

## WSR 21-19-107

## PROPOSED RULES

## DEPARTMENT OF HEALTH

[Filed September 20, 2021, 11:02 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 246-247-001, 246-247-002, 246-247-010, 246-247-075, 246-247-080, and 246-247-100, Radiation protection—Air emissions. The proposal updates chapter sections that reference the Code of Federal Regulations' most recent publication date and amends chapter sections that reference state statutory references from Title 70 RCW to the newly codified Title 70A RCW per SHB 2246, chapter 20, Laws of 2020.

Hearing Location(s): On October 26, 2021, at 10:00 a.m. In response to the coronavirus (COVID-19) pandemic, the department of health (DOH) will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Register in advance for this webinar [https://us02web.zoom.us/webinar/register/WN\\_N0rE8tmTSGSk5ekeRTXpaQ](https://us02web.zoom.us/webinar/register/WN_N0rE8tmTSGSk5ekeRTXpaQ). After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: November 2, 2021.

Submit Written Comments to: Theresa Phillips, DOH, P.O. Box 47820, Olympia, WA 98504-7820, email <https://fortress.wa.gov/doh/policyreview>, by October 26, 2021.

Assistance for Persons with Disabilities: Contact Theresa Phillips, phone 360-236-3147, TTY 711, email [theresa.phillips@doh.wa.gov](mailto:theresa.phillips@doh.wa.gov), by October 19, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is necessary to update the publication date of federal rules adopted by reference under 40 C.F.R. Part 61 from 2019 to the most recently adopted 2021 version. The proposed amendments make no changes to any requirements previously adopted. The amendment makes no changes to any requirements previously adopted, but is required for the DOH to receive full delegation of the Radionuclide Air Emissions Program from the United States Environmental Protection Agency (EPA). In addition, this proposal updates several other rule sections to update outdated RCW citations for the purpose of reorganizing laws related to environmental health without making any substantive or policy changes per SHB 2246, Laws of 2020.

Reasons Supporting Proposal: The intent of RCW 70A.388.040 is to safely regulate the possession and use of radioactive material within the state of Washington. The intent of RCW 70A.388.050(5) is to reduce redundant licensing requirements. The rule meets the intent of the statutes by adopting requirements as stringent as the federal requirements in order for DOH to have full delegation authority from EPA and to refer to the correct state statutory references.

Statutory Authority for Adoption: RCW 70A.388.040, 70A.388.050(5); and SHB 2246.

Statute Being Implemented: RCW 70A.388.040, 70A.388.050(5); and SHB 2246.

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

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3147; Implementation and Enforcement: John Martell, 309 Bradley Boulevard, Suite 201, Richland, WA 99352, 509-946-3798.

A school district fiscal impact statement is not required under RCW 28A.305.135.

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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 40 C.F.R. Part 61 from 2021. The proposed changes are necessary for consistency between federal and state rules and as a primary condition for delegation of the National Emission Standard for Hazardous Air Pollutants authority from EPA to DOH. If Washington does not adopt the proposed changes, DOH would not receive full delegation as required by EPA.

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

September 20, 2021  
Lauren Jenks  
Assistant Secretary

## OTS-3226.2

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

**WAC 246-247-001 Purpose.** The purpose of this chapter is to establish application requirements and procedures for the issuance of a radioactive air emissions license and for the regulation of those emissions by the department of health (hereinafter referred to as "the department") to assure compliance with the standards for radioactive air emissions set by the department of ecology pursuant to RCW

((70.94.331)) 70A.15.3000, promulgated in chapter 173-480 WAC, and with the rules and regulations of this chapter.

[Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-001, filed 3/4/94, effective 4/4/94. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-247-001, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-80-010, filed 12/11/86.]

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

**WAC 246-247-002 Authority.** (1) Rules and regulations set forth herein are adopted and enforced by the department pursuant to the provisions of chapter ((70.98)) 70A.388 RCW which:

(a) Designate the department as the state's radiation control agency having sole responsibility for the administration of the regulatory, licensing, and radiation control provisions of chapter

((70.98)) 70A.388 RCW;

(b) Vest in the department the authority to formulate, adopt, promulgate, and repeal codes, rules, and regulations related to the control of sources of ionizing radiation;

(c) Authorize the department to implement an independent state-wide program to monitor radioactive air emissions from sources within the state;

(d) Authorize the department to conduct inspections of facilities, both private and public, to determine whether or not there is compliance with or violation of the provisions of chapter ((70.98)) 70A.388 RCW and rules and regulations issued thereunder; and

(e) Authorize the department to require registration of sources of ionizing radiation.

(2) In addition, RCW ((70.94.422)) 70A.15.3130 (Washington Clean Air Act) grants to the department the enforcement powers contained in that chapter.

[Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-002, filed 3/4/94, effective 4/4/94.]

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

**WAC 246-247-010 Applicability.** (1) The standards and requirements of this chapter apply statewide at the following types of facilities that emit radionuclides to the air:

(a) Facilities licensed by the department or by the United States Nuclear Regulatory Commission (NRC);

(b) United States Department of Energy (DOE) facilities;

(c) Non-DOE federal facilities;

(d) Uranium fuel cycle facilities;

(e) Uranium mills that are processing material; and

(f) Any other facility that the department determines emits or has the potential to emit radionuclides to the ambient air.

(2) The standards and requirements of this chapter apply to point sources, nonpoint sources, and fugitive emissions.

(3) The standards and requirements of this chapter apply to stationary and mobile emission units, whether temporary or permanent.

(4) The control technology standards and requirements of this chapter apply to the abatement technology and indication devices of facilities and emission units subject to this chapter. Control technology requirements apply from entry of radionuclides into the ventilated vapor space to the point of release to the environment.

(5) In accordance with RCW (~~(70.94.161)~~) 70A.15.2260(10), air operating permits issued under chapter 173-401 WAC shall incorporate all applicable requirements of this chapter. Therefore, all facilities listed in subsection (1) of this section that are also subject to the operating permit regulations in chapter 173-401 WAC shall be considered in compliance with the requirements of this chapter if they comply with all the applicable requirements of the air operating permit issued under chapter 173-401 WAC. These applicable requirements shall be contained in the radioactive air emissions license which shall be incorporated as part of the air operating permit. In accordance with RCW (~~(70.94.422)~~) 70A.15.3130(1), the department shall enforce all the requirements contained in the radioactive air emissions license.

(6) Should any of the federal regulations that have been adopted by reference in this chapter be rescinded, the affected facilities shall nonetheless comply with all other applicable requirements of this chapter.

(7) An applicant may view any document referenced in this chapter by contacting the department's office of radiation protection, radioactive air emissions section at 509-946-0363. Mail reports, applications, and other written correspondence to the Radioactive Air Emissions Section at 309 Bradley Boulevard, Suite 201, Richland, Washington, 99352. An applicant may send reports, applications, and other written correspondence to AIRRichland@doh.wa.gov.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 18-01-083, § 246-247-010, filed 12/15/17, effective 1/15/18. Statutory Authority: RCW 70.98.050. WSR 04-18-094, § 246-247-010, filed 9/1/04, effective 10/2/04; WSR 98-13-037, § 246-247-010, filed 6/8/98, effective 7/9/98. Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-010, filed 3/4/94, effective 4/4/94. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-247-010, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-80-020, filed 12/11/86.]

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

**WAC 246-247-020 Exemptions.** (1) The following types of facilities or sources of radiation are exempt from the requirements of this chapter because they release no airborne radioactivity, or they prima facie comply with the standards in WAC 246-247-040, or they are already adequately regulated under other requirements:

- (a) Users of only sealed sources;
- (b) Sealed sources;
- (c) Accelerators less than 200 MeV;

(d) Nuclear-powered vessels underway or moored dockside unless under a maintenance condition with a potential-to-emit;

(e) Uranium mill tailings piles disposed of under 40 C.F.R. Part 192 (effective July 1, ((2017)) 2021).

(2) Exemption determinations.

(a) Any exemptions shall be consistent with 40 C.F.R. 61. No exemptions from the standards in WAC 246-247-040 will be granted.

(b) A nonfederal facility may request exemption from some of the requirements of WAC 246-247-060 and 246-247-075 if the potential-to-emit, for the emission unit(s) under consideration, results in compliance at level I of the COMPLY computer code or level I of the NCRP's Commentary No. 3, or equivalent as approved by the department.

(c) A federal facility may request exemption from some of the requirements of WAC 246-247-060 and 246-247-075 if the potential-to-emit, for the emission unit(s) under consideration, results in a TEDE to the MEI from all pathways less than 0.1 mrem/yr.

(d) The facility shall submit all the data necessary to make the exemption determinations of (b) and (c) of this subsection. The department shall determine if any exemptions apply.

(e) Commercial nuclear power plants may request exemption from some of the requirements of this chapter in order to minimize dual regulation with the NRC.

(3) The department may require a facility with exempt emission units to submit a radioactive air emissions report to confirm compliance with applicable standards. The department reserves the right to conduct inspections and audits of the facility to confirm the status of its exempt emission units.

(4) Naturally occurring airborne radionuclides are exempt from the requirements of this chapter unless the concentrations or rates of emissions have been enhanced by industrial processes.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 18-01-083, § 246-247-020, filed 12/15/17, effective 1/15/18. Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-020, filed 3/4/94, effective 4/4/94. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-247-020, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-80-030, filed 12/11/86.]

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

**WAC 246-247-030 Definitions, abbreviations, and acronyms.** The definitions, abbreviations, and acronyms in this section and WAC 246-220-010, apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Abatement technology" means any mechanism, process or method that has the potential to reduce public exposure to radioactive air emissions. Abatement control features include automatic mechanisms and administrative controls used in the operation and control of abatement technology from entry of radionuclides into the ventilated vapor space to release to the environment.

(2) "Administrative control" means any policy or procedure that limits the emission of radionuclides.

(3) "ALARA" means as low as reasonably achievable making every reasonable effort to maintain exposures to radiation as far below the dose standards in this chapter as is practical, consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other socioeconomic considerations, and in relation to the utilization of nuclear energy, ionizing radiation, and radioactive materials in the public interest. See WAC 246-220-007.

(4) "As low as reasonably achievable control technology" (ALARACT) means the use of radionuclide emission control technology that achieves emission levels that are consistent with the philosophy of ALARA. ALARACT compliance is demonstrated by evaluating the existing control system and proposed nonsignificant modifications in relation to applicable technology standards and other control technologies operated successfully in similar applications. In no event shall application of ALARACT result in emissions of radionuclides that could cause exceedance of the applicable standards of WAC 246-247-040. See the definition of ALARA in this section. Note that ALARACT is equivalent to, but replaces, RACT in the (~~May 7, 1986~~) June 23, 2007, version of chapter 173-480 WAC.

(5) "Annual possession quantity" means the sum of the quantity of a radionuclide on hand at the beginning of the calendar year and the quantity of that radionuclide received or produced during the calendar year.

(6) "Best available radionuclide control technology" (BARCT) means technology that will result in a radionuclide emission limitation based on the maximum degree of reduction for radionuclides from any proposed newly constructed or significantly modified emission units that the licensing authority determines is achievable on a case-by-case basis. A BARCT compliance demonstration must consider energy, environmental, and economic impacts, and other costs through examination of production processes, and available methods, systems, and techniques for the control of radionuclide emissions. A BARCT compliance demonstration is the conclusion of an evaluative process that results in the selection of the most effective control technology from all known feasible alternatives. In no event shall application of BARCT result in emissions of radionuclides that could exceed the applicable standards of WAC 246-247-040. Control technology that meets BARCT requirements also meets ALARACT requirements. See WAC 173-480-030 and 246-247-120.

(7) "Committed effective dose equivalent" (CEDE) means the sum of the products of absorbed dose from internally deposited radionuclides and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man over a fifty-year period.

(8) "Construction" means fabrication, erection, or installation of a new building, structure, plant, process, or operation within a facility that has the potential to emit airborne radionuclides. Construction includes activities of a permanent nature aimed at completion of the emission unit, such as pouring concrete, putting in a foundation, or installing utilities directly related to the emission unit. It does not include preliminary activities such as tests to determine site suitability, equipment procurement and storage, site clearing and grading, and the construction of ancillary buildings.

(9) "Decommissioning" means actions taken to reduce or eliminate the potential public health and safety impacts of a building, structure, or plant that has permanently ceased operations, including, but not limited to, actions such as decontamination, demolition, and disposition.

(10) "Emission unit" means any single location that emits or has the potential to emit airborne radioactive material. This may be a point source, nonpoint source, or source of fugitive emissions.

(11) "Facility" means all buildings, structures, plants, processes, and operations on one contiguous site under control of the same owner or operator.

(12) "Fugitive emissions" are radioactive air emissions which do not and could not reasonably pass through a stack, vent, or other functionally equivalent structure, and which are not feasible to directly measure and quantify.

(13) "Indication device" means any method or apparatus used to monitor, or to enable monitoring, the operation of abatement controls or the potential or actual radioactive air emissions.

(14) "License" means a radioactive air emissions license issued by the department with requirements and limitations listed therein. Compliance with the license requirements are determined and enforced by the department. The license will be incorporated as an applicable requirement in the air operating permit issued by the department of ecology or a local air pollution control authority when the department of ecology or a local air pollution control authority issues an air operating permit.

(15) "Maximally exposed individual" (MEI) means any member of the public (real or hypothetical) who abides or resides in an unrestricted area, and may receive the highest TEDE from the emission unit(s) under consideration, taking into account all exposure pathways affected by the radioactive air emissions.

(16) "Modification" means any physical change in, or change in the method of operation of, an emission unit that could increase the amount of radioactive materials emitted or may result in the emission of any radionuclide not previously emitted. This definition includes the cleanup of land contaminated with radioactive material, the decommissioning of buildings, structures, or plants where radioactive contamination exists, and changes that will cause an increase in the emission unit's operating design capacity. This definition excludes routine maintenance, routine repair, replacement-in-kind, any increases in the production rate or hours of operation, provided the emission unit does not exceed the release quantities specified in the license application or the operating design capacity approved by the department, addition of abatement technology as long as it is not less environmentally beneficial than existing, approved controls, and changes that result in an increase in the quantity of emissions of an existing radionuclide that will be offset by an equal or greater decrease in the quantity of emissions of another radionuclide that is deemed at least as hazardous with regard to its TEDE to the MEI.

(17) "Monitoring" means the measurement of radioactive material released to the ambient air by means of an in-line radiation detector, or by the withdrawal of representative samples from the effluent stream. Ambient air measurements may be acceptable for nonpoint sources and fugitive emissions.

(18) "Nonpoint source" is a location at which radioactive air emissions originate from an area, such as contaminated ground above a

near-surface waste disposal unit, whose extent may or may not be well-defined.

(19) "Notice of construction" (NOC) is an application submitted to the department by an applicant that contains information required by WAC 246-247-060 for proposed construction or modification of a registered emission unit(s), or for modification of an existing, unregistered emission unit(s).

(20) "Point source" is a discrete, well-defined location from which radioactive air emissions originate, such as a stack, vent, or other functionally equivalent structure.

(21) "Potential-to-emit" means the rate of release of radionuclides from an emission unit based on the actual or potential discharge of the effluent stream that would result if all abatement control equipment did not exist, but operations are otherwise normal. Determine the potential-to-emit by one of the following methods:

(a) Multiply the annual possession quantity of each radionuclide by the release fraction for that radionuclide, depending on its physical state. Use the following release fractions:

(i) 1 for gases;

(ii)  $10^{-3}$  for liquids or particulate solids; and

(iii)  $10^{-6}$  for solids.

Determine the physical state for each radionuclide by considering its chemical form and the highest temperature to which it is subjected. Use a release fraction of one if the radionuclide is subjected to temperatures at or above its boiling point; use a release fraction of  $10^{-3}$  if the radionuclide is subjected to temperatures at or above its melting point, but below its boiling point. If the chemical form is not known, use a release fraction of one for any radionuclide that is heated to a temperature of one hundred degrees Celsius or more, boils at a temperature of one hundred degrees Celsius or less, or is intentionally dispersed into the environment. Other release fractions may be used only with the department's approval; or

(b) Perform a back-calculation using measured emission rates and *in situ* measurements of the control equipment efficiencies, as approved by the department; or

(c) Measure the quantities of radionuclides captured in each control device, coupled with *in situ* measurements of the control equipment efficiencies, as approved by the department; or

(d) Sample the effluent upstream from all control devices, as approved by the department; or

(e) Use an alternative method approved by the department.

(22) "Replacement-in-kind" means the substitution of existing systems, equipment, components, or devices of an emission unit's control technology with systems, equipment, components, or devices with equivalent, or better, performance specifications that will perform the same function(s).

(23) "Routine" means:

(a) Maintenance, repair, or replacement-in-kind performed on systems, equipment, components, or devices of an emission unit's abatement technology as a planned part of an established inspection, maintenance, or quality assurance program that does not increase the emission unit's operating design capacity; or

(b) Normal, day-to-day operations of a facility.

(24) "Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix, or radioactive material in airtight containers, designed to prevent release and dispersal of



the radioactive material under the most severe conditions encountered in normal use and handling.

(25) "Significant" means the potential-to-emit airborne radioactivity at a rate that could increase the TEDE to the MEI by at least 1.0 mrem/yr as a result of a proposed modification.

(26) "Total effective dose equivalent" (TEDE) means the sum of the dose equivalent due to external exposures and the CEDE due to internal exposures.

(27) "Uranium fuel cycle" means the operations of milling uranium ore, chemical conversion of uranium, isotopic enrichment of uranium, fabrication of uranium fuel, generation of electricity in a nuclear power plant that uses uranium fuel, and reprocessing of spent uranium fuel, to the extent that these operations solely support the production of electrical power for public use. Excluded are mining operations, waste disposal sites, transportation of any radioactive material, and the reuse of recovered nonuranium special nuclear and by-product materials from the cycle.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 18-01-083, § 246-247-030, filed 12/15/17, effective 1/15/18; WSR 14-11-012, § 246-247-030, filed 5/8/14, effective 6/8/14. Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-030, filed 3/4/94, effective 4/4/94. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-247-030, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.98 RCW. WSR 88-17-060 (Order 2671), § 402-80-040, filed 8/17/88. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-80-040, filed 12/11/86.]

AMENDATORY SECTION (Amending WSR 19-23-039, filed 11/12/19, effective 12/13/19)

**WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions.** (1) In addition to other requirements of this chapter, the following federal standards, as in effect on July 1, (~~2019~~) 2021, are adopted by reference except as provided in subsection (2) of this section.

(a) For federal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 C.F.R. Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 C.F.R. Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 C.F.R. Part 61, Subpart A - General Provisions.

(ii) 40 C.F.R. Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 C.F.R. Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 C.F.R. Part 61, Subpart R - National Emission Standards for Radon from Phosphogypsum Stacks.

(v) 40 C.F.R. Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 C.F.R. Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 C.F.R. Part 61 include the department of health except in any section of 40 C.F.R. Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

[Statutory Authority: RCW 70.98.050 and 70.98.080(5). WSR 19-23-039, § 246-247-035, filed 11/12/19, effective 12/13/19. Statutory Authority: RCW 70.98.050, 70.98.080(5) and 40 C.F.R. 63.91. WSR 19-04-042, § 246-247-035, filed 1/29/19, effective 3/1/19. Statutory Authority: RCW 70.98.050 and 70.98.080(5). WSR 18-12-075, § 246-247-035, filed 6/1/18, effective 7/2/18; WSR 17-13-037, § 246-247-035, filed 6/13/17, effective 7/14/17. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 16-15-083, § 246-247-035, filed 7/19/16, effective 8/19/16; WSR 16-06-003, § 246-247-035, filed 2/17/16, effective 3/19/16. Statutory Authority: RCW 70.98.050 and 70.98.080(5). WSR 12-01-071, § 246-247-035, filed 12/19/11, effective 1/19/12. Statutory Authority: RCW 70.98.050. WSR 05-12-059, § 246-247-035, filed 5/26/05, effective 6/26/05.]

AMENDATORY SECTION (Amending WSR 19-04-042, filed 1/29/19, effective 3/1/19)

**WAC 246-247-075 Monitoring, testing, and quality assurance.** (1)

The department may, upon request by a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-075 for nonfederal emission unit monitoring, testing, or quality assurance, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(2) Equipment and procedures used for the continuous monitoring of radioactive air emissions shall conform, as applicable, to the guidance contained in ANSI N13.1, ANSI N42.18, ANSI N323, ANSI N317, reference methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17 of 40 C.F.R. Part 60 (effective July 1, 2021), Appendix A, 40 C.F.R. Part 52 (effective July 1, 2021), Appendix E, and any other methods approved by the department.

(3) The operator of an emission unit with a potential-to-emit of less than 0.1 mrem/yr TEDE to the MEI may estimate those radionuclide emissions, in lieu of monitoring, in accordance with 40 C.F.R. Part 61, Appendix D (effective July 1, 2021), or other procedure approved by the department. The department may require periodic confirmatory measurements (e.g., grab samples) during routine operations to verify the low emissions. Methods to implement periodic confirmatory monitoring shall be approved by the department.

(4) The department may allow a nonfederal facility to use alternative monitoring procedures or methods if continuous monitoring is not a feasible or reasonable requirement.

(5) The following types of facilities shall determine radionuclide emissions in accordance with either a methodology referenced in subsections (1) through (4) of this section or the respective document referenced below:

- (a) Nuclear power reactors licensed by the NRC: Offsite Dose Calculation Manual;
- (b) Fuel fabrication plants licensed by the NRC: NRC's Regulatory Guide 4.16, dated December 1985;
- (c) Uranium mills that are processing material: NRC's Regulatory Guide 4.14, dated April 1980.
- (6) Licensed facilities shall conduct and document a quality assurance program. Except for those types of facilities specified in subsection (5) of this section, the quality assurance program shall be compatible with applicable national standards such as ANSI/ASME NQA-1-1988, ANSI/ASME NQA-2-1986, QA/R-2, and QA/R-5.
- (7) Those types of facilities specified in subsection (5) of this section shall conduct and document a quality assurance program compatible with either the applicable national standards referenced in subsection (6) of this section or the NRC's Regulatory Guide 4.15, dated February 1979.
- (8) Facilities shall monitor nonpoint and fugitive emissions of radioactive material.
- (9) The department may conduct an environmental surveillance program to ensure that radiation doses to the public from emission units are in compliance with applicable standards. The department may require the operator of any emission unit to conduct stack sampling, ambient air monitoring, or other testing as necessary to demonstrate compliance with the standards in WAC 246-247-040.
- (10) The department may require the owner or operator of an emission unit to make provision, at existing emission unit sampling stations, for the department to take split or collocated samples of the emissions.
- (11) The planning for any proposed new construction or significant modification of the emission unit must address accidental releases with a probability of occurrence during the expected life of the emission unit of greater than one percent.
- (12) All facilities must be able to demonstrate that appropriate supervisors and workers are adequately trained in the use and maintenance of emission control and monitoring systems, and in the performance of associated test and emergency response procedures.
- (13) All facilities must be able to demonstrate the reliability and accuracy of the radioactive air emissions monitoring data.
- (14) A facility owner or operator, or any other person may not render inaccurate any monitoring device or method required under chapter (~~70.98~~) 70A.388 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

[Statutory Authority: RCW 70.98.050, 70.98.080(5) and 40 C.F.R. 63.91. WSR 19-04-042, § 246-247-075, filed 1/29/19, effective 3/1/19. Statutory Authority: RCW 70.98.050 and 70.98.080(5). WSR 12-01-071, § 246-247-075, filed 12/19/11, effective 1/19/12. Statutory Authority: RCW 70.98.050. WSR 04-18-094, § 246-247-075, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-075, filed 3/4/94, effective 4/4/94.]

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

**WAC 246-247-080 Inspections, reporting, and recordkeeping.** (1)

The department reserves the right to inspect and audit all construction activities, equipment, operations, documents, data, and other records related to compliance with the requirements of this chapter. The department may require a demonstration of ALARACT at any time.

(2) All reporting and recordkeeping requirements of 40 C.F.R. 61(~~(7, subparts H and I,)~~) (effective July 1, 2021) are adopted by reference, as applicable as specified by the referenced subparts. The department may, upon request by a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-080 for nonfederal emission unit inspections, reporting, or recordkeeping, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(3) The facility shall annually submit to the department the information requirements adopted in subsection (2) of this section, as applicable, along with the following additional information, as applicable:

(a) The results of emission measurements for those emission units subject only to periodic confirmatory measurements;

(b) Wind rose or joint frequency table;

(c) Annual average ambient temperature;

(d) Annual average emission unit gas temperature, if available;

(e) Annual total rainfall;

(f) Annual average emission unit flow rate and total volume of air released during the calendar year.

If this additional information is available in another annual report, the facility may instead provide a copy of that report along with the information requirements in this subsection. Annual reports are due by June 30th for the previous calendar year's operations.

(4) Any report or application that contains proprietary or procurement-sensitive information shall be submitted to the department with those portions so designated. The department shall hold this information confidential, unless required to release the information pursuant to laws, regulations, or court order.

(5) The facility shall notify the department within twenty-four hours of any shutdown, or of any transient abnormal condition lasting more than four hours or other change in facility operations which, if allowed to persist, would result in emissions of radioactive material in excess of applicable standards or license requirements. If requested by the department, the facility shall submit a written report within ten days including known causes, corrective actions taken, and any preventive measures taken or planned to minimize or eliminate the chance of recurrence.

(6) The facility shall file a report of closure with the department whenever operations producing emissions of radioactive material are permanently ceased at any emission unit (except temporary emission units) regulated under this chapter. The closure report shall indicate whether, despite cessation of operations, there is still a potential for radioactive air emissions and a need for an active or passive ventilation system with either an emission control or monitoring devices. If decommissioning is planned and will constitute a modification, a NOC is required, as applicable, in accordance with WAC 246-247-060.

(7) The facility shall maintain a log for each emission unit that has received categorical approval under WAC 246-247-060(8). The log shall contain records of important operations parameters including the date, location, and duration of the release, measured or calculated radionuclide concentrations, the type of emissions (liquid, gaseous, solid), and the type of emission control and monitoring equipment.

(8) The facility shall maintain readily retrievable storage areas for all records and documents related to, and which may help establish compliance with, the requirements of this chapter. The facility shall keep these records available for department inspection for at least five years.

(9) The facility shall ensure all emission units are fully accessible to department inspectors. In the event the hazards associated with accessibility to a unit require training, restrictions, or other requirements for entry, the facility owner or operator shall inform the department, prior to arrival, of those restrictions or requirements. The owner or operator shall be responsible for providing the necessary training, escorts, and support services to allow the department to inspect the facility.

(10) The facility shall make available, in a timely manner, all documents requested by the department for review. The facility shall allow the department to review documents in advance of an inspection. The facility shall allow access to classified documents by representatives of the department with the appropriate security clearance and a demonstrable need-to-know.

(11) The facility shall respond in writing in a timely manner, or within a time limit set by the department, to inspection results which require the facility to implement corrective actions or any other actions so directed by the department.

(12) A facility owner or operator, or any other person may not make any false material statement, representation, or certification in any form, notice, or report required under chapter (~~70.98~~) 70A.388 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 18-01-083, § 246-247-080, filed 12/15/17, effective 1/15/18. Statutory Authority: RCW 70.98.050 and 70.98.080(5). WSR 12-01-071, § 246-247-080, filed 12/19/11, effective 1/19/12. Statutory Authority: RCW 70.98.050. WSR 04-18-094, § 246-247-080, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-080, filed 3/4/94, effective 4/4/94. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-247-080, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-80-080, filed 12/11/86.]

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

**WAC 246-247-085 Compliance determination for existing emission units and facilities.** (1) All procedures for determining compliance with the dose equivalent standards of 40 C.F.R. 61(~~(, subparts H and I,)~~) (effective July 1, 2021) are adopted by reference, as applicable as specified by the referenced subparts. The department may, upon re-

quest of a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-085 for determining compliance with appropriate dose equivalent standards by nonfederal emission units, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(2) Facilities subject to 40 C.F.R. 61 shall use computer codes or procedures approved by the EPA to determine the TEDE to the MEI; all other facilities shall use computer codes or procedures approved by the department.

(3) The determination of compliance with the dose equivalent standard of WAC 246-247-040 shall include all radioactive air emissions resulting from routine and nonroutine operations for the past calendar year.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 18-01-083, § 246-247-085, filed 12/15/17, effective 1/15/18. Statutory Authority: RCW 70.98.050. WSR 04-18-094, § 246-247-085, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-085, filed 3/4/94, effective 4/4/94.]

AMENDATORY SECTION (Amending WSR 18-01-083, filed 12/15/17, effective 1/15/18)

**WAC 246-247-100 Enforcement actions.** (1) In accordance with RCW ((70.94.422)) 70A.15.3130, the department may take any of the following actions to enforce compliance with the provisions of this chapter:

(a) Notice of violation and compliance order (RCW ((70.94.332)) 70A.15.3010).

(b) Restraining order or temporary or permanent injunction (RCW ((70.94.425)) 70A.15.3140; also RCW ((70.98.140)) 70A.388.160).

(c) Penalty: Either fine or imprisonment, or both, for each separate violation (RCW ((70.94.430)) 70A.15.3150).

(d) Civil penalty: Up to ten thousand dollars for each day of continued noncompliance (RCW ((70.94.431)) 70A.15.3160 (1) through (7)).

(e) Assurance of discontinuance (RCW ((70.94.435)) 70A.15.3170).

(2) The department, in accordance with RCW ((70.98.050)) 70A.388.040 (4)(1), may issue subpoenas in order to compel either the attendance of witnesses or production of records, or both, in connection with any adjudicative or other administrative proceeding.

(3) The department, in accordance with RCW ((70.98.160)) 70A.388.180, may impound sources of ionizing radiation.

(4) The secretary of the department, in accordance with RCW 43.70.190, is authorized to bring an action to prohibit a violation or a threatened violation of any department rules or regulation, or to bring any legal proceeding authorized by law to a county superior court.

(5) Any party, against which an enforcement action is brought by the department, has the right to submit an application for the adjudicative process in accordance with chapter 246-10 WAC and chapter 34.05 RCW.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 18-01-083, § 246-247-100, filed 12/15/17, effective 1/15/18. Statutory Authority: Chapters 70.98 and 70.94 RCW and chapter 173-480 WAC. WSR 94-07-010, § 246-247-100, filed 3/4/94, effective 4/4/94. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-247-100, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-80-100, filed 12/11/86.]