer or authorized representative of the network pharmacy.

(2) **Time frames governing appeals to the commissioner.** The commissioner must complete the appeal within thirty calendar days of the receipt of the network pharmacy's appeal. An appeal before the commissioner is deemed complete when a presiding officer issues an initial order on behalf of the commissioner to both the network pharmacy and pharmacy benefit manager under subsection (7) of this section. Within seven calendar days of the resolution of a dispute, the presiding officer shall provide a copy of the initial order to both the network pharmacy and pharmacy benefit manager.

(3) **Relief the commissioner may provide.** The commissioner, by and through a presiding officer or reviewing officer, may enter an order directing the pharmacy benefit manager to make an adjustment to the disputed claim, deny-

ing the network pharmacy's appeal, or may take other actions deemed fair and equitable.

(4) **Notice.** If the presiding officer under the use of discretion chooses to conduct an oral hearing, the presiding officer will set the time and place of the hearing. Written notice shall be served upon both the network pharmacy and pharmacy benefit manager at least seven days before the date of the hearing. Service is to be made pursuant to WAC 284-180-440(2). The notice must include:

(a) The names and addresses of each party to whom the proceedings apply and, if known, the names and addresses of any representatives of such parties;

(b) The official file or other reference number and name of the proceeding, if applicable;

(c) The name, official title, mailing address and telephone number of the presiding officer, if known;

(d) A statement of the time, place and nature of the proceeding;

(e) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(f) A reference to the particular sections of the statutes or rules involved;

(g) A short and plain statement of the matters asserted by the network pharmacy against the pharmacy benefit manager and the potential action to be taken; and

(h) A statement that if either party fails to attend or participate in a hearing, the hearing can proceed and the presiding or reviewing officer may take adverse action against that party.

(5) **Appearance and practice at a brief adjudicative proceeding.** The right to practice before the OIC in a brief adjudicative proceeding is limited to:

(a) Persons who are natural persons representing themselves;

(b) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;

(c) Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law;

(d) Public officials in their official capacity;

(e) A duly authorized director, officer, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation;

(f) Partners, joint venturers or trustees representing their respective partnerships, joint ventures, or trusts; and

(g) Other persons designated by a person to whom the proceedings apply with the approval of the presiding officer.

In the event a proceeding is converted from a brief adjudicative proceeding to a formal proceeding, representation is limited to the provisions of law and RCW 34.05.428.

(6) **Hearings by telephone.** If the presiding officer chooses to conduct a hearing, then the presiding officer may choose to conduct the hearing telephonically. The conversation will be recorded and will be part of the record of the hearing.

**(7) Presiding officer.**

(a) Per RCW 34.05.485, the presiding officer may be the commissioner, one or more other persons designated by the commissioner per RCW 48.02.100, or one or more other administrative law judges employed by the office of administrative hearings. The commissioner's choice of presiding officer is entirely discretionary and subject to change at any time. However, it must not violate RCW 34.05.425 or 34.05.458.

(b) The presiding officer shall conduct the proceeding in a just and fair manner. Before taking action, the presiding officer shall provide both parties the opportunity to be informed of the presiding officer's position on the pending matter and to explain their views of the matter. During the course of the proceedings before the presiding officer, the parties may present all relevant information.

(c) The presiding officer may request additional evidence from either party at any time during review of the initial order. After the presiding officer requests evidence from a party, the party has seven days after service of the request to supply the evidence to the presiding officer, unless the presiding officer, under the use of discretion, allows additional time to submit the evidence.

(d) The presiding officer has all authority granted under chapter 34.05 RCW.

**(8) Entry of orders.**

(a) When the presiding officer issues a decision, the presiding officer shall briefly state the basis and legal authority for the decision. Within ten days of issuing the decision, the presiding officer shall serve upon the parties the initial order, as well as information regarding any administrative review that may be available before the commissioner. The presiding officer's issuance of a decision within the ten day time frame satisfies the seven day requirement in subsection (2) of this section.

(b) The initial order consists of the decision and the brief written statement of the basis and legal authority. The initial order will become a final order if neither party requests a review as provided in WAC 284-180-430(1).

**NEW SECTION**

**WAC 284-180-430 Review of initial orders from brief adjudicative proceedings.** The following procedure applies to the commissioner's review of a brief adjudicative proceeding conducted pursuant to WAC 284-180-420, unless the matter is converted to a formal proceeding as provided in WAC 284-180-440(4).

(1) **Request for review of initial order.** A party to a brief adjudicative proceeding under WAC 284-180-420 may request review of the initial order by filing a written petition for review with the commissioner within twenty-one days after service of the initial order is received or deemed to be received by the party. A form for this purpose is available at [www.insurance.wa.gov](http://www.insurance.wa.gov). The request for review must be in writing and delivered to the commissioner's Tumwater office by mail, hand delivery, or by other methods that the commissioner may make available.

(a) When making a petition for review of the initial order, the petitioner must submit to the reviewing officer any

evidence or written material relevant to the matter that the party wishes the reviewing officer to consider.

(b) The commissioner may, on its own motion, conduct an administrative review of the initial order as provided for in RCW 34.05.491.

(2) **Reviewing officer.** The commissioner shall appoint a reviewing officer who satisfies the requirements of RCW 34.05.491(2). The reviewing officer shall:

(a) Make such determination as may appear to be just and lawful;

(b) Provide both the network pharmacy and the pharmacy benefit manager an opportunity to explain their positions on the matter; and

(c) Make any inquiries necessary to determine whether the proceeding should be converted to a formal adjudicative proceeding. The review is governed by the brief adjudicative procedures of chapter 34.05 RCW and this rule, or WAC 284-02-070 in the event a brief adjudicative hearing is converted to a formal adjudicative proceeding. The reviewing officer shall have the authority of a presiding officer as provided in WAC 284-180-420.

**(3) Record review.**

(a) Review of an initial order is limited to:

(i) The evidence that the presiding officer considered;

(ii) The initial order;

(iii) The recording of the initial proceeding; and

(iv) Any records and written evidence that the parties submitted to the reviewing officer.

(b) However, the record that the presiding officer made does not need to constitute the exclusive basis for the reviewing officer's decision.

(c) The reviewing officer may request additional evidence from either party at any time during review of the initial order. After the reviewing officer requests evidence from a party, the party has seven days after service of the request to supply the evidence to the reviewing officer, unless the reviewing officer, under the use of discretion, allows additional time to submit the evidence.

(d) If the reviewing officer determines that oral testimony is needed, the officer may schedule a time for both parties to present oral testimony. Oral statements before the reviewing officer shall be by telephone, unless specifically scheduled by the reviewing officer to be in person.

(e) Each party will have an opportunity to respond to the other party's request for review and may also submit any other relevant evidence and written material to the reviewing officer.

(i) The other party must:

(A) Submit material within seven days of service of the material submitted by the party requesting review of the initial order; and

(B) Serve a copy of all evidence and written material provided to the reviewing officer to the party requesting review according to WAC 284-180-440(2).

(ii) Proof of service is required under WAC 284-180-440(2)(g) when a party submits material to the other party under this subsection.

(4) **Failure to participate.** If a party requesting review of an initial order under subsection (1) of this section fails to participate in the proceeding or fails to provide documenta-

tion to the reviewing officer upon request, the reviewing officer may uphold the initial order based upon the record.

(5) **Final orders.**

(a) The reviewing officer's final order must include the decision of the reviewing officer and a brief statement of the basis and legal authority for the decision.

(b) Unless there are continuances, the reviewing officer will issue the final order within twenty days of the petition for review.

(6) **Reconsideration.** Unless otherwise provided in the reviewing officer's order, the reviewing officer's order represents the final position of the commissioner. A petitioner may only seek a reconsideration of the reviewing officer's order if the final order contains a right to a reconsideration.

(7) **Judicial review.** Judicial review of the final order of the commissioner is available under Part V, chapter 34.05 RCW. However, as required by RCW 34.05.534, judicial review may be available only if the petitioner has requested a review of the initial order under this subsection and has exhausted all other administrative remedies.

NEW SECTION

**WAC 284-180-440 General procedures governing brief adjudicative proceedings before the commissioner.**

(1) **Rules of evidence - Record of the proceeding.**

(a) Evidence is admissible if in the judgment of the presiding or reviewing officer it is the kind of evidence on which reasonably prudent persons are accustomed to relying on in conducting their affairs. The presiding and reviewing officer should apply RCW 34.05.452 when ruling on evidentiary issues in the proceeding.

(b) All oral testimony must be recorded manually, electronically, or by another type of recording device. The agency record must consist of the documents regarding the matters that were considered or prepared by the presiding officer, or by the reviewing officer in any review, and the recording of the hearing. These records must be maintained by the commissioner as its official record.

(2) **Service.** All notices and other pleadings or papers filed with the presiding or reviewing officer must be served on the network pharmacy and the pharmacy benefit manager.

(a) Service is made by one of the following methods:

- (i) In person;
- (ii) By first-class, registered, or certified mail;
- (iii) By fax and same-day mailing of copies;
- (iv) By commercial parcel delivery company; or
- (v) By electronic delivery as allowed by the presiding officer.

(b) Service by mail is regarded as completed upon deposit in the United States mail properly stamped and addressed.

(c) Service by electronic fax is regarded as completed upon the production by the fax machine of confirmation of transmission.

(d) Service by commercial parcel delivery is regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(e) Service by electronic delivery is regarded as completed on the date that any party electronically sends the

information to other parties or electronically notifies other parties that the information is available for them to access.

(f) For matters before the reviewing officer, service to the reviewing officer must be sent to:

Office of the Insurance Commissioner  
P.O. Box 40255  
Olympia, Washington 98504-0255

(g) Where proof of service is required, the proof of service must include:

(i) An acknowledgment of service;

(ii) A certification, signed by the person who served the document, stating the date of service; that the person served the document upon all or one or more of the parties of record in the proceeding by delivering a copy in person to the recipient; and that the service was accomplished by a method of service as provided in this subsection.

(3) **Conversion of a brief adjudicative proceeding to a formal proceeding.** The presiding or reviewing officer may at any time, on motion of either party or on the officer's own motion, convert the brief adjudicative proceeding to a formal proceeding. The presiding or reviewing officer may convert the proceeding if the officer finds that:

(a) Use of the brief adjudicative proceeding violates any provision of law;

(b) The protection of the public interest requires the agency to give notice to and an opportunity to participate to persons other than the parties; or

(c) The issues and interests involved warrant the use of procedures governed by RCW 34.05.413 through 34.05.476 or 34.05.479.

**WSR 16-22-090**

**PROPOSED RULES**

**OFFICE OF**

**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2013-29—Filed November 2, 2016, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-02-074.

Title of Rule and Other Identifying Information: Long-term care policy unintentional lapse notices.

Hearing Location(s): Office of Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, WA 98504, on December 6, 2016, at 11:00 a.m.

Date of Intended Adoption: December 7, 2016.

Submit Written Comments to: Jim Freeburg, P.O. Box 40260, Olympia, WA 98504, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by December 6, 2016.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by December 2, 2016, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under this rule making the commissioner will consider amendments to existing rules to require issuers of long-term care policies to pro-



vide notification to insureds and their designees about important details of the unintentional lapse protections of their long-term care policies.

Reasons Supporting Proposal: Consumers and their designees should be made aware of a lapse in coverage because of nonpayment. Consumers with long-term care insurance may be vulnerable to a lapse due to dementia. Issuers must make a significant effort to notify consumers and their designees when a lapse occurs.

Statutory Authority for Adoption: RCW 48.02.060, 48.83.170, and 48.84.030.

Statute Being Implemented: RCW 48.83.170.

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: Jim Freeburg, P.O. Box 40260, Olympia, WA 98504, (360) 725-7170; Implementation: Doug Hartz, P.O. Box 40255, Olympia, WA 98504, (360) 725-7214; and Enforcement: AnnaLisa Gellermann, P.O. Box 40255, Olympia, WA 98504, (360) 725-7037.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The long-term care insurance issuers that must comply with the rule are not small businesses, pursuant to chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jim Freeburg, P.O. Box 40260, Olympia, WA 98504, phone (360) 725-7170, e-mail jimf@oic.wa.gov.

November 2, 2016  
Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 95-19-028, filed 9/11/95, effective 10/12/95)

**WAC 284-54-253 Unintentional lapse.** The purpose of this section is to protect insureds from unintentional lapse by establishing standards for notification of a designee to receive notice of lapse for nonpayment of premiums at least thirty days prior to the termination of coverage and to provide for a limited right to reinstatement of coverage unintentionally lapsed by a person with a cognitive impairment or loss of functional capacity. These are minimum standards and do not prevent an insurer from including benefits more favorable to the insured. This section applies to every insurer providing long-term care coverage to a resident of this state, which coverage is issued for delivery or renewed on or after January 1, 1996, through December 31, 2008.

(1) Every insurer shall permit an insured to designate at least one additional person to receive notice of lapse or termination for nonpayment of premium, if the premium is not paid on or before its due date. The designation shall include the designee's full name and home address.

(a) The notice shall provide that the contract or certificate will not lapse until at least thirty days after the issuer sends the notice (~~is mailed~~) to the insured's designee.

(i) Issuers must be able to show:

(A) Proof that they produced the notice;

(B) Proof that they sent the notice;

(C) The name and address of the person or persons to whom they sent the notice. The address may consist of either:

(I) A physical mailing address; or

(II) An electronic mailing address for delivery by electronic means under the requirements of RCW 48.185.005.

(D) The date that they sent the notice.

(ii) Upon request of the commissioner, to verify that they sent the notice, issuers must be able to provide:

(A) An attestation from the person who sent the notice or supervised sending the notice; or

(B) Proof of sending the notice, which may consist of but is not limited to:

(I) Proof of sending the notice by certified mail, or by obtaining a certificate of mailing from the United States Postal Service;

(II) Proof of sending the notice by a commercial delivery service, if at the time of mailing the issuer obtains a written receipt or confirmation from the service showing the date the issuer mailed the item, the number of items the issuer mailed, and the name and address of the insured and the lapse designee, if the insured has named a lapse designee for the policy;

(III) Proof of sending the notice by first class United States mail, postage prepaid. If an issuer uses this option, the issuer must obtain a written receipt or confirmation at the time of mailing from the United States Postal Service showing the date the issuer mailed the item, the number of items the issuer mailed, and the name and address of the insured and the lapse designee, if the insured has named a lapse designee on the policy; or

(IV) Proof of delivery by electronic means under the requirements of RCW 48.185.005.

(iii) If the insured has an insurance producer of record, then the issuer must also provide notice to the insured's producer of record within seventy-two hours after the issuer sends the notice to the insured and to the lapse designee, if the insured has named a lapse designee for the policy. In sending this notice, issuers must comply with the mailing requirements in (a)(ii) of this subsection.

(iv) An issuer may not give notice until thirty days after a premium is due and unpaid. Notice is deemed to have been given as of five days after the date that the issuer sent the notice.

(v) Upon the request of the office of the insurance commissioner, issuers must be able to demonstrate that they use due diligence to attempt to locate policyholders or named lapse designees when they receive notification of nondelivery of lapse notices.

(b) Where a policyholder or certificate holder pays premium through a payroll or pension deduction plan, the insurer shall permit the insured to designate a person to receive notice of lapse or termination for nonpayment of premium within sixty days after the insured is no longer on such a premium payment plan. The application or enrollment form for contracts or certificates where premium will be paid through a payroll or pension deduction plan shall clearly indicate the payment plan selected by the applicant.

(c) The insurer shall offer (~~each insured~~) in writing an opportunity to each insured to change the lapse designee, or

update the information concerning the lapse designee, no less frequently than once ~~((in every twenty-four months))~~ a year.

(i) Issuers must print this notice in not less than twelve point type either:

(A) On the front side of the first page of the billing statement; or

(B) On a separate document that is not printed on the billing statement.

(ii) If the insured has named a lapse designee for the account, then the issuer must print on the notice the name and contact information that the issuer has on record for the lapse designee.

(2) Every insurer shall provide a limited right to reinstate coverage in the event of lapse or termination for nonpayment of premium, if the insurer is provided proof of the insured's cognitive impairment or loss of functional capacity and reinstatement is requested within the five months after the policy lapsed or terminated due to nonpayment of premium.

(a) The standard of proof of cognitive impairment or loss of functional capacity shall be no more restrictive than the benefit eligibility criteria for cognitive impairment or loss of functional capacity contained in the contract or certificate.

(b) Current good health of the insured shall not be required for reinstatement if the request otherwise meets the requirements of this section.

(3) An insurer shall permit an insured to waive ~~((his or her))~~ the right to designate an additional person to receive notice of lapse or termination for nonpayment of premium.

(a) The waiver shall be in writing, and shall be dated and signed by the applicant or insured.

(b) No less frequently than once in every twenty-four months, the insured shall be permitted to revoke this waiver and to name a designee.

(4) Designation by the insured to receive notice of lapse or termination for nonpayment of premium does not constitute acceptance of any liability on the part of the designee for services provided to the insured or applicant.

AMENDATORY SECTION (Amending WSR 08-24-019, filed 11/24/08, effective 12/25/08)

**WAC 284-83-025 Unintentional lapse.** As a protection against unintentional lapse, each issuer offering long-term care insurance must comply with all of the following:

(1)(a) Notice before lapse or termination. No individual long-term care policy or certificate may be issued until the issuer has received from the applicant either a written designation of at least one person in addition to the applicant ~~((who is))~~ to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice.

(i) The applicant has the right to designate at least one person ~~((who is))~~ to receive the notice of termination, in addition to the insured.

(ii) Designation does not constitute acceptance of any liability on the third party for services provided to the insured.

(iii) The form used for the written designation must provide space clearly designated for listing at least one person.

(iv) The designation must include each person's full name and home address.

(v) If the applicant elects not to designate an additional person, the waiver must state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

(vi) No less frequently than once every ~~((two))~~ year~~((s))~~ the issuer must notify the insured of the right to change this written designation or to add a lapse designee, if the insured has not already designated a lapse designee.

(A) Issuers must print this notice in not less than twelve point type either:

(I) On the front side of the first page of the billing statement; or

(II) On a separate document that is not printed on the billing statement.

(B) If the insured has named a lapse designee for the account, then the issuer must print on the notice the name and contact information that the issuer has on record for the lapse designee.

(b) When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in (a) of this subsection need not be met until sixty days after the policyholder or certificate holder is no longer on the payment plan. The application or enrollment form for such policies or certificates must clearly show the payment plan selected by the applicant.

(c) Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the issuer, at least thirty days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to (a) of this subsection, at the address provided by the insured for purposes of receiving notice of lapse or termination. ~~((Notice must be given by first class United States mail, postage prepaid, and notice may not be given until thirty days after a premium is due and unpaid. Notice is deemed to have been given as of five days after the date of mailing.))~~

(i) Issuers must be able to show:

(A) Proof that they produced the notice;

(B) Proof that they sent the notice;

(C) The name and address of the person or persons to whom they sent the notice. The address may consist of either:

(I) A physical mailing address; or

(II) An electronic mailing address for delivery by electronic means under the requirements of RCW 48.185.005;

(D) The date that they sent the notice.

(ii) Upon request of the commissioner, to verify that they sent the notice, issuers must be able to provide:

(A) An attestation from the person who sent the notice or supervised sending the notice; or

(B) Proof of sending the notice, which may consist of, but is not limited to:

(I) Proof of sending the notice by certified mail, or by obtaining a certificate of mailing from the United States Postal Service;

(II) Proof of sending the notice by a commercial delivery service, if at the time of mailing the issuer obtains a written receipt or a confirmation from the service showing the date the issuer mailed the item, the number of items the issuer mailed, and the name and address of the insured and the lapse designee, if the insured has named a lapse designee for the policy;

(III) Proof of sending the notice by first class United States mail, postage prepaid. If an issuer uses this option, the issuer must obtain a written receipt or confirmation at the time of mailing from the United States Postal Service showing the date the issuer mailed the item, the number of items the issuer mailed, and the name and address of the insured and the lapse designee, if the insured has named a lapse designee on the policy; or

(IV) Proof of delivery by electronic means under the requirements of RCW 48.185.005.

(iii) If the insured has an insurance producer of record, then the issuer must also provide notice to the insured's producer of record within seventy-two hours after the issuer sends the notice to the insured and to the lapse designee, if the insured has named a lapse designee for the policy. In sending this notice, issuers must comply with the mailing requirements in (c)(ii) of this subsection.

(iv) An issuer may not give notice until thirty days after a premium is due and unpaid. Notice is deemed to have been given as of five business days after the date that the issuer sent the notice.

(v) Upon the request of the office of the insurance commissioner, issuers must be able to demonstrate that they use due diligence to attempt to locate policyholders or named lapse designees when they receive notification of nondelivery of lapse notices.

(2) Reinstatement. In addition to the requirements in subsection (1) of this section, a long-term care insurance policy or certificate must include a provision that provides for reinstatement of coverage in the event of lapse if the issuer ~~((is provided proof))~~ receives proof, as per the standards stated in (b) of this subsection, that the policyholder or certificate holder was cognitively impaired or had a loss of functional capacity before the policy's grace period ~~((contained in the policy))~~ expired.

(a) Reinstatement must be available to the insured if requested within five months after lapse ~~((and may allow for the collection of past due premium, where appropriate))~~. When appropriate, issuers may collect past due premiums as part of the reinstatement process as set forth in the policy or certificate.

(b) The standard of proof of cognitive impairment or loss of functional capacity must not be more stringent than the benefit eligibility criteria for cognitive impairment or the loss of functional capacity contained in the policy or certificate.

**WSR 16-22-091**  
**WITHDRAWAL OF PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Filed November 2, 2016, 10:52 a.m.]

I am withdrawing the CR-102 proposal for R 2015-17, *addressing the insurance commissioner's powers during a state of emergency* published by the code reviser in WSR 16-17-126. This is being done because we have determined that further review is needed to understand concerns raised by stakeholders.

We will contact individuals that provided comments during the CR-102 comment period and make them aware of this withdrawal.

Mike Kreidler  
Insurance Commissioner

**WSR 16-22-092**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2016-22—Filed November 2, 2016, 11:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-093.

Title of Rule and Other Identifying Information: Drug substitution request process.

Hearing Location(s): Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, WA, on December 6, 2016, at 10:30 a.m.

Date of Intended Adoption: December 7, 2016.

Submit Written Comments to: Jim Freeburg, P.O. Box 40260, Olympia, WA 98504, e-mail [rulesc@oic.wa.gov](mailto:rulesc@oic.wa.gov), fax (360) 586-3109, by December 5, 2016.

Assistance for Persons with Disabilities: Contact Lorie Villaflora by December 5, 2016, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 45 C.F.R. § 156.122(c) sets forward specific processes that health plans must follow in order to provide enrollees with sufficient access to prescription drugs that are not covered by the plan. Rules are necessary to ensure that state law is consistent with federal requirements.

Reasons Supporting Proposal: Existing rules do not include time frames that are sufficient to meet federal requirements.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.140, 48.43.510.

Statute Being Implemented: RCW 48.43.510.

Rule is necessary because of federal law, 45 C.F.R. § 156.122(c).

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Freeburg, P.O. Box 40260, Olympia, WA 98504, (360)

725-7170; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504, (360) 725-7117; and Enforcement: AnnaLisa Gellermann, P.O. Box 40255, Olympia, WA 98504, (360) 725-7037.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required when the rule being adopted is described under RCW 34.05.310. In this case, the rule being proposed would be adopting "without material change federal statutes or regulations" (RCW 34.05.310 (4)(c)). In addition, none of the businesses affected are small businesses under the definition found in RCW 19.85.020.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is adopting federal language from the 2017 Notice of Benefit and Payment Parameters that finalizes a new section codified in 45 C.F.R. § 156.122 (c)(4). Because this proposed rule fits under the definition provided in RCW 34.05.328 (5)(b)(iii), it does not require a cost-benefit analysis.

November 2, 2016  
Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-01-081, filed 12/14/15, effective 12/14/15)

**WAC 284-43-5080 Prescription drug benefit design.**

(1) A carrier may design its prescription drug benefit to include cost control measures, including requiring preferred drug substitution in a given therapeutic class, if the restriction is for a less expensive, equally therapeutic alternative product available to treat the condition.

(2) A carrier may include elements in its prescription drug benefit design that, where clinically feasible, create incentives for the use of generic drugs. Examples of permitted incentives include, but are not limited to, refusal to pay for higher cost drugs until it can be shown that a lower cost drug or medication is not effective (also known as step therapy protocols or fail-first policies), establishing a preferred brand and nonpreferred brand formulary, or otherwise limiting the benefit to the use of a generic drug in lieu of brand name drugs, subject to a substitution process as set forth in subsection (3) of this section.

(3) A carrier must establish a process that a provider and enrollee (or their designee) may use to request a substitution for a (~~covered~~) prescribed therapy, drug or medication that is not on the formulary.

(a) The process must not unreasonably restrict an enrollee's access to nonformulary or alternate medications for refractory conditions. Used in this context, "refractory" means "not responsive to treatment."

(b) (~~A carrier's substitution process must not result in delay in treating an enrollee's emergency fill or urgent care needs, or expedited requests for authorization.~~) A carrier must make its determination on a standard exception and notify the enrollee or the enrollee's designee and the prescribing provider (or other prescriber, as appropriate) of its coverage determination no later than seventy-two hours following receipt of the request. A carrier that grants a standard excep-

tion request must provide coverage of the nonformulary drug for the duration of the prescription, including refills.

(c) A carrier must have a process for an enrollee, the enrollee's designee, or the enrollee's prescribing provider (or other prescriber) to request an expedited review based on exigent circumstances. For purposes of this section, "exigent circumstances" exist when an enrollee is experiencing a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a nonformulary drug.

(i) A carrier must make its coverage determination on an expedited review request based on exigent circumstances and notify the enrollee or the enrollee's designees and the prescribing provider (or other prescriber) of its coverage determination no later than twenty-four hours following receipt of the request.

(ii) A carrier that grants an exception based on exigent circumstances must provide coverage of the nonformulary drug for the duration of the exigency.

(d) Subject to the terms and conditions of the policy that otherwise limit or exclude coverage, the carrier must permit substitution of a covered generic drug or formulary drug if:

(i) An enrollee does not tolerate the covered generic or formulary drug; or

(ii) An enrollee's provider determines that the covered generic or formulary drug is not therapeutically efficacious for an enrollee. A carrier may require the provider to submit specific clinical documentation as part of the substitution request; or

(iii) The provider determines that a dosage is required for clinically efficacious treatment that differs from a carrier's formulary dosage limitation for the covered drug. A carrier may require the provider to submit specific clinical documentation as part of the substitution request and must review that documentation prior to making a decision.

(4) A carrier may include a preauthorization requirement for its prescription drug benefit and its substitution process, based on accepted peer reviewed clinical studies, Federal Drug Administration black box warnings, the fact that the drug is available over-the-counter, objective and relevant clinical information about the enrollee's condition, specific medical necessity criteria, patient safety, or other criteria that meet an accepted, medically applicable standard of care.

(a) Neither the substitution process criteria nor the type or volume of documentation required to support a substitution request may be unreasonably burdensome to the enrollee or their provider.

(b) The substitution process must be administered consistently, and include a documented consultation with the prescribing provider prior to denial of a substitution request.

(5) Use of a carrier's substitution process is not a grievance or appeal pursuant to RCW 48.43.530 and 48.43.535. Denial of a substitution request is an adverse benefit determination, and an enrollee, their representative provider or facility, or representative may request review of that decision using the carrier's appeal or adverse benefit determination review process.

(6) If the carrier denies a request for a standard exception or for an expedited exception, the carrier must have a process

for the enrollee, the enrollee's designee, or the enrollee's prescribing provider (or other prescriber) to request that the original exception request and subsequent denial of such request be reviewed by an independent review organization.

(a) A carrier must determine whether or not to grant an external exception request review and notify the enrollee or the enrollee's designee and the prescribing provider (or other prescriber, as appropriate) of its decision no later than seventy-two hours following its receipt of the request, if the original request was a standard exception request, and no later than twenty-four hours following its receipt of the request, if the original request was an expedited exception request.

(b) If a standard exception request is granted after an external review, the health plan must provide coverage of the nonformulary drug for the duration of the prescription. If an expedited exception request is granted after an external review, the health plan must provide coverage of the nonformulary drug for the duration of the exigency. If such an exigency ceases, any drug previously covered under such exigency may only be reauthorized through the standard exception request process.

(7) Subsections (3)(b), (c), and (6) of this section only apply to nongrandfathered individual and small group plans.

AMENDATORY SECTION (Amending WSR 16-19-086, filed 9/20/16, effective 10/21/16)

**WAC 284-43-5110 Cost-sharing for prescription drugs.** (1) A carrier and health plan unreasonably restrict the treatment of patients if an ancillary charge, in addition to the plan's normal copayment or coinsurance requirements, is imposed for a drug that is covered because of one of the circumstances set forth in either WAC ((~~284-43-5080~~) [~~284-43-817~~] or [~~284-43-5100~~] [~~284-43-818~~])) ~~284-43-817~~ or ~~284-43-818~~. An ancillary charge means any payment required by a carrier that is in addition to or excess of cost-sharing explained in the policy or contract form as approved by the commissioner. Cost-sharing means amounts paid directly to a provider or pharmacy by an enrollee for services received under the health benefit plan, and includes copayment, coinsurance, or deductible amounts.

(2) When an enrollee requests a brand name drug from the formulary in lieu of a therapeutically equivalent generic drug or a drug from a higher tier within a tiered formulary, and there is not a documented clinical basis for the substitution, a carrier may require the enrollee to pay for the difference in price between the drug that the formulary would have required, and the covered drug, in addition to the copayment. This charge must reflect the actual cost difference.

(3) When a carrier approves a substitution drug, whether or not the drug is in the carrier's formulary, the enrollee's cost-sharing for the substitution drug must be adjusted to reflect any discount agreements or other pricing adjustments for the drug that are available to a carrier. Any charge to the enrollee for a substitution drug must not increase the carrier's underwriting gain for the plan beyond the gain contribution calculated for the original formulary drug that is replaced by the substitution.

(4) If a carrier uses a tiered formulary in its prescription drug benefit design, and a substitute drug that is in the formu-

lary is required based on one of the circumstances in either WAC ((~~284-43-5080~~) [~~284-43-817~~] or [~~284-43-5100~~] [~~284-43-818~~])) ~~284-43-817~~ or ~~284-43-818~~, the enrollee's cost sharing may be based on the tier in which the carrier has placed the substitute drug.

(5) If a carrier requires cost-sharing for enrollees receiving an emergency fill as defined in WAC 284-170-470, then issuers must disclose that information to enrollees within their policy forms.

(6) In the event that a substitution is granted, the carrier must treat the drug as an essential health benefit, including by counting any cost-sharing towards the plan's annual limitation on cost-sharing and towards any deductible.

(7) Subsection (5) of this section only applies to non-grandfathered individual and small group plans.

## WSR 16-22-094

### PROPOSED RULES

## LIQUOR AND CANNABIS BOARD

[Filed November 2, 2016, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-056.

Title of Rule and Other Identifying Information: Chapter 314-02 WAC, Requirements for retail liquor licenses; chapter 314-03 WAC, Allowed activities; chapter 314-07 WAC, How to apply for a liquor license; chapter 314-11 WAC, General requirements for licensees; and chapter 314-12 WAC, General—Applicable to all licensees.

Hearing Location(s): Washington State Liquor Control [and Cannabis] Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on December 14, 2016, at 10:00 a.m.

Date of Intended Adoption: December 28, 2016.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov), fax (360) 664-9689, by December 14, 2016.

Assistance for Persons with Disabilities: Contact Karen McCall by December 14, 2016, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As part of the liquor and cannabis board's ongoing rules review process the rules are being reviewed for relevance, clarity, and accuracy.

Reasons Supporting Proposal: Removing outdated language and clarifying current rules.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.010, 66.24.320, 66.24.330, 66.24.371, 66.24.410, 66.24.570, 66.24.600, 66.24.610, 66.24.630, 66.24.655, 66.24.690.

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, Chief Enforcement, 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.

November 2, 2016  
Jane Rushford  
Chairman

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-005 What is the purpose of chapter 314-02 WAC?** Chapter 314-02 WAC outlines the qualifications for the following liquor licenses:

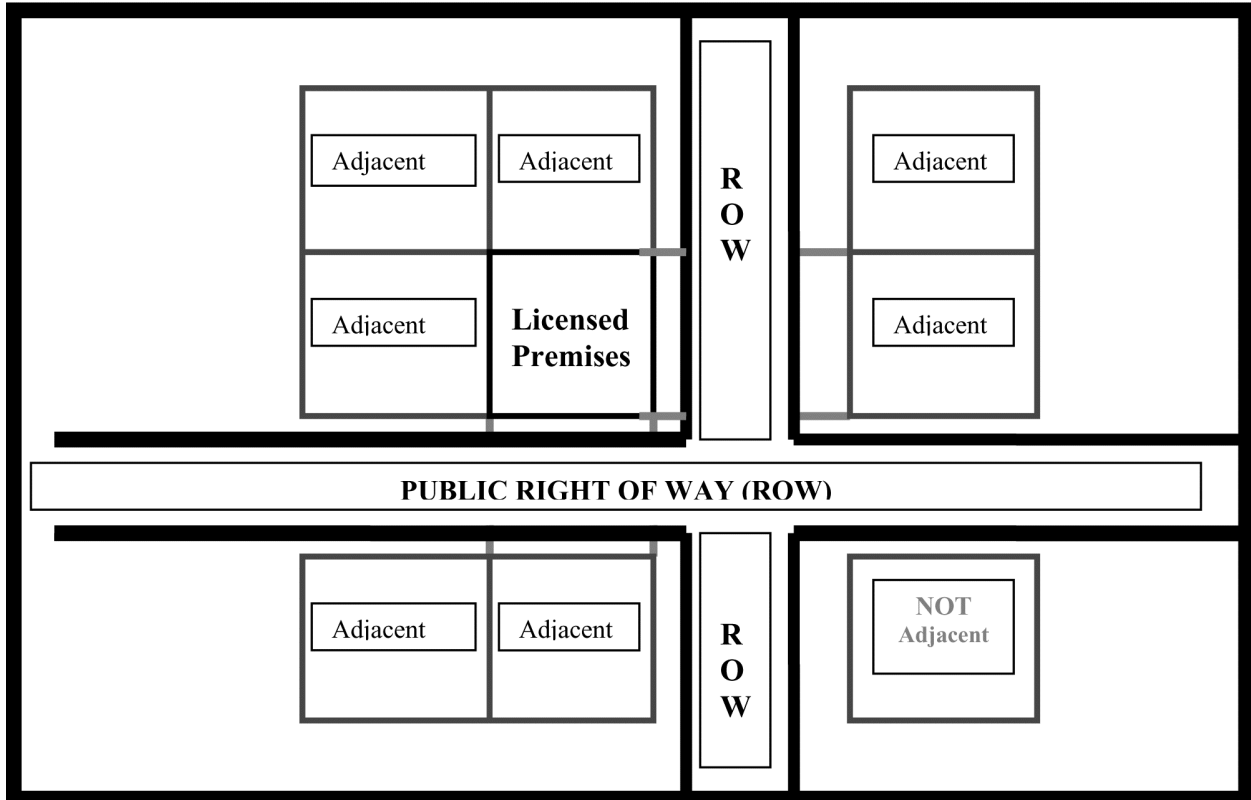
- (1) Spirits, beer, and wine restaurants;
- (2) Nightclubs;
- (3) Spirits, beer, and wine restaurant restricted;
- (4) Hotels;
- (5) Spirits, beer, and wine theater;
- (6) Beer and wine theater;

- (7) VIP airport lounge;
- (8) Beer and/or wine restaurants;
- ~~((6))~~ (9) Sports/entertainment facilities;
- ~~((7))~~ (10) Snack bars;
- ~~((8))~~ (11) Taverns;
- ~~((9))~~ (12) Motels;
- ~~((10))~~ (13) Nonprofit arts organizations;
- ~~((11))~~ (14) Grocery stores;
- ~~((12))~~ (15) Beer/wine specialty shops; ~~((and (13)))~~ (16) Beer/wine gift delivery businesses;
- (17) Spirits retailer;
- (18) Caterers; and
- (19) Senior center.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-010 Definitions.** The following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) "Appetizer" means a small portion of food served before the main course of a meal to stimulate the appetite. An appetizer does not qualify as minimum food service.

(3) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(4) "Customer service area" means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(5) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(6) "Designated area" means a space where alcohol may be sold, served, or consumed.

(7) "Entertainer" means someone who performs for an audience such as a disc jockey, singer, or comedian, or anyone providing entertainment services for the licensee. An entertainer is considered an employee of the liquor licensee per WAC 314-01-005. Patrons participating in entertainment are not considered employees.

(8) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

(9) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.

(10) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

(11) "Limited food service" means items such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders.

(12) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

(13) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under twenty-one years of age).

(14) "Minimum food service" means items such as sandwiches, salad, soup, pizza, hamburgers, and fry orders.

(15) "Minor" means a person under twenty-one years of age.

(16) "On-premises liquor licensed premises" means a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises.

(17) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

(18) "Snack food" means items such as peanuts, popcorn, and chips.

**AMENDATORY SECTION** (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

**WAC 314-02-015 What is a spirits, beer, and wine restaurant license?** (1) Per RCW 66.24.400, this license allows a restaurant to:

(a) Serve spirits by the individual glass for on-premises consumption;

(b) Serve beer by the bottle or can or by tap for on-premises consumption;

(c) Serve wine for on-premises consumption;

(d) Allow patrons to remove recorked wine from the licensed premises;

(e) Sell wine by the bottle for off-premises consumption with the appropriate endorsement; and

(f) Sell kegs of malt liquor with the appropriate endorsement. This endorsement also allows the sale of beer or cider as defined in RCW 66.24.210(6) to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

(3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, ~~((that))~~ the premises will operate as a bona fide restaurant. The term "bona fide restaurant" ~~((is defined in RCW 66.24.410(2)))~~ means a business where the board can clearly determine that the primary purpose of the business is the service of complete meals. "Complete meals" is defined in WAC 314-02-035.

**AMENDATORY SECTION** (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license?** (1) Per RCW 66.24.420, the annual fee for a spirits, beer, and wine restaurant license is graduated, as follows:

Amount of customer service area dedicated to dining	Annual fee
100%	\$1,000
50 - 99%	\$1,600
Less than 50%	\$2,000

(2) In order for an area to qualify as a dedicated dining area it must be a separate and distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. Areas dedicated to live music or entertainment, such as dance floors or stages are not considered dedicated dining areas. Dedicated dining areas may not contain:

(a) Liquor bars (see definition under WAC 314-02-010(2)); or

(b) Areas dedicated to games or gaming devices.

(3) The fee for a spirits, beer, and wine restaurant license outside of an incorporated city or town will be prorated according to the calendar quarters the licensee is open for business. This proration does not apply in the case of a suspension or revocation of the license.

(4) A duplicate license is required in order to sell liquor from more than one site on your property. These sites must be located on the same property and owned by the same licensee. The following types of businesses may apply for a duplicate license:

Type of Business	Annual fee per duplicate license
Airport terminal	25% of annual license fee
Civic center (such as a convention center)	\$10
Privately owned facility open to the public	\$20

**AMENDATORY SECTION** (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license?**

(1) The liquor ~~((control))~~ and cannabis board has the responsibility to classify what licensed premises or what portions of the licensed premises are off-limits to minors. (RCW 66.44.310(2).) Minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors. (RCW 66.44.290 and 66.44.310.) The purpose of this rule is to clarify the ways in which licensees can prevent minors from consuming alcohol or entering restricted areas.

(2) Dedicated dining areas - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors chooses to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the dedicated dining area after 11:00 p.m., the licensee must either:

(a) Request board approval to reclassify the dining area to a lounge for the period of time that live entertainment is conducted, thus restricting minors during that time; or

(b) Notify the board's licensing and regulation division in writing at least forty-eight hours in advance that the sale, service, and consumption of liquor will end in the dedicated dining area after 11:00 p.m.

Request or notifications may cover one event or a series of recurring events over a period of time.

(3) **Barriers** - Licensees must place barriers around areas that are classified as off-limits to minors and around game rooms.

(a) The barriers must clearly separate restricted areas, and must be at least forty-two inches high.

(b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). A portable or moveable rope and stanchion is not acceptable. Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their ~~((moveable))~~ moveable barriers until the licensee requests alterations to the premises or the premises change ownership.

(c) ~~((Liquor bars cannot be used as the required barriers (see definition of liquor bar in WAC 314-02-010(10)).))~~ Structures where customers can sit or stand and consume food or liquor are not acceptable as a barrier.

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required by WAC 314-11-060(1), must be posted at each entrance to restricted areas.

(4) If the business allows minors, the business's primary entrance must open directly into a dedicated dining area or into a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

(5) **Floor plans** - When applying for a license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. The drawing must:

(a) Be drawn one foot to one-quarter-inch scale;

(b) Have all rooms labeled according to their use; e.g., dining room, lounge, game room, kitchen, etc.; and

(c) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

(6) Convention centers - To qualify for a convention center there must be two or more rooms that provide space and accommodations for private events only. Licensees holding a convention center may only sell alcohol for private events at the licensed premises.

**AMENDATORY SECTION** (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license? (1)**

A spirits, beer, and wine restaurant licensee must serve at least eight complete meals. The board may make an exception to the eight complete meal requirement on a case-by-case basis. Establishments shall be maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. For purposes of this title:

(a) "Complete meal" means an entree and at least one side dish.

(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.



(7) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) Restaurants with less than one hundred percent dedicated dining area must maintain complete meal service for a minimum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., ~~((five))~~ three days a week. ~~((The board may consider written requests for exceptions to this requirement due to demonstrated hardship, under such terms and conditions as the board determines are in the best interests of the public.))~~

Limited food service, such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that limited food service is available outside of those hours must also be posted or listed on the menu.

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

**WAC 314-02-037 What are the floor space requirements for a spirits, beer, and wine nightclub license?** (1) The liquor ~~((control))~~ and cannabis board has the responsibility to classify what licensed premises or what portions of a licensed premises are off limits to minors.

(a) Any areas in the licensed premises where alcohol is sold, served, or consumed is classified as off-limits to minors (RCW 66.44.310(2)).

(b) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(2) **Barriers** - Licensees must place barriers separating restricted areas from areas where minors will be allowed.

(a) The barriers must clearly separate restricted areas and must be at least forty-two inches high.

(b) The barriers may be moveable.

(c) ~~((Liquor bars cannot be used as barriers (see definition of liquor bar in WAC 314-02-010(10)).~~

~~((d))~~ Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

~~((e))~~ (d) "Minor prohibited" signs, as required under WAC 314-11-060(1), must be posted at each entrance to a restricted area.

(3) If the business allows minors, the primary entrance must open directly into a nonrestricted area. Minors must be able to access restrooms without passing through a restricted area.

(4) **Floor plans** - When applying for a spirits, beer, and wine nightclub license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. If there will be different floor plans for different types of events that change the location and/or dimensions of the restricted area(s), the applicant must provide two copies of a detailed drawing for each floor plan. All restricted areas must be designated on the floor plan(s) and be approved by the board. The drawing must be labeled with the type of event. The drawing must:

(a) Have all rooms labeled according to their use; e.g., lounge, dance floor, stage area, foyer, restrooms, etc.; and

(b) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-043 What is a VIP airport lounge license?** (1) Per RCW ~~((66.24.XXX))~~ 66.24.610, a VIP airport lounge liquor license allows a VIP airport lounge licensee to sell or provide spirits, wine, and beer for on-premises consumption as a retail licensed premises.

(a) A VIP airport lounge is a retail establishment in an international airport, beyond security checkpoints.

(b) The VIP airport lounge liquor licensee must be the entity in control of the day-to-day operations of the VIP airport lounge.

(c) Spirits, beer, and wine to be sold or provided complimentary by the individual serving for on-premises consumption to persons at least twenty-one years of age or older.

(d) Customers may not remove spirits, beer, and wine from the premises at any time.

(e) The VIP airport lounge licensee may only serve liquor from a service bar. A service bar is a work station primarily used to prepare and sell alcoholic beverages that are picked up by the customer. Customers are not permitted to mix their own drinks, sit or consume food or alcohol at the service bar.

(f) All alcohol servers must have a valid MAST permit.

(2) The annual fee for this license is two thousand dollars.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-044 Application process and guidelines for a VIP airport lounge liquor license.** (1) RCW 66.24.010 states the board will only issue licenses and permits to applicants and locations that meet certain qualifications. Please see chapter 314-07 WAC for liquor license qualifications and application process.

(2) An applicant for a VIP airport lounge license must include a sketch of the VIP airport lounge area including the service bar area and where the alcohol inventory will be stored.

(3) All alcohol inventory must be stored on the VIP airport lounge licensed premises.

~~((All spirits must be purchased from the board at the assigned liquor store. Beer and wine must be purchased from a licensed distributor or retail outlet. A VIP lounge licensee may purchase wine directly from a licensed manufacturer if the licensee holds an endorsement to receive direct shipments from a manufacturer.~~

~~((5))~~ Access to a VIP airport lounge is generally limited to:

(a) Ticketed airline passengers of any age who have first class, executive, or business class tickets;

(b) Qualified members or guests of loyalty incentive programs, members or guests of enhanced amenities programs;

(c) Passengers or airline employees issued a pass by the airline for access; and

(d) Airport, airline employees, government officials, and attendees of airport authority or airlines for business promotion with controlled access by the VIP airport lounge licensee.

~~((6))~~ (5) Between the hours of 2 a.m. and 6 a.m., licensees or employees may not:

(a) Provide, offer, or sell liquor;

(b) Deliver liquor (except that beer and/or wine distributors may deliver beer and/or wine to retail licensees between the hours of 2 a.m. and 6 a.m.);

(c) Allow liquor to be consumed on the premises; or

(d) Possess liquor, except that persons working on the premises may possess liquor between the hours of 2 a.m. and 6 a.m. while in the performance of their official duties.

~~((7))~~ (6) A local government subdivision may fix later opening hours or earlier closing hours than those specified in this rule, so long as the hours apply to all licensed premises in the local government subdivision's jurisdiction. See WAC 314-12-215(3) for exceptions when a premises is in a board recognized alcohol impact area.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-056 Sports/entertainment facility license—Purpose.** (1) **What is the purpose of the rules governing the use of alcohol in sports/entertainment facilities?**

(a) In RCW 66.24.570, the legislature established a spirits, beer, and wine license for arenas, coliseums, stadiums, or other facilities where sporting, entertainment, and special events are presented.

(b) These rules provide a framework for the enforcement of liquor laws and regulations, particularly those prohibiting the sale of alcohol to persons under twenty-one years of age or persons who are apparently intoxicated.

(c) This framework recognizes the unique conditions associated with events attended by large crowds consisting of diverse age groups.

(2) **Will the liquor (~~control~~) and cannabis board recognize the differences between types of sports/entertainment facilities; professional sports/entertainment facilities, amateur sporting facilities, and racetracks?** Yes. A sports/entertainment facility must submit an operating plan, which must be approved by the board prior to the issuance of a license. All plans are required to meet the minimum standards outlined in WAC 314-02-058. The board will take into consideration the unique features of each facility when approving an operating plan, including the seating accommodations, eating facilities, and circulation patterns. The board will allow proration of the sports/entertainment license fees under certain conditions:

(a) The licensee is an amateur sports organization; or

(b) The licensee is a racetrack that meets specific criteria.

(3) **Amateur sports organizations must meet the following criteria:**

(a) Season length must not be more than three months, with an additional month allowed for playoffs if applicable

(requests/approval for any additional months must be made on a case-by-case basis). The venue must remain closed for the remainder of the year.

(b) Must comply with all elements contained in WAC 314-02-056 through 314-02-059.

(c) Must provide proof of amateur status.

(d) Must provide a statement regarding removal/disposal of alcohol inventory at the end of the season.

(e) Seating capacity of the venue may not exceed five thousand.

(4) Racetracks must meet the following criteria:

(a) Must be a seasonal operation of two quarters or less (requests/approval for any additional quarters must be made on a case-by-case basis).

(b) Seating capacity of the venue may not exceed five thousand.

(c) Maximum number of race days allowed per week is two.

(d) Per RCW 66.24.010(9) a motor sports facility is required to enforce a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program must be approved by the local law enforcement agency. A copy of this program showing the local law enforcement approval must be submitted to the board's licensing division.

AMENDATORY SECTION (Amending WSR 15-18-040, filed 8/26/15, effective 9/26/15)

**WAC 314-02-057 Definitions.** (1) **Premises** - Buildings, parking lots, and any open areas that are adjacent to and owned, leased, or managed by the licensee and under the licensee's control.

(2) **Event categories** - Types of events that the licensee expects to hold on the premises:

(a) **Professional sporting event** - A contest involving paid athletes and sanctioned by a professional sports organization that regulates the specific sport.

(b) **Amateur sporting event** - A contest or demonstration involving athletes who receive no monetary compensation that is sanctioned by a national or regional amateur athletic regulatory organization.

(c) **Entertainment event** - A concert involving a live musician, a live comedy act, or similar event intended for the entertainment of the audience. Broadcast television or background videos or music does not qualify as live entertainment.

(d) **Special event** - A convention, trade show, or other like public event with prior approval.

(e) **Private event** - An event not open to the public such as a wedding, private party, or business meeting, where the facility or a portion of the facility where the event is held is not accessible to the general public during the time of the private event.

(3) **Hawking** - The practice of selling alcohol in seating areas by roving servers who carry the beverages with them, as outlined in WAC 314-02-058(4). Because of row seating arrangements, servers normally do not have direct access to customers. Therefore, service usually requires that drinks, money, and identification be passed down rows, involving

other spectators. Hawking is only allowed at professional sporting events.

(4) **Club seats** - A specifically designated and controlled seating area that is distinct from general seating with food and beverage service provided by servers directly to the customer.

**AMENDATORY SECTION** (Amending WSR 15-18-040, filed 8/26/15, effective 9/26/15)

**WAC 314-02-058 Sports/entertainment facility licenses—Operating plans. (1) What requirements govern the submission of operating plans?**

(a) To receive a license, a sports/entertainment facility must submit an operating plan for board approval.

(b) Once approved, the plan remains in effect until the licensee requests a change or the board determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. Changes to an operating plan must be submitted to the board's licensing division for approval.

(c) The plan must be submitted in a format designated by the board.

(d) The plan must contain all of the following elements:

(i) How the sports/entertainment facility will prevent the sale and service of alcohol to persons under twenty-one years of age and those who appear to be intoxicated.

(ii) The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served. The minimum ratio allowed is one staff person to fifty attendees at the event.

(iii) Training provided to staff who serve, regulate, or supervise the service of alcohol. Mandatory alcohol server training is required for all staff.

(iv) The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one transaction. Two alcoholic beverages is the maximum number allowed to be sold and served to an individual patron during one transaction.

(v) An explanation of the alcoholic beverage containers that will be used to ensure they are significantly different from containers utilized from nonalcoholic beverages.

(vi) A list of event categories (see WAC 314-02-057(2)) to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event.

(vii) The date must be included in the operating plan.

(viii) The pages must be numbered in the operating plan.

(ix) A site plan designating all alcohol service areas. Identify all beer garden areas to include dimensions of the area, capacity, number of alcohol service/security employees staffing the area, and what type/size of barrier will surround the alcohol service area.

(x) The operating plan must be signed by a principal of the licensed entity.

(e) Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the facility's local liquor enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the local enforce-

ment office at least seventy-two hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. Notice of private events is not required when the event is being held in conjunction with a professional or amateur sporting event, an entertainment event, or a special event as outlined in WAC 314-02-057(2).

(2) **May the liquor (~~control~~) and cannabis board impose any other mandatory standards as a part of an operating plan?** Yes. To prevent persons who are under twenty-one years of age or who appear intoxicated from gaining access to alcohol, the board may impose the following standards as part of an operating plan:

(a) The board may require that an operating plan include additional mandatory requirements if it is judged by the board that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one years of age or who are apparently intoxicated from obtaining alcohol.

(b) To permit alcohol servers to establish the age of patrons and to prevent over-service, sports/entertainment facilities must meet minimum lighting requirements established by WAC 314-11-055 in any area where alcohol is served or consumed. For the purpose of establishing a permanent technical standard, an operating plan may include a lighting standard measured in foot candles, so long as the candle power of the lighting is, at all times, sufficient to permit alcohol servers to establish the validity of documents printed in eight point type.

(3) **Where will spirits, beer, and wine be allowed in a sports/entertainment facility?** The purpose of the following matrix is to outline where and when alcohol service will normally be permitted. Due to the unique nature of each facility, the board will determine the permitted alcohol service based on the facility's approved operating plan.

(a) Self-service of alcohol is prohibited.

(b) If alcohol service is requested outside of the parameters listed below, a special request with justification for the alcohol service area must be submitted with the operating plan for consideration by the board.

Type of event as defined in WAC 314-02-057	Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms	Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas	Spirits, beer, and wine may be served and consumed in club seats during events	Beer and wine may be consumed throughout seating areas during events	Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)
Professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events	x	x	x	x	x
All other professional sporting events including WWE, UFC, rodeo, motorcross, national auto racing, and monster truck events (level of alcohol service will be determined on a case-by-case basis per the approved operating plan)	x	x	x	x	
Amateur sporting events (nonpaid athletes)	x	x		x	
Entertainment events	x	x			
Special events (trade shows, conventions)	x	x			
<u>Darkened house events</u>	x	x	x	x	

~~((b))~~ (c) For private events, beer, wine, and spirits may be served in the area where the event is held. This area may be a separate meeting or banquet room or the entire facility.

~~((e))~~ (d) In order to minimize youth access to alcohol, the board may prohibit or restrict the service of alcohol at events where the attendance is expected to be over thirty percent persons under twenty-one years of age. This restriction will not apply to the professional sporting events outlined in WAC 314-02-057 (2)(a).

~~((4))~~ (e) To request approval for walk around beer and/or wine consumption at special events, the licensee must provide the board the following information about the event:

- (i) Type of event;
- (ii) Demographics of the event;
- (iii) Lighting at the event; and

(iv) If the event is located indoors or outdoors.

**(4) Darkened house.** Consumption of alcohol within the darkened seating portions of the venue during entertainment activities are subject to the following conditions:

(a) Request for darkened house activities will be part of the operating plan.

(b) The board will only approve darkened house events after notification to the local authority as identified by the licensing division and approval by the designated local authority. The notification will clearly state:

(i) Primary responsibility for the control of the darkened area of the establishment will rest with the licensee and local law enforcement authorities; and

(ii) The board will not entertain contradictory recommendations from subdivisions of the local jurisdictions.

(c) Violation of the darkened house addendum to the operating plan will be viewed as an aggravating factor to a violation rather than a primary enforcement issue.

**(5) Will hawking be allowed at sports/entertainment facilities?** Subject to the provisions of this rule, hawking may be permitted in general seating areas for the sale and consumption of beer, at the professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events only, as defined by WAC 314-02-057 (2)(a).

(a) An operating plan must include procedures for hawkers to verify the age of purchasers and to prevent service to apparently intoxicated persons.

(b) During hawking, any patron may decline to handle alcoholic beverages, either on behalf of themselves and for any person under their supervision. When a patron objects to handling alcohol, hawkers must accommodate the objection. The facility operating plan will address how hawking will be managed, including how hawkers will respond to patron objections to handling alcohol.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-060 What is a caterer's endorsement?**

(1) A spirits, beer, and wine restaurant and a beer and/or wine restaurant applicant or licensee may apply for a caterer's endorsement, in order to extend the on-premises license privilege to allow the sale and service of liquor at ~~((approved))~~ locations other than ~~((the))~~ liquor licensed premises. See RCW 66.24.420(6) and 66.24.320(2) for more information about this endorsement.

(2) The annual fee for this endorsement is three hundred fifty dollars.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

**WAC 314-02-070 What is a tavern license?** (1) Per RCW 66.24.330 and 66.24.354, this license allows a tavern to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$200
(b) Serve wine for on-premises consumption.	\$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$120
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, <del>((and brought to the premises by the purchaser))</del> <u>provided by the purchaser, licensee, or manufacturer and filled by an employee at the time of purchase.</u>	In conjunction with off-premises privilege outlined in (c) of this subsection.

Privilege	Annual fee
(e) Sell cider as defined in RCW 66.24.210(6) for off-premises consumption to a purchaser in a sanitary container brought to the premises by the purchaser or provided by the licensee and filled at the tap in the tavern at the time of purchase. The licensee must comply with federal regulations.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(f) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-110 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in (c) of this subsection.

(2) A tavern licensee may not allow persons under twenty-one years of age on the premises at any time (see RCW 66.44.316 for information regarding employees and professional musicians under twenty-one years of age).

AMENDATORY SECTION (Amending WSR 14-03-077, filed 1/15/14, effective 2/15/14)

**WAC 314-02-087 What is a spirits, beer, and wine theater license?**

(1) A spirits, beer, and wine theater is a place of business where motion pictures or other primarily nonparticipatory entertainment or events are shown. The holder of a beer and wine theater license is allowed to sell spirits, beer, strong beer, and wine, at retail, for consumption on the licensed premises.

(2) The requirements for the spirits, beer, and wine theater license are as follows:

(a) The theater has no more than one hundred twenty seats per ~~((screen))~~ theater room.

(b) All servers of beer and wine are required to attend a mandatory alcohol server training (MAST) program.

(c) The serving size for spirits is one and one quarter ounce. The serving size for wine is five ounces. The serving size for beer is twelve ounces.

(d) There must be tabletop accommodations for in theater dining.

(e) If the theater premises will be frequented by minors an alcohol control plan agreement must be signed and submitted to the board during the application process.

(3) A spirits, beer, and wine theater licensee must serve at least eight complete meals. Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals.

(a) "Complete meal" means an entree and at least one side dish.

(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(d) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(e) The complete meals must be prepared on the restaurant premises.

(f) A chef or cook must be on duty while complete meals are offered.

(g) A menu must be available to customers.

(h) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(4) The alcohol control plan agreement will be provided on a form by the board and includes the following requirements:

(a) Ensure that alcoholic beverages are not sold to persons under the age of twenty-one, staff will request identification from any patron who appears to be age thirty or under and who is attempting to purchase an alcoholic beverage.

(b) Alcoholic beverages must be served in containers that differ significantly from containers utilized for nonalcoholic beverages.

(c) All alcoholic beverages sold under this license must be sold by the individual drink.

(d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage, who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age, the alcohol will be confiscated.

(e) Staff will accept only those forms of identification that are acceptable per WAC 314-11-025 to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol.

(f) All employees involved in the sale, service, and/or supervision of alcoholic beverages will be required to attend MAST to obtain the appropriate permit for their level of service.

(g) Sufficient lighting must be maintained at the point of sale so that identification can be confirmed and patrons observed for signs of intoxication.

(h) To ensure alcoholic beverages are served in a safe, responsible, and controlled manner, sales and service of alcoholic beverages will be limited to one serving per person per transaction.

(i) If a patron is accompanied by another patron who wants to pay for both people's drinks, they may do so, provided that both patrons are of legal age to purchase, and have proper identification, if requested, and are not displaying signs of intoxication.

(j) Alcohol may only be sold, served, and consumed in areas designated in the alcohol control plan agreement and approved by the board.

(k) Staff will refuse to sell an alcoholic beverage to any person who appears to be intoxicated. Alcoholic beverages will be removed from any person who appears to be intoxicated.

(l) This alcohol control plan agreement will be prominently posted on the licensed premises.

(5) Penalties are doubled for a violation involving minors or the failure to follow the signed alcohol control plan agreement.

(6) If the theater premises has a restaurant located outside of the actual theater screening areas, spirits, beer, and wine may be served and consumed in the restaurant area.

(a) Spirits may be sold by the individual drink.

(b) Beer may be sold by the pitcher as well as by individual serving for consumption in the restaurant area.

(c) Wine may be sold by the bottle as well as by the individual serving for consumption in the restaurant area.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

**WAC 314-02-105 What is a beer and/or wine specialty store license?** (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred dollars.

(3) Qualifications for license - To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) Qualifications to sample - A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail, and the licensee meets the requirements outlined in either (a) or (b) of this subsection:

(a) A licensee's gross retail sales of alcohol exceeds fifty percent of all annual gross sales for the entire business; or

(b) The licensed premises is a beer and/or wine specialty store that conducts bona fide cooking classes for the purpose of pairing beer and/or wine with food, under the following conditions:

(i) The licensee must establish to the satisfaction of the board that the classes are bona fide cooking courses. The licensee must charge participants a fee for the course(s).

(ii) The sampling must be limited to a clearly defined area of the premises. The licensee must provide a sketch of the sampling area. Fixed or moveable barriers are required around the tasting area to ensure persons under twenty-one years of age do not possess or consume alcohol.

(iii) The licensee must receive prior approval from the board's licensing and regulation division before conducting sampling with cooking classes.

(iv) Once approved for sampling, the licensee must provide the board's enforcement and education division a list of all scheduled cooking classes during which beer and/or wine

samples will be served. The licensee must notify the board's enforcement and education division at least forty-eight hours in advance if classes are added.

(5) Licensees who qualify for sampling under subsection (4) of this section may sample under the following conditions:

(a) Employees conducting sampling must hold a class 12 alcohol server permit;

(b) No more than a total of ten ounces of alcohol may be provided to a customer during any one visit to the premises;

(c) Each sample must be two ounces or less.

(6) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(7) A beer and/or wine specialty store licensee may receive an endorsement to permit the sale of beer and cider as defined in RCW 66.24.210(6) to a purchaser in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale under the following conditions:

(a) The beer and/or wine specialty store sales of alcohol must exceed fifty percent of their total sales;

(b) The board may waive the fifty percent beer and/or wine sale criteria if the beer and/or wine specialty store maintains a wholesale alcohol inventory that exceeds fifteen thousand dollars.

**AMENDATORY SECTION** (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

**WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?**

(1) A **spirits retailer** must submit quarterly reports and payments to the board.

The required reports must be:

(a) On a form furnished by the board;

(b) Filed every quarter, including quarters with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twenty-fifth day following the tax quarter (e.g., Quarter 1 (Jan., Feb., Mar.) report is due April 25th). When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) **What if a spirits retailer licensee fails to report or pay, or reports or pays late?** Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board as required in subsection (1) of this section will be sufficient grounds for the board to suspend or revoke the liquor license.

Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board for two consecutive quarters will be sufficient grounds for the board to revoke the liquor license.

A penalty of one percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on

a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor (~~control~~) and cannabis board, or designee, will be used to determine if penalties are to be assessed.

**AMENDATORY SECTION** (Amending WSR 14-24-128, filed 12/3/14, effective 1/3/15)

**WAC 314-02-112 What is a caterer's license?** (1) A caterer's license allows the licensee to sell spirits, beer, and wine by the individual serving for consumption on the premises at a catered event location.

(2) The catered event location must be owned, leased, or operated by:

(a) The holder of the caterer's license; or

(b) The sponsor of the event for which the catering services are being provided.

(3) The caterer licensee is responsible for all areas of a location where alcohol is sold, served, consumed, or stored.

(4) If the catered event is open and advertised to the public, the event must be sponsored by a nonprofit society or organization as defined in RCW 66.24.375.

(a) A registered nonprofit holding a public or civic event may invite a caterer to provide alcohol service at a location within the parameters of the event.

(b) If attendance at the catered event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement in subsection (2) of this section does not apply.

(5) A spirits, beer, and wine caterer licensee must have the ability to serve at least eight complete meals. A commissary kitchen, licensed by the city and/or county health department, shall be maintained in a substantial manner as a place for preparing and cooking complete meals. The caterer licensee must maintain the kitchen equipment necessary to prepare the complete meals required under this section. The complete meals must be prepared at the licensed commissary kitchen premises. For the purposes of this title:

(a) "Complete meal" means an entrée and at least one side dish.

(b) "Entrée" means the main course of a meal. Some examples of entrées are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrées do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.

(6) A beer and wine caterer licensee must have the ability to provide minimum food service. A commissary kitchen shall be maintained in a substantial manner as a place for preparing and cooking minimum food service. The caterer licensee must maintain the kitchen equipment necessary to prepare minimum food service required under this section. The minimum food service must be prepared at the licensed commissary kitchen premises. For purposes of this title:

"Minimum food service" means items such as sandwiches, salad, soup, hamburgers, pizza, and fry orders.

Licensees holding a caterer's license may share a commissary kitchen under the following conditions:

(a) Each licensee has their own secure area for their own liquor stock. Liquor stock cannot be shared.

(b) If using a shared commissary kitchen, each applicant/licensee must provide a sketch of the commissary kitchen to licensing indicating the separate secured area for each licensee.

(7) The applicant must provide the liquor ~~((control))~~ and cannabis board with a copy of their commissary kitchen license issued by the city or county health department.

(8) The licensee is required to send a list of scheduled catered events to their regional enforcement office on the first of each month. The licensee must provide the following information:

- (a) Date of the catered events;
- (b) Time of the catered events; and
- (c) Place and location of catered events.

Any changes to the information provided to the board must be reported to the regional enforcement office seventy-two hours prior to the catered event.

(9) A caterer's license holder is not allowed to cater events at a liquor licensed premises.

(10) The holder of the caterer's license may store liquor on other premises operated by the licensee if the licensee owns or has a leasehold interest at the other premises. Documentation must be provided to the board showing the licensee owns or has a leasehold interest in the property.

(11) All employees that sell or serve alcohol must hold MAST permits.

(12) The annual fee for the caterer's license is as follows:

- (a) The annual fee for beer is two hundred dollars;
- (b) The annual fee for wine is two hundred dollars; and
- (c) The annual fee for a combined spirits, beer, and wine is one thousand dollars.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-120 How do licensees get keg registration forms?** (1) The board will provide keg registration forms free of charge to licensees who hold (a) a beer and/or wine restaurant license in combination with an off-premises beer and/or wine endorsement; (b) a tavern license in combination with an off-premises beer and/or wine endorsement; or (c) a beer and/or wine specialty shop license with a keg endorsement.

(2) Licensees who hold a grocery store license with a keg endorsement, or a spirits, beer, and wine restaurant license with a keg endorsement, must purchase the keg registration forms. Keg registration books can be ordered online at the liquor ~~((control))~~ and cannabis board web site or from the enforcement customer service line for four dollars per book of twenty-five forms.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-02-125 What types of activities on a licensed premises require notice to the board?

WAC 314-02-130 What types of changes to a licensed premises require board approval?

### NEW SECTION

**WAC 314-03-100 What types of activities on a licensed premises require notice to the board?** Liquor licensees must notify their local enforcement office in writing at least five days prior to conducting the following activities unless the licensee has received an exception from their enforcement officer:

- (1) Male/female dance reviews, subject to the provision of WAC 314-11-050;
- (2) Live boxing or wrestling;
- (3) Contests or games where patrons are part of the entertainment;
- (4) Hours of operation in between 2:00 a.m. and 6:00 a.m. for licensees that sell liquor for on-premises consumption;
- (5) Closing the business to the general public for a private party; and
- (6) Outside service for one-time events such as a holiday celebration where liquor service and consumption is planned to extend to an area of the premises that does not have board approval for liquor service. The licensee must have leasehold rights to the area where alcohol service and consumption is planned.

### NEW SECTION

**WAC 314-03-200 Outside or extended alcohol service.** A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. The following conditions must be met:

- (1) The area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height; and
- (2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.
- (3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.
- (4) Must have leasehold rights to the area and have and be connected to the licensed premises.
- (5) Openings into and out of the outside area cannot exceed ten feet. If there is more than one opening along one side, the total combined opening may not exceed ten feet.
- (6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.



(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed at a minimum of ten feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required forty-two inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

#### NEW SECTION

**WAC 314-03-300 Alterations to a licensed premises.** The following changes to a licensed premises require approval from the board's licensing division:

(1) Any alteration that affects the size of a premises' customer service area.

(a) The licensee must submit two sets of floor plans showing the changes.

(b) The board's licensing division will make an initial response on the licensee's request for alterations within five business days.

(c) The licensee must contact their local liquor enforcement officer when the alteration is completed.

(d) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor enforcement officer.

(2) Excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub.

The licensee must submit their request to the board's licensing division for an approval.

(3) Excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant.

The licensee must submit their request to the board's licensing division for an approval.

(4) Reclassifying a lounge as open to persons under twenty-one years of age for a special event.

The licensee must submit their request to the board's licensing division for an approval.

## Chapter 314-07 WAC

### HOW TO APPLY FOR AND MAINTAIN A LIQUOR LICENSE

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

**WAC 314-07-005 What is the purpose of this chapter?** RCW 66.24.010 states the board will only issue licenses and permits to applicants and locations that meet certain qualifications. The purpose of this chapter is to outline the qualifications and steps necessary to receive and maintain a liquor license or permit.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-010 Definitions.** Following are definitions for the purpose of this title. Other definitions are in WAC 314-01-005 and RCW 66.08.010.

(1) "Applicant" or "liquor license applicant" means any person or business entity who is considered by the board as a true party of interest in a liquor license or permit application, as outlined in WAC 314-07-035.

(2) "Building" means a stationary structure with floor to ceiling solid walls and a roof. A food truck is not a "building."

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

(4) "Financier" means any person or entity who has made or will make an investment in the licensed business of more than ten (~~thousand dollars~~) percent of the total business investment. A "financier" can be someone who provides money as a gift, someone who loans money to the business and expects to be paid back the amount of the loan without interest, or someone who invests money into the business expecting a percentage of the profits, but accepts the risk that there may not be a full return on the investment. These persons or entities shall submit appropriate investigation level "financier" financial documents.

(5) "Licensee" or "liquor licensee" means any person or entity that holds a liquor license or permit, or any person or entity who is a true party of interest in a liquor license or permit, as outlined in WAC 314-07-035.

(6) "Public institution" means a public college or university. (See WAC 314-07-020 regarding the liquor control board notifying public institutions of liquor license applications.)

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-015 General information about liquor licenses.** (1) A person or entity must meet required qualifications to receive a liquor license, (~~which are continuing~~) and must continue to meet the qualifications in order to maintain the license.

(2) A liquor license may be approved at a personal residence under the following conditions:

(a) The proposed licensed premises is either separate from or walled off from personal living quarters.

(b) The proposed licensed premises has its own entrance separate from the entrance to the personal living quarters.

(c) Any access from the proposed licensed premises into the personal living quarters is permanently secured.

(d) Any and all items related to the operation of the proposed licensed business are contained within the licensed premises. This includes, but is not limited to, liquor inventory, business records, computers, equipment and anything else needed for the operation of the licensed business.

(3) A liquor license applicant may not exercise any of the privileges of a liquor license until the board approves the license application (see WAC 314-07-055 regarding temporary licenses).

~~((3))~~ (4) In approving a liquor license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a liquor license.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-035 What persons or entities have to qualify for a liquor license?** Per RCW 66.24.010(1), a liquor license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> <li>All general partners and spouses;</li> <li>All limited partners that have more than 10% interest in the partnership and their spouses.</li> </ul>
Limited liability company	<ul style="list-style-type: none"> <li>All members (or persons with equivalent title) with more than 10% interest in the LLC and spouses. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties that have an interest in the limited liability company or have a pending interest.)</li> </ul>

True party of interest	Persons to be qualified
	<ul style="list-style-type: none"> <li>All managers (or persons with equivalent title) and their spouses.</li> </ul>
Privately held corporation	<ul style="list-style-type: none"> <li>All corporate officers (or persons with equivalent title) and their spouses.</li> <li>All stockholders (or persons with equivalent title) and their spouses who hold more than 10% of the issued or outstanding stock. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties who have been issued or will be issued corporate stock.)</li> </ul>
Publicly held corporation	All corporate officers (or persons with equivalent title).
Multi-level ownership structures	The liquor control board will review each entity to determine which individuals are to qualify according to the guidelines in this rule.
Any entity	<p>Any person who is in receipt of, or has the right to receive, more than ten percent of the gross or net sales from the licensed business during any full or partial calendar or fiscal year. For the purposes of this chapter:</p> <ul style="list-style-type: none"> <li>"Gross sales" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business.</li> <li>"Net sales" means gross sales minus cost of goods sold.</li> </ul>

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent (as determined by the board) on a fixed or percentage basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's pre-bonus annual compensation; or the bonus is based on a written

incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(d) A person or entity receiving payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement, unless the person or entity receiving payment of franchise fees exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The board may conduct a financial investigation of financiers.

(4) **Persons who exercise control of business** - The board may conduct an investigation of any person or entity who exercises any control over the applicant's business operations.

In cases where there is an entity who is in control of the day-to-day business operation (other than the owner) because of an agreement between the owner and the operator, the operating party becomes a true party of interest. The operator must meet all the qualifications of any other true party of interest and if approved, must be the licensee. The owner may be required to be named on the license as a party of interest based on the terms of the agreement, but will not normally be required to meet all the qualifications of a true party of interest.

(5) The board reserves the right to investigate any person or entity in a liquor license application or current liquor license where hidden ownership or misrepresentation of fact is suspected.

(6) For purposes of this section, a person or entity who takes more than ten percent of the profits and/or exercises control over the licensed business in a given agreement may be named on the license as a party of interest per this rule. Examples of this are lease, operating plan, concession or management agreement.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-040 What criminal history might prevent a liquor license applicant or licensee from receiving or keeping a liquor license?** (1) When the board processes a criminal history check on ~~((an applicant))~~ a true party of interest, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a liquor license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points

Description	Time period during which points will be assigned	Points assigned
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board may administratively close the application.

(3) The board will not normally issue a liquor license to any person who has demonstrated a pattern of disregard for laws and rules.

(4) Current liquor licensees are required to notify the board within thirty days of any arrests or criminal convictions. Failure to do so may result in revocation of the liquor license.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-060 Reasons for denial or ~~((cancellation))~~ revocation of a temporary license.** Following is a list of reasons a temporary permit may not be issued or can be revoked. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application. Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing.

(1) An applicant who has received a temporary license and their application is later administratively closed, and they reapply for a liquor license at the same location.

(2) The local authority objects for any reason.

(3) The applicant affirmatively refuses to submit documents requested by the board to conduct the application investigation.

(4) The applicant accrues or is involved in an administrative violation committed while operating under a temporary license.

(5) The investigator is unable to determine the true party of interest.

(6) The applicant fails to meet the basic requirements of the license.

(7) An objection is received from a privately or publicly funded elementary or secondary school within five hundred feet of the proposed location.

(8) Violation history of the applicant is found to be sufficient to raise the application to threshold decision.

(9) Upon denial of the permanent license, the temporary license will be immediately revoked.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-065 Reasons the board may deny a liquor license application.** Following is a list of reasons the board may deny a liquor license application. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application.

(1) Failure to meet qualifications or requirements for the specific liquor license or privilege, as outlined in this Title 314 WAC and Title 66 RCW.

(2) Failure by any ~~((applicant or financier))~~ person or entity associated with the application to submit information or documentation requested by the board.

(3) Refusal by any ~~((applicant or financier))~~ person or entity associated with the application to submit information or documentation requested by the board.

(4) Misrepresentation of fact by any ~~((applicant or financier))~~ person or entity associated with the application.

(5) Failure to meet the criminal history standards outlined in WAC 314-07-040.

(6) Failure to meet the liquor law or rule violation history standards outlined in WAC 314-07-045.

(7) Source of funds used for the acquisition, startup and operation of the business is questionable or unverified.

(8) Objection from the local authority or from the public (see WAC 314-09-010 and RCW 66.24.010(8)).

(9) Objection from the following entities if they are within five hundred feet of the proposed business: A public school, a private school that meets the requirements of chapter 28A.195 RCW, a church, or a public college or university. See WAC 314-09-010 and RCW 66.24.010(9) for more information. Note: Per RCW 66.24.010(9), the board may not issue a new liquor license if the board receives objection from a public school within five hundred feet of the proposed licensed business.

(10) The board determines that the issuance of the liquor license will not be in the best interest of the welfare, health, or safety of the people of the state.

AMENDATORY SECTION (Amending WSR 04-15-162, filed 7/21/04, effective 8/21/04)

**WAC 314-11-065 What type of liquor is allowed on a licensed premises?** (1) Licensees may only possess and allow persons to consume or possess the type of liquor permitted by the type of liquor license held on the premises; except:

(a) Under authority of a banquet permit (see chapter 314-18 WAC);

(b) Restaurant licensees may allow patrons to bring wine into the premises for consumption with a meal; ~~((and))~~

(c) Beer and/or wine restaurant or tavern licensees may keep spirituous liquor on the premises for use in the manufacture of food products, provided that:

(i) All food products manufactured contain one percent or less of alcohol by weight (per RCW ~~((66.12.16.160~~ ~~{66.12.160});~~) 66.12.160);

(ii) Customers are made aware that the food products contain liquor~~((:));~~ and

(iii) The beer and/or wine restaurant or tavern licensee notifies the local liquor control board enforcement office in writing before they bring spirituous liquor on the premises.

(d) Under the authority of a special occasion license.

(2) For on-premises liquor licenses, the licensee or employees may not permit the removal of liquor in an open container from the licensed premises, except:

(a) Liquor brought on a licensed premises under authority of a banquet permit may be resealed in its original container and removed at the end of the banquet permit function;

(b) Per RCW 66.24.320 and 66.24.400, wine that is sold with a meal may be recorked or resealed and removed from the premises;

(c) Liquor purchased by registered guests for consumption inside a hotel or motel room may be resealed in its original container and removed from the hotel or motel premises by the guest; and

(d) Liquor removed from a licensed premises that holds a caterer's endorsement, for the purpose of catering an approved event.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

**WAC 314-12-020 ~~((Applicants—Qualifications—Fingerprinting—Criminal history record information checks—))~~ Continuing conditions~~((—Agreements—Reconsideration of denied applications))~~ to hold a liquor license.** ~~((1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.~~

(2) ~~The board may require, as a condition precedent to the original issuance of any annual license, fingerprinting and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.~~

~~(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing condi-~~

tions for retaining an existing license and any licensed person who ceases to be eligible for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

(4) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

The board may, at its discretion and for good cause shown, reconsider an application denied for reasons other than objection upon receipt of new information within sixty days of the original denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration. The process for applications denied due to objection is outlined in chapter 314-09 WAC.)) A person or entity must meet minimum required qualification to receive a liquor license, and must continue to meet the qualifications in order to maintain the liquor license.

AMENDATORY SECTION (Amending WSR 93-18-094, filed 9/1/93, effective 10/2/93)

**WAC 314-12-030** ~~((License to reflect true party in interest—))~~**Display of licenses.** (1) Pursuant to the requirements of RCW 66.24.010(1), any license issued shall be issued in the name(s) of the true party or parties in interest.

(2) All licenses (except certificates of approval and agent's licenses) shall be prominently displayed on the licensed premises.

~~((3) For purposes of this section, "true party" shall apply to any person or entity having a substantial interest in the business conducted on the premises to be licensed.~~

(4) For purposes of this section, "substantial interest" shall mean any of the following:

(a) Receipt of, or the right to receive, ten percent or more of the gross sales from the licensed business during any calendar or fiscal year of the licensed business. Gross sales, as used in this section, shall include the entire gross receipts of every kind and nature from the sales and services made in, upon, or from the premises, whether on a credit or cash basis, whether operated by the licensee or manager, except:

Any rebates or refunds to customers;

The licensee's cost of meals and beverage provided to employees;

The amount of sales tax receipts or admission taxes;

(b) An investment in the licensed business of ten thousand dollars or more; or

(c) Ownership of stock constituting more than ten percent of the issued or outstanding stock of the licensed business;

(5) For purposes of this section, "substantial interest" shall not mean:

(a) A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation, or the bonus is based on a written incentive/bonus program and is not out of the ordinary for the services rendered;

(b) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the licensed business;

(c) Reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;

(d) Payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement;

(e) Payment of dividends to corporate stockholders.))

AMENDATORY SECTION (Amending WSR 85-24-040, filed 11/27/85)

**WAC 314-12-050 Loss or destruction of licenses, permits, etc.—Fee.** Upon the loss or destruction of ~~((any))~~ a license or permit issued by the board to purchase liquor ~~((thereunder))~~, application for a duplicate must be made to the board. Fee: \$5.00.

AMENDATORY SECTION (Amending WSR 96-03-004, filed 1/4/96, effective 2/4/96)

**WAC 314-12-070 Applications for currently licensed locations.** ~~((1))~~ No application for any license shall be made except in conformance with RCW 66.24.010, and subject to the following conditions: ~~((a) Except as authorized by WAC 314-12-025,))~~ The license applicant shall not take possession of the premises, nor exercise any of the privileges of a licensee, nor shall such application be effective until the board shall have approved the same(~~;~~)

~~((b) In approving any license, the board reserves the right to impose special conditions as to the future connection of the former licensee or any of his employees with the licensed business as in its judgment the circumstances may justify;~~

(c) A change of trade name may be made coincident with the issuance of the license without any additional fee.

(2) The sale of a partnership interest or any change in the partners, either by withdrawal or addition or otherwise, shall be considered a change of ownership and subject to the applicable regulations.

(3) If the licensee is a corporation, whether as sole licensee or in conjunction with other entities, a change in ownership of any stock shall be deemed a corporate change. The licensed corporation shall report to and obtain written approval from the board, for any proposed change in principal officers and/or the proposed sale of more than ten percent of the corporation's outstanding and/or issued stock before any such changes are made. The board may inquire into all matters in connection with any such sale of stock or proposed

change in officers. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.

(4) For purposes of this regulation:

(a) ~~"Principal officer" shall mean the president, vice-president, secretary, and treasurer, or the equivalent in title, for a publicly traded corporation, and president, vice-president, secretary, treasurer, or the equivalent in title, and all other officers who hold more than ten percent of the corporate stock, for a privately held corporation.~~

(b) ~~The "proposed sale of more than ten percent of the stock" will be calculated as a cumulative total and must be reported to the board when the accumulation of stock transfers or newly issued stock totals more than ten percent of the outstanding and/or issued stock of the licensed corporation).~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-12-033 Limited partnerships.

WAC 314-12-200 Converting a public house license (RCW 66.24.580) to a domestic brewery, microbrewery or domestic winery license.

### WSR 16-22-095

#### PROPOSED RULES

#### LIQUOR AND CANNABIS

#### BOARD

[Filed November 2, 2016, 11:20 a.m.]

Supplemental Notice to WSR 16-15-032.

Preproposal statement of inquiry was filed as WSR 16-10-109.

Title of Rule and Other Identifying Information: WAC 314-02-103 What is a wine retailer reseller endorsement?, 314-05-020 What is a special occasion license?, 314-24-245 Domestic wineries at special occasion licensed events, 314-38-020 Permits—Fees established, 314-38-080 Class 18 special winery permit, 314-38-090 Class 19 special distillery permit, 314-38-095 Class 20 special brewery permit, and 314-38-100 Accommodation sale permit.

Hearing Location(s): Washington State Liquor Control [and Cannabis] Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on December 14, 2016, at 10:00 a.m.

Date of Intended Adoption: December 28, 2016.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@lcb.wa.gov, fax (360) 664-9689, by December 14, 2016.

Assistance for Persons with Disabilities: Contact Karen McCall by December 14, 2016, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rules are needed to implement 2016 legislation.

Reasons Supporting Proposal: Licenses need to know what requirements they must meet for permits and privileges passed in the 2016 legislative session.

Statutory Authority for Adoption: RCW 66.08.030, 66.20.010.

Statute Being Implemented: RCW 66.20.010.

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, Chief Enforcement, 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.

November 2, 2016

Jane Rushford

Chairman

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

**WAC 314-02-103 What is a wine retailer reseller endorsement?** (1) A wine retailer reseller endorsement is issued to the holder of a grocery store liquor license or the holder of a beer and/or wine specialty shop license to allow the sale of wine at retail to on-premises liquor licensees.

(2) For holders of a grocery store license: No single sale to an on-premises liquor licensee may exceed twenty-four liters. Single sales to an on-premises licensee are limited to one per day.

(3) For holders of a beer and/or wine specialty shop license:

(a) No single sale may exceed twenty-four liters, unless the sale is made by a licensee that was formerly a state liquor store or contract liquor store.

(b) May sell a maximum of five thousand liters of wine per day for resale to retailers licensed to sell wine for consumption on the premises.

(4) A grocery store licensee or a beer and/or wine specialty shop licensee with a wine retailer reseller endorsement may accept delivery at its licensed premises or at one or more warehouse facilities registered with the board.

~~((4))~~ (5) The holder of a wine retailer reseller endorsement may also deliver wine to its own licensed premises from the registered warehouse; may deliver wine to on-premises licensees, or to other warehouse facilities registered with the board. A grocery store licensee or a beer and/or wine specialty shop licensee wishing to obtain a wine retailer reseller endorsement that permits sales to another retailer must possess and submit a copy of their federal basic permit to purchase wine at wholesale for resale under the Federal Alcohol Administration Act. A federal basic permit is required for

each location from which the grocery store licensee or beer and/or wine specialty shop licensee holding a wine retailer reseller endorsement plans to sell wine to another retailer.

~~((5))~~ (6) The annual fee for the wine retailer reseller endorsement for a grocery store licensee is one hundred sixty-six dollars.

(7) The annual fee for the wine retailer reseller endorsement for a beer and/or wine specialty shop licensee is one hundred ten dollars.

(8) Sales made under the reseller endorsement are not classified as retail sales for taxation purposes.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

**WAC 314-05-020 What is a special occasion license?**

(1) Per RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving for on-premises consumption; ~~((and))~~

(b) Spirits, beer, and wine in original, unopened containers for off-premises consumption; and

(c) Wine in original, unopened containers for on-premises consumption if permission is obtained from the WSLCB prior to the event.

(2) Special occasion licensees are limited to twelve days per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for this license is \$60 per day, per event. Multiple alcohol service locations at an event are an additional sixty dollars per location.

(4) Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.

(5) A charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (c)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (c)(6) of the Internal Revenue Code.

(6) If a winery is taking orders and accepting payment for product of its own production from consumers at a special occasion event to be delivered at a later date from one of its authorized locations, the special occasion shall include the name of the winery on the special occasion license application.

NEW SECTION

**WAC 314-24-245 Domestic wineries at special occasion licensed events.** (1) A domestic winery may take orders and accept payment for product of its own production from consumers at a special occasion event, to be delivered at a later date from one of its authorized locations.

(2) A domestic winery must be invited and/or authorized by the special occasion licensee in order to attend the special occasion event in this capacity.

(3) The special occasion licensee is the only licensee allowed to sell wine to be consumed on the premises.

(4) The winery is not allowed to give free tastings of wine of their own production to consumers.

AMENDATORY SECTION (Amending WSR 84-14-028, filed 6/27/84)

**WAC 314-38-020 Permits—Fees established.** The fees for permits authorized under RCW 66.20.010 are hereby established as follows:

(1) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(1).

(2) The fee for a special permit as authorized by RCW 66.20.010(2) for purchase of five gallons or less is established as five dollars and for purchase of over five gallons is established as ten dollars.

(3) A fee for a banquet permit, as authorized by RCW 66.20.010(3), is established in WAC 314-18-040.

(4) The fee for a special business permit, as authorized by RCW 66.20.010(4), is established in WAC 314-38-010(2).

(5) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(5).

(6) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(6).

(7) A special permit as authorized by RCW 66.20.010(7) shall be issued without charge to those eligible entities.

(8) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(8).

(9) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(9).

(10) The fee of thirty dollars is established for a special permit as authorized by RCW 66.20.010(10).

(11) The fee of seventy-five dollars is established for a special permit as authorized by RCW 66.20.010(11).

(12) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(12).

(13) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(13).

(14) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(14).

(15) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(15).

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

**WAC 314-38-080 Class 18 special winery permit.** (1) The special winery permit is for domestic wineries.

(2) A special winery permit allows a manufacturer of wine to ~~((have))~~ be present at a private event not open to the general public at a specific place and date for the purpose of tasting wine and selling wine of its own production for off-premises consumption.

(3) ~~((The activities at the event are limited to the activities allowed on the winery premises.~~

~~(4))~~) The winery must obtain the special permit by submitting an application for a class 18 special winery permit to the board with a ten dollar permit fee.

(a) The application must be submitted to the board at least ten days prior to the event.

(b) The special permit must be posted at the event.

~~((5))~~) (4) The winery is limited to twelve events per calendar year.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

**WAC 314-38-090 Class 19 special distillery permit.**

(1) A special distillery/craft distillery permit is for Washington distillers only.

(2) A special distillery/craft distillery permit allows a manufacturer of spirits to ~~((have))~~ be present at a private event not open to the general public at a specific place and date for the purpose of tasting spirits and selling spirits of its own production for off-premises consumption.

(3) The activities at the event are limited to the activities allowed on the distillery/craft distillery premises.

(4) The distillery or craft distillery must obtain the special permit by submitting an application for a class 19 special distillery/craft distillery permit to the board with a ten dollar permit fee.

(a) The application must be submitted to the board at least ten days prior to the event.

(b) The special permit must be posted at the event.

(5) The licensee is limited to twelve events per calendar year.

NEW SECTION

**WAC 314-38-095 Class 20 special brewery permit.**

(1) A special brewery/microbrewery permit is for Washington brewers only.

(2) A special brewery/microbrewery permit allows a manufacturer of beer to be present at a private event not open to the general public at a specific place and date for the purpose of tasting beer and selling beer of its own production for off-premises consumption.

(3) The brewery or microbrewery must obtain the special permit by submitting an application for a class 20 special brewery/microbrewery permit to the board with a ten dollar permit fee.

(a) The application must be submitted to the board at least ten days prior to the event.

(b) The special permit must be posted at the event.

(4) The licensee is limited to twelve events per calendar year.

NEW SECTION

**WAC 314-38-100 Accommodation sale permit. (1)**

An accommodation sale permit is for an individual or business to sell a private collection of wine or spirits to another individual or business.

(2) The seller must complete an application for accommodation sale permit and submit with a fee of twenty-five dollars to the WSLCB.

(3) Once the WSLCB verifies the information on the application, a permit for the sale will be issued to the seller.

(4) The seller must wait at least five business days after receiving the permit to release the wine and/or spirits to the buyer.

(5) Within twenty calendar days of the sale, the seller must complete an accommodation sale inventory report and submit it to the WSLCB.

(6) The following are definitions for the purpose of this section:

(a) "Accommodation sale" means the sale of a private collection of wine or spirits to an individual or business. Both the seller and the buyer must be located in Washington state.

(b) "Buyer" means the individual or business buying a private collection of wine or spirits. A buyer may be a liquor licensee.

(c) "Private collection" means a privately owned collection of wine or spirits. There is no minimum or maximum quantity to be considered a collection.

(d) "Seller" means the individual or business selling a private collection of wine or spirits. The seller cannot be a liquor licensee.

**WSR 16-22-098**

**PROPOSED RULES**

**OFFICE OF**

**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2016-21—Filed November 2, 2016, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-091.

Title of Rule and Other Identifying Information: Special enrollment rule: Expanded health benefit exchange request.

Hearing Location(s): Office of the Insurance Commissioner (OIC), 5000 Capitol Boulevard, Tumwater, WA 98504, on December 8, 2016, at 9:00 a.m.

Date of Intended Adoption: December 9, 2016.

Submit Written Comments to: Bianca Stoner, P.O. Box 40260, Olympia, WA 98504, e-mail [rulesc@oic.wa.gov](mailto:rulesc@oic.wa.gov), fax (360) 586-3109, by December 8, 2016.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by December 7, 2016, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under this rule change, OIC will remove the word "twentieth" and replace it with the word "fifteenth" in WAC 284-43-1140 (2)(a).

Reasons Supporting Proposal: In May 2016, OIC filed Rule 2016-13 to change the deadline for consumers to apply for health plans sold on the Washington health benefit exchange (exchange) using special enrollment rights. The exchange asked OIC to make this change, because although 45 C.F.R. 155.420 allows a special enrollment deadline as early as the fifteenth, the existing state regulation (WAC 284-43-1140) does not permit a deadline earlier than the twentieth.



After learning that the exchange hoped to make this change, some issuers asked OIC to let them make the same change. In response to that request, OIC withdrew the CR-101 for Rule 2016-13 and issued the CR-101 for Rule 2016-21.

This change will give both the exchange and issuers the option of using a special enrollment deadline as early as the fifteenth for coverage that starts the first day of the next month.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.120(2), 48.20.450, 48.44.050, and 48.46.200.

Statute Being Implemented: Chapter 48.43 RCW.

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 40260, Olympia, WA 98504-0260, (360) 725-7041; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: AnnaLisa Gellermann, 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. The entities that need to comply with the proposed rules do not qualify as small businesses under the definition of small business in RCW 19.85.020(3). In addition, this proposed rule making allows insurers to make a change in their special enrollment period but does not require them to do so.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Bianca Stoner, P.O. Box 40260, Olympia, WA 98504, phone (360) 725-7041, fax (360) 586-3109, e-mail rulesec@oic.wa.gov.

November 2, 2016  
Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

**WAC 284-43-1140 Duration, notice requirements and effective dates of coverage for individual market special enrollment periods.** (1) Special enrollment periods must not be shorter than sixty days from the date of the qualifying event.

(2) The effective date of coverage for those enrolling in an individual health plan through a special enrollment period is the first date of the next month after the premium is received by the issuer, unless one of the following exceptions applies:

(a) For those enrolling after the ~~((twentieth))~~ fifteenth of the month, the issuer must begin coverage not later than the first date of the second month after the application is received. Issuers may establish an earlier effective date at their discretion;

(b) For special enrollment of newborn, adopted or placed for adoption children, the date of birth, date of adoption or date of placement for adoption, as applicable, becomes the first effective date of coverage. The same requirement applies

to foster children or children placed for foster care on qualified health plans;

(c) For special enrollment based on marriage or the beginning of a domestic partnership, and for special enrollment based on loss of minimum essential coverage, coverage must begin on the first day of the next month.

(3) For individual plans offered either on or off the health benefit exchange, an issuer must include detailed information about special enrollment options and rights in its health plan documents provided pursuant to WAC 284-43-5130, and in the policy, contract or certificate of coverage provided to an employer, plan sponsor or enrollee. The notice must be substantially similar to the model notice provided by the U.S. Department of Health and Human Services.