WSR 22-19-001
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed September 7, 2022, 1:05 p.m., effective October 8, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update the agency public records processes and rules in WAC, including adding fees, inspection processes, record indexing requirements, processes to appeal denials or exemptions, and other best practices.

Citation of Rules Affected by this Order: New 3; and amending 5.

Statutory Authority for Adoption: RCW 43.101.080, 42.56.040.

Adopted under notice filed as WSR 22-15-004 on July 6, 2022.

Changes Other than Editing from Proposed to Adopted Version: The discretion of the public records officer to charge copying fees was removed and the page count was increased in WAC 139-02-070(10).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 31, 2022.

Derek Zable
Records Manager

OTS-3600.5

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-010 Authority and purpose. ((~~(1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act (the act), that exempts or prohibits the disclosure of public records held by that agency.~~

~~(2) The purpose of these rules is to establish the procedures the Washington state criminal justice training commission shall follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of~~

~~the Washington state criminal justice training commission and establish processes for both requestors and Washington state criminal justice training commission staff that are designed to best assist members of the public in obtaining such access.~~

~~(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. In carrying out its responsibilities under the act, the Washington state criminal justice training commission shall be guided by the provisions of the act describing its purposes and interpretation.~~)) (1) These rules establish procedures the Washington state criminal justice training commission will follow to provide full access to public records. These rules:

(a) Provide information to persons wishing to request commission public records; and

(b) Establish processes for both requestors and commission staff to fully assist the public in obtaining such access.

(2) In carrying out its public records responsibilities the commission will be guided by the provisions of chapter 42.56 RCW, the Public Records Act.

[Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-010, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-010, filed 8/4/00, effective 9/4/00.]

NEW SECTION

WAC 139-02-021 Definitions. The definitions set forth in RCW 42.56.010 apply throughout this chapter. In addition, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) **Commercial purposes** means a business activity by any form of business enterprise intended to generate revenue or financial benefit.

(2) **Customary business hours** refers to Burien administrative office hours which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays and days the commission is closed.

(3) **Electronic format** or **electronic records** or **electronic records format** refer to digital records as distinct from paper; examples include email, Word or Excel documents, PDF, or media files.

(4) **Executive director** means the executive director of the Washington state criminal justice training commission.

(5) **Page** means one impression/image on a single side of a sheet of paper. It also applies to one electronic image of a single side of a sheet of paper. For example, the commission considers a physical sheet of paper with an impression/image on both sides as two pages.

(6) **Public Records Act** means the same as chapter 42.56 RCW.

(7) **Public records officer** means the public records officer or designee for the commission appointed by the executive director.

(8) **Request** or **public records request** means a public records request made pursuant to chapter 42.56 RCW.

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AMENDATORY SECTION (Amending WSR 21-07-039, filed 3/10/21, effective 4/10/21)

WAC 139-02-040 About the Washington state criminal justice training commission and public records officer. (1) The Washington state criminal justice training commission is the state training academy for law enforcement and corrections professionals. The ((~~Washington state criminal justice training~~)) commission's campus is located in Burien, WA at 19010 1st Avenue South. The ((~~Washington state criminal justice training~~)) commission has a fiscal office in Lacey, WA located at 3060 Willamette Drive N.E.

(2) Any person wishing to request access to public records of the ((~~Washington state criminal justice training~~)) commission, or seeking assistance in making such a request, should contact the public records officer of the ((~~Washington state criminal justice training~~)) commission:

Public Records Officer
Washington State Criminal Justice Training Commission
MS: TB-35
19010 1st Avenue South
Burien, WA 98148
Phone: 206-835-7300
Email: Recordsrequests@cjtc.wa.gov

Public records requests can be made and additional information is ((~~also~~)) available at the ((~~Washington state criminal justice training~~)) commission's website at cjtc.wa.gov.

(3) The public records officer will oversee compliance with the act, but another ((~~Washington state criminal justice training~~)) commission staff member may process the request. Therefore, these rules will refer to the public records officer or designee. The public records officer or designee and the ((~~Washington state criminal justice training~~)) commission will:

(a) Provide the fullest assistance to requestors;

(b) Create and maintain for use by the public and ((~~Washington state criminal justice training~~)) commission officials an index to public records of the ((~~Washington state criminal justice training~~)) commission;

(c) Ensure ((~~that~~)) public records are protected from damage or disorganization; and

(d) Prevent fulfilling public records requests from causing excessive interference with essential functions of the ((~~Washington state criminal justice training~~)) commission.

[Statutory Authority: RCW 43.101.080. WSR 21-07-039, § 139-02-040, filed 3/10/21, effective 4/10/21. Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-040, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 05-01-109, § 139-02-040, filed 12/15/04, effective 1/15/05; WSR 00-17-017, § 139-02-040, filed 8/4/00, effective 9/4/00.]

AMENDATORY SECTION (Amending WSR 21-07-039, filed 3/10/21, effective 4/10/21)

WAC 139-02-050 Availability of public records. (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the ((~~Washington state criminal justice training~~)) commission; 8:00 a.m. ((~~to noon, and 1:00 p.m. to 4:00~~)) to 5:00 p.m., Monday through Friday, excluding legal holidays and days the campus is closed. Records must be inspected at the ((~~offices~~)) Burien campus of the ((~~Washington state criminal justice training~~)) commission.

(2) **Records index.** ((~~An index of public records is available for use by members of the public. The index includes a list of current manuals of the Washington state criminal justice training commission, a current list of laws, other than those listed in chapter 42.56 RCW, that exempts or prohibits disclosure of specific information or records, and current Washington Administrative Code agency rules. The index may be accessed online at cjtc.wa.gov or at the Washington state criminal justice training commission in Burien.~~))

(a) The commission shall have available to all persons at its offices in Burien a current index which provides identifying information as to the following records:

(i) All records issued before July 1, 1990, for which the commission has maintained an index;

(ii) Final orders entered after June 30, 1990, that are issued in adjunctive proceedings as defined in RCW 34.05.010(1) and contain an analysis or decision of substantial importance to the commission in carrying out its duties;

(iii) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and contain an analysis or decision of substantial importance to the commission in carrying out its duties;

(iv) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990;

(v) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990; and

(vi) Meeting minutes of the governing body of commission.

(b) The system of indexing shall be as follows:

(i) The indexing system shall be administered by the commission's public records officer and shall be located at the Burien campus.

(ii) Copies of indexes shall be available for public inspection and copying in the same manner provided for the inspection and copying of public records.

(iii) The public records officer shall establish and maintain a separate index for each item contained in (a)(i) through (vi) of this subsection as follows:

(A) All final orders and declaratory orders determined by the commission to contain analyses or decisions of substantial importance to the commission shall be listed alphabetically by the titles of the hearing or controversy and shall contain a phrase describing the important issue or issues.

(B) Interpretive statements and policy statements shall be indexed by the applicable program.

(C) The meeting minutes of the governing body of the commission shall be indexed chronologically.

(iv) The public records officer shall update all indexes at least once a year and shall revise such indexes when deemed necessary.

(3) **Organization and protection of records.**

(a) The ((~~Washington state criminal justice training~~)) commission maintains its records in a reasonably organized manner and takes reasonable actions to protect records from damage and disorganization. ((~~A requestor shall not take Washington state criminal justice training commission records from Washington state criminal justice training commission offices without the permission of the public records officer or designee.~~)) If commission records are maintained in a digital format, they will be provided digitally in response to a public records request. If records are maintained and inspected on paper, a requestor may ask for copies.

(b) Records will be made available to the requestor for inspection subject to the following restrictions:

(i) Only the public records officer will remove records from the designated inspection area.

(ii) The quantity of records may be limited in accordance with the available space.

(iii) All possible care shall be taken by the requestor to prevent damage to the records.

(iv) Records shall not be marked, altered, cut or mutilated in any way.

(v) During inspection, eating, drinking, and smoking are prohibited.

(vi) Records shall not be defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that already exist in the file.

(vii) Records must be kept in the order in which received.

(viii) Commission personnel will provide all requested copies of records.

(ix) The public records officer will remove the records from the inspection area when no longer required by the requestor and no later than the end of the customary business hours.

(c) Records may be available on the ((~~Washington state criminal justice training~~)) commission website at cjtc.wa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

(4) **Making a request for public records.**

(a) Any person wishing to inspect or obtain copies of public records of the ((~~Washington state criminal justice training~~)) commission shall make the request in writing using the ((~~Washington state criminal justice training~~)) commission public record request ((~~form, or~~)) website, by letter, or email addressed to the public records officer. Each request should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and/or an email address; and
- Identification of the public records adequate for the public records officer or designee to locate the records.

(b) Communications seeking commission records sent or provided to unauthorized locations, addresses or staff, will not be accepted or processed as public records request. Any such communication will be processed as general informal inquiries, general correspondence, general requests for information, or discovery as appropriate. The requestor may resubmit his/her request to the public records officer at the Burien office.

(c) If the requestor wishes to have copies of the records made instead of inspecting them, the request should so indicate. Costs will be assessed in compliance with WAC 139-02-070.

(d) If requestors wish to inspect rather than obtain copies of records, they must indicate this preference in their requests((~~. Pursuant to WAC 139-02-070, standard photocopies are provided at fifteen cents per page, plus postage~~)) and the requestor must follow the rules of requesting to inspect public records provided in WAC 139-02-090(6).

[Statutory Authority: RCW 43.101.080. WSR 21-07-039, § 139-02-050, filed 3/10/21, effective 4/10/21. Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-050, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-050, filed 8/4/00, effective 9/4/00.]

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-070 Costs for providing copies of public records.

((~~(1) Costs for paper copies. There is no fee charged for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page. Before beginning to make copies, the public records officer or designee may estimate costs of copying the records, and may require a deposit of up to ten percent of all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The Washington state criminal justice training commission will not charge sales tax when it makes copies of public records.~~

~~(2) Costs for electronic records. The cost of electronic copies of records shall be the actual cost of the CD, DVD, audio or video tape, or disc.~~

~~(3) Costs of mailing. The Washington state criminal justice training commission may also charge actual costs of mailing, including the cost of the shipping container.~~

~~(4) Payment. Payment may be made by check or money order only, payable to the Washington state criminal justice training commission.~~)) (1) The following copy fees and payment procedures apply to requests to the agency under chapter 42.56 RCW.

(2) **Actual costs.** Pursuant to RCW 42.56.120 (2)(b), the agency is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The agency does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3), and (4).

(3) There is no fee charged for inspecting public records.

(4) **Costs for paper copies.** The agency will charge for copies of paper records pursuant to the fees in RCW 42.56.120 (2)(b) and (c).

(a) Before beginning to make copies, the public records officer or designee may estimate costs of copying the records and may require a deposit of up to 10 percent of all the records selected by the requestor.

(b) The public records officer or designee may require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

(c) The commission shall not charge sales tax when it makes copies of public records.

(5) **Costs for electronic records.** Electronic copies of records shall be charged as follows pursuant to the fees in RCW 42.56.120 (2)(b) and (c), which includes:

(a) Charge for scanned records or for use of agency equipment for scanning.

(b) Charge for each four electronic files or attachments uploaded to email, or cloud-based data storage service, or other means of electronic delivery.

(c) Charge per gigabyte for records transmitted in an electronic format or for use of agency equipment to send records electronically.

(d) Actual costs of any digital storage media or devices provided by the agency.

(e) Actual costs of a "customized service charge" when the request would require the use of information technology expertise to prepare data compilations or when such customized access services are not used by the agency for other business purposes.

(i) The agency will notify the requestor and take other steps if it will be doing a customized service charge.

(ii) The public records officer or designee may require a deposit of up to 10 percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

(iii) Copy charges may be combined to the extent more than one type of charge applies to copies responsive to a particular request.

(iv) Public records request fees do not supersede other statutory provisions for copying fees.

(6) **Costs of mailing.** The commission may also charge actual costs of mailing, including the cost of the shipping container.

(7) **Payment.** Payment shall be made payable to the Washington state criminal justice training commission by check or money order only.

(8) **Payment date.** The payment date for fees, deposits, or other costs will be scheduled at a minimum of 30 days, but no more than 45 days, after the required payment is communicated with the requestor. If a requestor fails to pay by the payment date, the request will be closed per WAC 139-02-090(8).

(9) **Summary of charges.** Upon request the commission will provide a summary of the applicable charges before copies are made and the requestor may revise the request to reduce the number of copies, thereby reducing the applicable charges.

(10) **Waiver of charges.** The public records officer or designee will not charge copying fees when:

(a) All of the records responsive to an entire request are paper copies only and are 100 or fewer pages; or

(b) All of the records responsive to an entire request are electronic and no more than the equivalent of 250 printed pages.

[Statutory Authority: RCW 43.56.040 [42.56.040]and 43.101.080. WSR 09-13-066, § 139-02-070, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-070, filed 8/4/00, effective 9/4/00.]

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-090 Processing requests for public records. (1) **Providing fullest assistance.** The Washington state criminal justice training commission is charged by statute with adopting rules which provide for how it shall "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee ((~~shall process requests in the order they are received and allowing for the most requests to be processed in the most efficient manner~~)) will evaluate and process requests according to the nature of the request, clarity, volume, and availability of requested records.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer or designee will do one or more of the following:

(a) Make the records available for inspection;

(b) Provide the requested records (or provide a bill for the records if applicable) to the requestor;

(c) Provide a reasonable estimate of when records will be available (the public records officer may revise the estimate of when records will be available); ((~~or~~))

(d) Deny the request and provide a statutory explanation as to the reason for the denial; or

(e) Acknowledge receipt of the request and ask the requestor to clarify all or any part of the request that is unclear and provide to the greatest extent possible a reasonable estimate of the time the commission will require to respond to the unclear request or unclear part of a request if it is not clarified.

(i) Such clarification may be requested and provided by telephone and memorialized in writing, or by email or letter;

(ii) Clarification may include identifying a record with specificity sufficient for the commission to locate or produce the record;

(iii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the commission need not respond to it. The commission will respond to those portions of a request that are clear.

(3) **Additional time to respond.** Additional time for the commission to respond to a request may be based upon the need to clarify the request, locate and assemble the records requested, notify affected others or agencies affected by the request, or determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

((~~(3)~~)) (4) **Consequences of failure to respond.** If the ((~~Washington state criminal justice training~~)) commission does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

((~~(4)~~)) (5) **Protecting rights of others.** In the event ((~~that~~)) the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. This notice is given so affected persons may seek an order from a court to prevent or limit the disclosure. The notice to the affected persons may include a copy of the request.

((~~(5)~~)) (6) **Records exempt from disclosure.** ((~~Some records are exempt from disclosure, in whole or in part.~~))

(a) The commission reserves the right to determine a public record is exempt in whole or in part consistent with provisions of the Public Records Act or other applicable provision of law.

(b) If the ((~~Washington state criminal justice training~~)) commission believes ((~~that~~)) a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

((~~(6)~~)) (c) Certain exemptions other than the Public Records Act itself restrict the disclosure of documents held by the commission. Some examples of such other applicable statutory exemptions include, but are not limited to:

RCW 5.60.060: Attorney-client privileged records.

Chapter 19.108 RCW: Trade secrets.

(7) The commission reserves the right to delete identifying details when producing any public record when there is reason to believe disclosure of such details would be an invasion of personal privacy protected by RCW 42.56.050.

(8) The commission is prohibited by statute from disclosing lists of individuals or records that may be manipulated to created lists of individuals for commercial purposes pursuant to RCW 42.56.070.

(9) **Inspection of public records.**

(a) ((~~Consistent with other demands, the Washington state criminal justice training commission will provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document without approval from the public records officer or designee. The requestor will indicate which documents he or she wishes the agency to copy.~~

~~(b) The requestor must claim or review the assembled records within thirty days of the Washington state criminal justice training commission's notification to him or her that the records are available for inspection or copying. The Washington state criminal justice training commission will notify the requestor in writing of this requirement and inform the requestor that he or she is to contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Washington state criminal justice training commission may close~~

~~the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which may be processed as a new request.~~

~~(7) **Providing copies of records.** After inspection is complete or in lieu of inspection, the public records officer or designee will make the requested copies or arrange for copying and provide them to the requestor.~~

~~(8)~~)) A requestor must notify the commission in advance of their intent to inspect public records. Using the tracking ID the commission assigns to each public records request a requestor must identify with specificity and in advance the records the requestor wishes to inspect. The commission will assist the requestor in scheduling an appointment for inspection and may propose convenient alternatives to an in-person visit. Public records will be available for inspection during customary business hours and when staff are available to assist the requestor.

(b) When the request to inspect is for a large number of records, the public records officer may schedule inspection in installments.

(c) The commission will notify the requestor of the scheduled appointment. The requestor must inspect the requested records within 30 days of the scheduled appointment. If the requestor or a representative of the requestor fails to inspect the records within the 30-day period or fails to make other arrangements, the commission may close the request and refile the assembled records. If the requestor makes a request for the same records it will be processed as a new request.

(d) Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency.

(e) Inspections are conducted in accordance with the requirement that agencies protect the requested records from damage or disorganization. No member of the public shall remove a document from the inspection area or disassemble or alter any public record.

(f) After inspection is complete, the requestor may wish to identify which documents the requestor wishes the agency to copy.

(i) Where the commission charges for copies, the requestor must pay for the copies prior to the copies being provided to the requestor.

(ii) Electronic records will be provided as a link to the records on the commission public records website if the records are located on the public records website, or in a format used by the commission and which is generally commercially available.

(g) When the inspection of the requested records is complete and any requested copies are provided the public records officer will close the records request.

(10) **Providing records in installments.**

(a) When the request is for a large number of records, the public records officer or designee may provide access for inspection and copying in installments, if he or she reasonably determines that it would be more practical.

(b) If, within ((~~thirty~~)) 30 days, the requestor fails to inspect one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

((~~(9) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the Washington~~

~~state criminal justice training commission has completed the request and provided all available (nonexempt) records.~~

~~(10)~~)) (c) When the request is for copies of public records, the public records officer may require payment for each installment either prior to providing the installment or prior to providing subsequent installments. In addition, the requestor may be required to provide a deposit up to 10 percent of the estimated cost of copying all records selected by the requestor. If the requestor fails to pay the required cost by the scheduled payment date, the public records officer may close the request.

(11) **Closing withdrawn or abandoned request.** ((~~When the requestor either~~))

(a) The public records officer will close a request when the requestor:

(i) Withdraws the request ((~~or~~));

(ii) Fails to fulfill his or her obligations to inspect the records ((~~or~~)) 30 days after the scheduled inspection date;

(iii) Fails to clarify an entirely unclear request 30 days after clarification was requested;

(iv) Fails to claim an installment 30 days after records were provided;

(v) Fails to pay required fees for an installment by the scheduled payment date;

(vi) Fails to pay the deposit or final payment for the requested copies((~~,~~)) by the scheduled payment date.

(b) The public records officer will close the request and indicate to the requestor that the Washington state criminal justice training commission has closed the request and refile the assembled records.

((~~(11)~~)) (12) **Later discovered documents.** If, after the Washington state criminal justice training commission has informed the requestor that it has provided all available records, the Washington state criminal justice training commission becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

(13) The commission is not required to create a record that does not otherwise exist.

[Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-090, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-090, filed 8/4/00, effective 9/4/00.]

NEW SECTION

WAC 139-02-095 Review of denials of public records. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant in-

formation to the executive director or designee. The executive director or designee shall immediately consider the petition and either affirm or reverse the denial within two business days following the Washington state criminal justice training commission's receipt of the petition, or within such other time as the commission and the requestor mutually agree upon.

(3) **Exhausting administrative remedies.** Administrative remedies will not be considered exhausted until the commission has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

(4) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure the requestor may request the attorney general's office review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(5) **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 business days after the initial denial regardless of any internal administrative approval.

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NEW SECTION

WAC 139-02-105 Commercial purposes. No provisions of any rule contained in this title shall be construed as giving authority to any commission records or public records officer or employee to give, sell, or provide access to lists of individuals requested for commercial purposes. If a list of individuals is included in the records requested, the commission may require requestors to identify themselves and the purpose of their request, and provide a signed statement that the requestor will not use the list of individuals for commercial purposes.

When the commission has credible indication that a requested list of individuals might be used for commercial purposes, the commission will investigate the request further. The commission will determine on a case-by-case basis whether such further investigation is necessary, based on the identity of the requestor, the nature of the records requested, and any other information available to the commission. When the commission determines further investigation is necessary, the commission will require requestors to identify the purpose of their request.

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WSR 22-19-009
PERMANENT RULES
BOARD OF INDUSTRIAL
INSURANCE APPEALS

[Filed September 9, 2022, 10:08 a.m., effective October 10, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 263-12-050 Contents of notice of appeal, amendment refers readers to new WAC 263-12-05901 for what must be contained in a Washington Industrial Safety and Health Act (WISHA) discrimination appeal. It also requires appellants to provide their phone number and email address for all types of notices of appeal. The specific provisions requiring phone numbers and email addresses for WISHA safety and health, and WISHA discrimination appeals are included in those specific rules, WAC 263-12-059, and new proposed WAC 263-12-05901.

New WAC 263-12-05901 Discrimination appeals arising under RCW 49.17.160 of the Washington Industrial Safety and Health Act—Contents of notice of appeal, the procedure for discrimination appeals is different from the procedure for safety and health violation appeals (no posting requirement, no stay of abatement provision, no union certification requirement). For clarity, we propose a separate rule for WISHA discrimination appeals. The new section contains the requirements for what must be in a WISHA discrimination notice of appeal, which are different and less burdensome than a safety and health violation appeal.

WAC 263-12-059 Appeals arising under the safety and health provisions of the Washington Industrial Safety and Health Act; contents of notice of appeal; notice to affected employees; request for stay of abatement pending appeal, amended to clarify that WAC 263-12-059 (posting, certification, and abatement) applies to only safety and health violation appeals. It also requires phone numbers and email addresses in notices of appeal.

WAC 263-12-093 Conferences—Disposition of appeals by agreement, amended to clarify that discrimination appeals can be resolved between employer and employees (just like industrial insurance appeals) if the department of labor and industries interposes no objection.

WAC 263-12-060 Filing appeals—Limitation of time, amended to include the statutory 30-day deadline for employers to appeal WISHA discrimination citations that is prescribed in RCW 49.17.160. The employer deadline for discrimination appeals is 30 days, unlike the deadline of 15 working days for safety and health appeals. This amendment is a housekeeping correction to reflect the 2018 statutory reassumption period for WISHA appeals that is set forth in RCW 49.17.140 and in the department's rules.

Citation of Rules Affected by this Order: New 1; and amending 4.

Statutory Authority for Adoption: RCW 51.52.020.

Adopted under notice filed as WSR 22-16-113 on August 3, 2022.

Changes Other than Editing from Proposed to Adopted Version: In response to the department's written comment, we amended WAC 263-12-060(4) to include the statutory 30-day deadline for employers to appeal WISHA discrimination citations that is prescribed in RCW 49.17.160. The employer deadline for discrimination appeals is 30 days, unlike the deadline of 15 working days for safety and health appeals.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0,

Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 9, 2022.

Brian O. Watkins
[Chief Legal Officer]

OTS-4014.2

AMENDATORY SECTION (Amending WSR 14-24-105, filed 12/2/14, effective 1/2/15)

WAC 263-12-050 Contents of notice of appeal. The board's jurisdiction shall be invoked by filing a written notice of appeal.

(1) **General rule.** In all appeals, the notice of appeal should contain where applicable:

(a) The name, mailing address, telephone number, and email address of the appealing party and of the party's representative, if any;

(b) A statement identifying the date and content of the department order, decision or award being appealed. This requirement may be satisfied by attaching a copy of the order, decision or award;

(c) The reason why the appealing party considers such order, decision or award to be unjust or unlawful;

(d) A statement of facts in full detail in support of each stated reason;

(e) The specific nature and extent of the relief sought;

(f) The place, most convenient to the appealing party and that party's witnesses, where board proceedings are requested to be held;

(g) A statement that the person signing the notice of appeal has read it and that to the best of his or her knowledge the contents are true;

(h) The signature of the appealing party or the party's representative.

(2) **Industrial insurance appeals.** In appeals arising under the Industrial Insurance Act (Title 51 RCW), the notice of appeal should also contain:

(a) The name and address of the injured worker;

(b) The name and address of the worker's employer at the time the injury occurred;

(c) In the case of occupational disease, the name and address of all employers in whose employment the worker was allegedly exposed to conditions that gave rise to the occupational disease;

(d) The nature of the injury or occupational disease;

(e) The time when and the place where the injury occurred or the occupational disease arose.

(3) **Crime Victims' Compensation Act.** In appeals arising under the Crime Victims' Compensation Act (chapter 7.68 RCW), the notice of appeal should also contain:

(a) The time when and the place where the criminal act occurred;

(b) The name and address of the alleged perpetrator of the crime; and

(c) The nature of the injury.

(4) **Assessment appeals.** In appeals from a notice of assessment arising under chapter 51.48 RCW or in cases arising from an assessment under the Worker and Community Right to Know Act (chapter 49.70 RCW), the notice of appeal should also contain:

(a) A statement setting forth with particularity the reason for the appeal; and

(b) The amounts, if any, that the party admits are due.

(5) **LEOFF and public employee death benefit appeals.** In appeals arising under the special death benefit provision of the Law Enforcement Officers' and Firefighters' Retirement System (chapter 41.26 RCW), the notice of appeal should also contain:

(a) The time when and the place where the death occurred; and

(b) The name and address of the decedent's employer at the time the injury occurred.

(6) **Asbestos certification appeals.** In appeals arising under chapter 49.26 RCW concerning the denial, suspension or revocation of certificates involving asbestos projects, the notice of appeal should also contain:

(a) A statement identifying the certification decision appealed from;

(b) The reason why the appealing party considers such certification decision to be incorrect.

(7) **WISHA appeals.** For appeals arising under the safety and health provisions of the Washington Industrial Safety and Health Act, refer to WAC 263-12-059.

(8) **WISHA discrimination appeals.** For appeals arising under the discrimination provisions of the Washington Industrial Safety and Health Act, refer to WAC 263-12-05901.

(9) **Other safety appeals.** In appeals arising under chapter 49.22 RCW concerning alleged violations of safety procedures in late night retail establishments, chapter 70.74 RCW concerning alleged violations of the Washington State Explosives Act, or chapter 88.04 RCW concerning alleged violations of the Charter Boat Safety Act, the notice of appeal should also contain:

(a) A statement identifying the citation, penalty assessment, or notice of abatement date appealed from;

(b) The name and address of the representative of any labor union representing any employee who was or who may be affected by the alleged safety violation or violations;

(c) If applicable, a statement certifying compliance with WAC 263-12-059.

[Statutory Authority: RCW 51.52.020. WSR 14-24-105, § 263-12-050, filed 12/2/14, effective 1/2/15; WSR 11-20-003, § 263-12-050, filed 9/21/11, effective 10/22/11; WSR 04-16-009, § 263-12-050, filed 7/22/04, effective 8/22/04; WSR 03-02-038, § 263-12-050, filed 12/24/02, effective 1/24/03; WSR 01-09-031, § 263-12-050, filed 4/11/01, effective 5/12/01; WSR 00-23-021, § 263-12-050, filed

11/7/00, effective 12/8/00; WSR 91-13-038, § 263-12-050, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.52.104, 51.52.020 and chapters 51.48 and 42.17 RCW. WSR 86-03-021 (Order 20), § 263-12-050, filed 1/10/86. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-050, filed 1/18/82; Order 7, § 263-12-050, filed 4/4/75; Order 4, § 263-12-050, filed 6/9/72; Rule 5.1, filed 6/12/63; Rules 3.1 - 3.2, filed 3/23/60, amended by General Order 3, Rule 5.1, filed 10/29/65. Formerly WAC 296-12-050.]

AMENDATORY SECTION (Amending WSR 17-24-121, filed 12/6/17, effective 1/6/18)

WAC 263-12-059 Appeals arising under the safety and health provisions of the Washington Industrial Safety and Health Act; contents of notice of appeal; notice to affected employees; request for stay of abatement pending appeal. (1) **Contents of notice of appeal in WISHA appeals.** In all appeals arising under the safety and health provisions of the Washington Industrial Safety and Health Act, the notice of appeal should contain where applicable:

(a) The name, mailing address, telephone number, and email address of the appealing party and of the party's representative, if any.

(b) A statement identifying the citation, penalty assessment, or notice of abatement date appealed from. This requirement may be satisfied by attaching a copy of the citation, penalty assessment, or notice of abatement date.

(c) The name and address of the representative of any labor union representing any employee who was or who may be affected by the alleged safety violation(s). If the employer has no affected employees who are members of a union, the employer shall affirmatively certify that no union employees are affected by the appeal.

(d) The reason why the appealing party considers such order or decision, to be unjust or unlawful.

(e) A statement of facts in full detail in support of each stated reason.

(f) The specific nature and extent of the relief sought.

(g) The place, most convenient to the appealing party and that party's witnesses, where board proceedings are requested to be held.

(h) A statement that the person signing the notice of appeal has read it and that to the best of his or her knowledge the contents are true.

(i) The signature of the appealing party or the party's representative.

In all appeals where a stay of abatement of alleged violation(s) pending appeal is requested, the notice of appeal must comply with additional requirements set forth in subsection (3) of this section.

(2) **Employer duty to notify affected employees.**

(a) In the case of any appeal by an employer concerning an alleged violation of the safety and health provisions of the Washington Industrial Safety and Health Act, the employer shall give notice of such appeal to its employees by either:

(i) Providing copies of the appeal and applicable division of safety and health citation and notice or corrective notice of redetermination to each employee member of the employer's safety committee; or

(ii) By posting a copy of the appeal and applicable division of safety and health citation and notice or corrective notice of redetermination in a conspicuous place at the work site at which the alleged violation occurred. Any posting shall remain during the pendency of the appeal.

(b) The employer shall also provide notice advising interested employees that an appeal has been filed with the board and that any employee or group of employees who wish to participate in the appeal may do so by contacting the board. Such notice shall include the address of the board.

(c) The employer shall file with the board a certificate of proof of compliance with this section within ((~~fourteen~~)) 14 days of issuance of the board's notice of filing of appeal. A certification form is provided on the board's website.

(d) If notice as required by this subsection is not possible or has not been satisfied, the employer shall notify the board in writing of the reasons for noncompliance or impossibility. If the board, or its designee, determines that it is not possible for the employer to provide the required notice to employees, it will prescribe the terms and conditions of a substitute procedure reasonably calculated to give notice to affected employees, or may waive the affected-employee-notice requirement. If the employer requests a stay of abatement pending appeal, and desires to assert the claim of impossibility of notice to employees, the employer must include its claim of impossibility, together with facts showing impossibility, in its notice of appeal.

(3) **Request for a stay of abatement in WISHA appeals.**

(a) **How made.** Any request for stay of abatement pending appeal must be included in the notice of appeal. An employer may request a stay of abatement pending appeal by placing "STAY OF ABATEMENT REQUESTED" prominently on the first page of the notice of appeal in bold print. The board will issue a final decision on such requests within ((~~forty-five~~)) 45 working days of the board's notice of filing of appeal.

(b) **Union information.**

(i) **Appeals from corrective notice of redetermination.** In appeals where the employer has requested a stay of abatement of the violation(s) alleged in the corrective notice of redetermination, the employer shall include in the notice of appeal the names and addresses of any unions representing workers for the employer as required by subsection (1) of this section. If the employer has no affected employees who are members of a union, the employer shall affirmatively inform the board that no union employees are affected by the appeal.

(ii) **Appeals from citation and notice.** Where an employer files an appeal from a citation and notice and the department of labor and industries chooses to forward the appeal to the board to be treated as an appeal to the board, the employer shall provide the board with the names and addresses of any unions representing workers for the employer as required by subsection (1) of this section. If the employer has no affected employees who are members of a union, the employer shall inform the board that no union employees are affected by the appeal. The employer shall provide this information to the board within ((~~fourteen~~)) 14 days of the date of the board's notice of filing of appeal.

(c) **Supporting and opposing documents.**

(i) **Supporting documents.** In appeals where the employer has requested a stay of abatement pursuant to RCW 49.17.140, the employer shall, within ((~~fourteen~~)) 14 calendar days of the date of the board's notice of filing of appeal, file with the board supporting declara-

tions, affidavits, and documents it wishes the board to consider in deciding the request. The employer must also simultaneously provide supporting documents to the department and any affected employees' safety committee or union representative. Supporting affidavits or declarations shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Copies of individual relevant supporting documents shall be specifically referred to in the affidavit and shall be attached to the affidavit. Such supporting documents shall not be excluded from consideration based on a hearsay objection. All such affidavits and supporting documents shall be limited to evidence addressing:

(A) Whether there is good cause to stay the abatement of the violation(s) set forth in the citation and notice or corrective notice of redetermination; and

(B) Whether it is more likely than not that a stay of the abatement of the violation(s) would result in death or serious physical harm to a worker.

(ii) **Opposing documents.** Within ((~~twenty-eight~~)) 28 calendar days of the date of the board's notice of filing of appeal, the department of labor and industries and any affected employees shall file with the board any declarations, affidavits, and documents they wish the board to consider in deciding the request. The department must also simultaneously serve these opposing documents on the employer and any affected employees' safety committee or representative. The employees must also simultaneously serve the opposing documents on the employer and the department. Supporting and opposing affidavits and declarations shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Copies of individual relevant supporting documents shall be specifically referred to in the affidavit and shall be attached to the affidavit. Such supporting documents shall not be excluded from consideration based on a hearsay objection. All such affidavits and supporting documents shall be limited to evidence addressing:

(A) Whether there is good cause to stay the abatement of the violation(s) set forth in the citation and notice or corrective notice of redetermination; and

(B) Whether it is more likely than not that a stay of the abatement of the violation(s) would result in death or serious physical harm to a worker.

(4) **Denial of request to stay abatement.** If any of the following procedural or substantive grounds are present, the board will deny the request for a stay of abatement pending appeal:

(a) The request for stay of abatement is not contained in the employer's notice of appeal as required by RCW 49.17.140 (4)(a).

(b) The employer fails to include union information as required in subsection (3)(b) of this section.

(c) The employer fails to timely file a certification that its employees have been notified about the appeal and the request for stay of abatement as required in subsection (2) of this section.

(d) The employer fails to file supporting documents within ((~~fourteen~~)) 14 calendar days of the issuance of the board's notice of filing of appeal as required in subsection (3)(c)(i) of this section.

(e) The request is moot.

(f) The only violation alleged by the department of labor and industries is a general violation.

(g) The employer fails to show good cause for a stay of abatement in its supporting documents.

(h) The preliminary evidence shows it is more likely than not that a stay would result in death or serious physical harm to a worker.

(5) **Expedited nature of requests to stay abatement/requests to enlarge time.** Requests to stay abatement pending appeal must be decided in accordance with a strict statutory timeline. Oral argument will not be permitted. The board will grant requests to enlarge time to file documents or certifications only after receipt of a written motion with supporting affidavit filed with the board and all other parties before the filing deadline and only upon a showing of good cause.

[Statutory Authority: RCW 51.52.020. WSR 17-24-121, § 263-12-059, filed 12/6/17, effective 1/6/18; WSR 16-24-054, § 263-12-059, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-059, filed 12/2/14, effective 1/2/15; WSR 11-20-003, § 263-12-059, filed 9/21/11, effective 10/22/11; WSR 03-02-038, § 263-12-059, filed 12/24/02, effective 1/24/03; WSR 01-09-032, § 263-12-059, filed 4/11/01, effective 5/12/01.]

NEW SECTION

WAC 263-12-05901 Discrimination appeals arising under RCW 49.17.160 of the Washington Industrial Safety and Health Act—Contents of notice of appeal. In all appeals arising under the discrimination provisions of the Washington Industrial Safety and Health Act, RCW 49.17.160, the notice of appeal should contain where applicable:

(1) The name, mailing address, telephone number, and email address of the employee who filed the complaint with the department and their representative, if any.

(2) The name, mailing address, telephone number, and email address of the cited employer or business and their representative, if any.

(3) A statement identifying the citation number, penalty assessment, or appropriate relief order being appealed. This requirement may be satisfied by attaching a copy of the citation, penalty assessment, or order of appropriate relief.

(4) The reason why the appealing party considers the citation, penalty, or appropriate relief decision to be wrong.

(5) A statement of facts in full detail in support of each stated reason.

(6) The specific nature and extent of the relief sought.

(7) The place, most convenient to the appealing party and that party's witnesses, where board proceedings are requested to be held.

(8) A statement that the person signing the notice of appeal has read it and that to the best of his or her knowledge the contents are true.

(9) The signature and date of the appealing party or the party's representative.

[]

AMENDATORY SECTION (Amending WSR 03-02-038, filed 12/24/02, effective 1/24/03)

WAC 263-12-060 Filing appeals—Limitation of time. (1) In cases arising under the Industrial Insurance Act, or the Worker and Community Right to Know Act, the notice of appeal shall be filed within ((~~sixty~~)) 60 days from the date the copy of the order, decision or award of the department was received by the appealing party, except an appeal from an order or decision making demand for repayment of sums paid to a provider of medical, dental, vocational or other health services shall be filed within ((~~twenty~~)) 20 days from the date the order or decision was received by the provider.

(2) In appeals arising under the Crime Victims Compensation Act (chapter 7.68 RCW), the notice of appeal shall be filed within ((~~ninety~~)) 90 days from the date the copy of the order, decision or award of the department was received by the appealing party.

(3) In appeals from a notice of assessment arising under chapter 51.48 RCW, the notice of appeal shall be filed within ((~~thirty~~)) 30 days from the date the notice of assessment was served.

(4) ((~~In~~)) There are two types of appeals arising under the Washington Industrial Safety and Health Act (chapter 49.17 RCW)((~~,~~)).

(a) For safety and health appeals from a citation and notice, follow the provisions in RCW 49.17.140(4). The appeal shall be initiated by giving the director of the department of labor and industries notice of intent to appeal within ((~~fifteen~~)) 15 working days from the date of notification of such citation, abatement period or penalty assessment.

(b) For discrimination appeals, follow the provisions in RCW 49.17.160(6). An employer's appeal of a citation shall be initiated by giving the director of the department of labor and industries notice of intent to appeal within 30 days from the date of notification of such citation. A complainant's appeal from an order of appropriate relief shall be initiated by giving the director of the department of labor and industries notice of intent to appeal within 15 working days from the date of the order.

(c) If the director does not reassume jurisdiction over the matter to which notice of intent to appeal is given, the department shall promptly transmit the notice of intent to appeal together with the department's record in the matter to the board, whereupon the matter shall be deemed an appeal before the board. If the director reassumes jurisdiction pursuant to a notice of intent to appeal, there shall be, within ((~~thirty~~)) 30 working days of such reassumption or within the extended redetermination period up to an additional ((~~fifteen~~)) 45 working days upon agreement of all parties to the appeal, a further determinative order issued in the matter. Any appeal from such further determinative order must be made directly to the board, with a copy filed with the director of the department, within ((~~fifteen~~)) 15 working days from the date of notification of such further determinative order.

(5) In appeals arising under chapter 49.26 RCW concerning the denial, suspension or revocation of certificates involving asbestos projects or in appeals arising under chapter 49.22 RCW concerning alleged violations of safety procedures in late night retail establishments, chapter 70.74 RCW concerning alleged violations of the Washington State Explosives Act, or chapter 88.04 RCW concerning alleged violations of the Charter Boat Safety Act, the notice of appeal shall be

filed in the manner and within the time allowed for filing appeals under RCW 49.17.140 and WAC 263-12-060(4).

(6) In appeals arising under the special death benefit provision of the law enforcement officers' and firefighters' retirement system (chapter 41.26 RCW), the notice of appeal shall be filed within ((~~sixty~~)) 60 days from the date the copy of the order, decision or award of the department was received by the appealing party.

(7) The board shall forthwith acknowledge receipt of any appeal filed with the board and the board's stamp placed thereon shall be prima facie evidence of the date of receipt. The board may thereafter require additional copies to be filed.

[Statutory Authority: RCW 51.52.020. WSR 03-02-038, § 263-12-060, filed 12/24/02, effective 1/24/03; WSR 00-23-021, § 263-12-060, filed 11/7/00, effective 12/8/00; WSR 91-13-038, § 263-12-060, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.52.104, 51.52.020 and chapters 51.48 and 42.17 RCW. WSR 86-03-021 (Order 20), § 263-12-060, filed 1/10/86. Statutory Authority: RCW 51.41.060(4) and 51.52.020. WSR 83-01-001 (Order 12), § 263-12-060, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-060, filed 1/18/82; Order 7, § 263-12-060, filed 4/4/75; Order 4, § 263-12-060, filed 6/9/72; Rule 5.3, filed 6/12/63; Rule 3.3, filed 3/23/60; Rule 5.3, amended by General Order 3, filed 10/29/65. Formerly WAC 296-12-055.]

AMENDATORY SECTION (Amending WSR 18-24-123, filed 12/5/18, effective 1/5/19)

WAC 263-12-093 Conferences—Disposition of appeals by agreement. (1) If an agreement concerning final disposition of any appeal is reached by all the parties present or represented at a conference, an order shall be issued in conformity with their agreement, providing the board finds the agreement is in accordance with the law and the facts.

(a) In industrial insurance cases and cases involving the discrimination provisions of the Washington Industrial Safety and Health Act, if an agreement concerning final disposition of the appeal is reached by the employer and worker or beneficiary at a conference at which the department is represented, and no objection is interposed by the department, an order shall be issued in conformity with their agreement, providing the board finds that the agreement is in accordance with the law and the facts. If an objection is interposed by the department on the ground that the agreement is not in accordance with the law or the facts, a hearing shall be scheduled.

(b) In cases involving safety and health violations of the Washington Industrial Safety and Health Act, an agreement concerning final disposition of the appeal among the parties must include regardless of other substantive provisions covered by the agreement: (i) A statement reciting the abatement date for the violations involved, and (ii) a statement confirming that the penalty assessment for contested and noncontested violations has or will be paid.

(c) Where all parties concur in the disposition of an appeal but the industrial appeals judge is not satisfied that the agreement is in conformity with the facts and the law or that the board has jurisdic-

tion or authority to order the relief sought, the industrial appeals judge may require such evidence or documentation necessary to adequately support the agreement in fact and/or in law.

(2) All agreements reached at a conference concerning final disposition of the appeal shall be stated on the record by the industrial appeals judge and the parties shall indicate their concurrence on the record. The record may either be transcribed by a court reporter or recorded and certified by the industrial appeals judge conducting the conference.

The industrial appeals judge may, in his or her discretion accept an agreement for submission to the board in the absence of one or more of the parties from the conference, or without holding a conference.

(a) In such cases the agreement may be confirmed in writing by the parties to the agreement not in attendance at a conference, except that the written confirmation of a party to the agreement not in attendance at a conference will not be required where the industrial appeals judge is satisfied of the concurrence of the party or that the party received notice of the conference and did not appear.

(b) In cases where no conference has been held but the parties have informed the judge of their agreement, yet no written confirmation has been received, a final order may be issued which encompasses the agreement.

(3) In the event concurrence of all affected employees or employee groups cannot be obtained in cases involving agreements for final disposition of safety and health appeals under the Washington Industrial Safety and Health Act, a copy of the proposed agreement shall be posted by the employer at each establishment to which the agreement applies in a conspicuous place or places where notices to employees are customarily posted. The agreement shall be posted for ((~~ten~~)) 10 days before it is submitted to the board for entry of the final order. The manner of posting shall be in accordance with WAC 263-12-059. If an objection to the agreement is interposed by affected employees or employee groups prior to entry of the final order of the board, further proceedings shall be scheduled.

(4) The parties present at a conference may agree to a vocational evaluation or a further medical examination of a worker or crime victim, including further evaluative or diagnostic tests, except such as require hospitalization, by medical or vocational experts acceptable to them, or to be selected by the industrial appeals judge. In the event the parties agree that an order on agreement of parties may be issued based on the report of vocational evaluation or medical examination, the industrial appeals judge may arrange for evaluation or examination and the board will pay reasonable and necessary expenses involved. Upon receipt by the board, copies of the report of such examination or evaluation will be distributed to all parties represented at the conference and further appropriate proceedings will be scheduled or an order on agreement of parties issued. If the worker or crime victim fails to appear at the evaluation or examination, the party or their representative may be required to reimburse the board for any fee charged for their failure to attend.

[Statutory Authority: RCW 51.52.020. WSR 18-24-123, § 263-12-093, filed 12/5/18, effective 1/5/19; WSR 06-12-003, § 263-12-093, filed 5/25/06, effective 6/25/06; WSR 03-02-038, § 263-12-093, filed 12/24/02, effective 1/24/03; WSR 00-23-021, § 263-12-093, filed 11/7/00, effective 12/8/00; WSR 91-13-038, § 263-12-093, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.41.060(4) and

51.52.020. WSR 83-01-001 (Order 12), § 263-12-093, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-093, filed 1/18/82; Order 7, § 263-12-093, filed 4/4/75.]

WSR 22-19-025
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed September 13, 2022, 12:00 p.m., effective October 14, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is updating WAC 458-20-18801 (Rule 18801) to make technical corrections and to more comprehensively describe the documentation and/or information required for buyers and sellers to substantiate that they are entitled to make purchases or sales exempt from retail sales tax. The amendment to the rule makes a technical correction so that the rule conforms to RCW 82.08.02806; updates the department's contact information; and adds advice that, to make a retail sales tax exempt purchase, a buyer may provide to the seller an exemption certificate such as a streamlined sales tax agreement certificate of exemption or the seller may capture the relevant data elements that would otherwise be captured in a completed streamlined sales and use tax agreement exemption certificate or otherwise meet the requirements of RCW 82.08.050(7).

Citation of Rules Affected by this Order: Amending WAC 458-20-18801 Medical substances, devices, and supplies for humans—Drugs prescribed for human use—Medically prescribed oxygen—Prosthetic devices—Mobility enhancing equipment—Durable medical equipment.

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

Adopted under notice filed as WSR 22-12-010 on May 19, 2022.

Changes Other than Editing from Proposed to Adopted Version: Fixed the phone number for the department's telephone information center referenced in subsection (304).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 13, 2022.

Atif Aziz
Rules Coordinator

OTS-3698.2

AMENDATORY SECTION (Amending WSR 14-18-019, filed 8/25/14, effective 9/25/14)

WAC 458-20-18801 Medical substances, devices, and supplies for humans—Drugs prescribed for human use—Medically prescribed oxygen—

Prosthetic devices—Mobility enhancing equipment—Durable medical equipment.

PART 1 - INTRODUCTION

(101) **Introduction.** This rule provides tax-reporting information for persons making sales of medical products. It also provides information about the retail sales tax and use tax exemptions available for the sale and use of certain medical products for humans.

(102) **How is this rule organized?** This rule is divided into five parts as follows:

(a) **Part 1 - Introduction.** Part 1 provides information relating to the purpose of the rule, how the rule is organized, and provides a listing of additional rules that may be helpful to the reader in determining taxability related to medical products.

(b) **Part 2 - Medical products.** Part 2 of this rule identifies what "medical products" include for purposes of this rule. Medical products is not a statutory term, but instead, is a term used simply to collectively describe the medical items addressed by this rule.

(c) **Part 3 - Applicable taxes.** Part 3 of this rule provides information on the taxes that apply to the sale, use, purchase, or manufacture of medical products.

(d) **Part 4 - Common exemptions.** Part 4 of this rule provides information on common retail sales tax and use tax exemptions related to medical products.

(e) **Part 5 - Bundled transactions.** Part 5 of this rule addresses the treatment of bundled transactions involving medical products.

(103) **How are examples included in this rule to be used?** This rule contains examples which identify a number of facts and then states a conclusion. The examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(104) **What are some other department of revenue rules that address medical or health related providers that might apply?** The department of revenue (department) has adopted other rules addressing the taxability of various activities related to the providing of health care. Readers may want to refer to the following ((~~list of~~)) rules for additional information:

(a) WAC 458-20-150, Optometrists, ophthalmologists, and opticians;

(b) WAC 458-20-151, Dentists, audiologists, and other health care providers((~~,~~))—Dental laboratories((~~,~~)) and dental technicians;

(c) WAC 458-20-168, Hospitals, nursing homes, assisted living facilities, adult family homes and similar health care facilities.

PART 2 - MEDICAL PRODUCTS

(201) **What are medical products for purposes of this rule?** Medical products include durable medical equipment, drugs, mobility enhancing equipment, over-the-counter drugs, and prosthetic devices as defined by Washington statute. Medical products also include other tangible personal property used for medical purposes, not covered by one of the statutory definitions. The remainder of Part 2 of this rule describes these medical products.

(202) **What is durable medical equipment?** Durable medical equipment is equipment, including repair and replacement parts for durable medical equipment that:

(a) Can withstand repeated use;

(b) Is primarily and customarily used to serve a medical purpose;

(c) Generally is not useful to a person in the absence of illness or injury; and

(d) Is not worn in or on the body. See RCW 82.08.0283. Also, see subsection (206)(b) of this rule for an explanation of what is considered "worn in or on the body."

Table 1 provides a nonexclusive list of durable medical equipment product examples.

Table 1

Durable Medical Equipment Examples
• Anesthesia machine and ventilator
• Apnea monitors
• Atomizers (medical - Reusable)
• Beds, bags, trays, bedpans, commodes, pads, pillows, crash carts, lamps, bulbs, and tables (medical)
• Blood parameter monitor, pulse oximetry equipment, and blood gas analyzer
• Bone growth stimulator (not worn on the body)
• Bovie (cauterization)
• Cardiopulmonary bypass machine
• Cofflator
• Continuous passive motion devices
• Continuous positive airway pressure (CPAP & BI-PAP) machine (not worn on the body)
• Diagnostic equipment - Audiology, cardiology, mammography, radiology
• Electronic speech aids (not worn on the body)
• Endoscopes
• Enteral feeding bags, tubing, and connectors
• Feeding plugs
• Glucose meters
• Instruments - Reuseable, e.g., clamps, drills, forceps, retractors, scalpels, reamers, scissors
• Intravenous (IV) stands and poles
• Kidney dialysis devices
• Lasers
• Lithotripters
• Nebulizers
• Respiratory humidifier
• Reusable needles or reusable staplers
• Sling scales
• Stapler (must be empty as staples are not durable medical equipment)
• Stethoscopes, stirrups, and stretchers (medical)
• Suction regulators
• TENS units (not worn on the body)
• Tourniquets
• Ultrasound probes, transducers, and mini dopplers
• Whirlpools (medical)
• X-ray equipment

(203)(a) **What is a drug?** A "drug" is a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, alcoholic beverages, or ((~~marijuana~~)) cannabis, useable ((~~marijuana~~)) cannabis, or ((~~marijuana-infused~~)) cannabis-infused products:

(i) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; or

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(iii) Intended to affect the structure or any function of the body. See RCW 82.08.0281.

Table 2 provides a nonexclusive list of drug product examples.

Table 2

Drug Examples
• Dermal fillers - Injectable
• Dialysis dialysate solution
• Federal prescription (RX) drugs, including biologicals
• Gases - Medical grade (nitrous oxide, oxygen, carbon dioxide, helium)
• Implanted radioactive isotopes
• Insulin
• Parenteral nutrition formulas - By prescription
• Prescription medicated cotton swabs and gauze wraps
• Sterile water - 1cc, 5cc, 10cc vials, sterile normal saline (.9%) - 1cc, 5cc, 10cc vials - Solutions for adding to mixtures and irrigation
• Vaccines

(b) **Substances that are necessary to the performance of durable medical equipment are not drugs.** A compound, substance, or preparation that is necessary for durable medical equipment to perform its function is not a drug, even when it otherwise meets the definition of drug in this subsection.

(c) **Examples of compounds, substances, preparations that are necessary in order for the durable medical equipment to perform its function.**

Example 1. A Coulter Blood Cell Counter uses an electrolytic solution to perform its function. The solution is entirely contained within the device and does not physically interact with the patient's tissue (blood) apart from the device. The device cannot perform its function without the electrolytic solution. The solution is an integral part of the Coulter Blood Cell Counter and is not a drug even though the device is used to diagnose disease and the test it performs is conducted pursuant to a prescription.

Example 2. A cryoablation device uses extremely cold, thermally conductive solution inside a hollow probe or needle to freeze and remove diseased or malfunctioning cells within a patient's body. The solution is entirely contained within the device and does not physically interact with the patient's tissue apart from the device. The device cannot perform its function without the solution. The solution is an integral part of the device and is not a drug even though the device is used in the cure, mitigation, and treatment of disease as part of a prescribed procedure.

Example 3. A specialized medical laser uses certain gases (e.g., argon, helium) to determine the wavelength of the light emitted. This allows the laser to identify specific cells or substance types. The gas is entirely contained within the laser and does not physically interact with the patient's tissue apart from the device. The device cannot perform its function without the gas. The gas is an integral part of the device and is not a drug even though the gas is consumed and the laser is used in the cure, mitigation, and treatment of disease as part of a prescribed procedure.

(204) **What is mobility enhancing equipment?** Mobility enhancing equipment is equipment, including repair and replacement parts for mobility enhancing equipment that:

(a) Is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle;

(b) Is not generally used by persons with normal mobility; and

(c) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. See RCW 82.08.0283.

Table 3 provides a nonexclusive list of mobility enhancing equipment products.

Table 3

Mobility Enhancing Equipment Examples
• Bath aids - Raised toilet seat, tub and shower stools
• Bed pull-up T
• Canes
• Car seats (mobility enhancing)
• Crutches
• Handrails and grab bars to assist in rising from commode, tub, or shower
• Lift chairs and replacement parts
• Lifts (hydraulic or electric) used to raise or transfer patients from bed to chair, commode, or bath
• Scooters and transporters
• Swivel seats enabling the disabled to rotate in order to rise from a chair
• Transfer belts to assist in the transfer of patients
• Walkers
• Wheelchairs
• Wheelchairs adapted for specific uses or functions, e.g., all terrain wheelchairs

(205) **Over-the-counter drugs.** An over-the-counter drug is a drug that contains a label that identifies the product as a drug required by 21 C.F.R. Sec. 201.66, as amended or renumbered on January 1, 2003. The label includes:

(a) A "drug facts" panel; or

(b) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance, or preparation. See RCW 82.08.0281.

Table 4 provides a nonexclusive list of over-the-counter drug products.

Table 4

Over-the-Counter Drug Examples
• Antihistamines
• Anti-inflammatory
• Analgesic
• Contact lenses solution
• Eternal nutrition formulas with drug facts box
• Hydrogen peroxide
• Medicated cotton swabs and gauze wraps (nonlegend)
• Paviodine iodine
• Rubbing alcohol

(206)(a) **What is a prosthetic device?** A prosthetic device is a replacement, corrective, or supportive device, including repair and replacement parts for a prosthetic device, worn on or in the body to:

(i) Artificially replace a missing portion of the body;

(ii) Prevent or correct a physical deformity or malfunction; or

(iii) Support a weak or deformed portion of the body. See RCW 82.08.0283.

Table 5 provides a nonexclusive list of prosthetic device products.

Table 5

Prosthetic Device Examples
• Abdominal belts, binders, and supports
• Acetabular cups
• Ankle brace
• Antiembolism stocking
• Artificial eyes, heart valves, larynx, limbs
• Back braces
• Bone cement and wax
• Bone pins, plates, nails, screws
• Breast implants and external prosthesis
• Cervical collars
• Cochlear implant
• Continuous positive airway pressure (CPAP) machines which are specifically designed to be wholly worn on the body and portable
• Corrective eye glasses and contact lenses
• Dental prostheses including, but not limited to, full and partial dentures, crowns, inlays, fillings, braces, and retainers
• Drainage devices for single patient use because they serve the same drainage functions as the body's natural systems
• Ear, nose, and throat implants
• Eye glass frames and lenses
• Foley catheter
• Gastric bands and intragastric balloons
• Hand and feet implants
• Head halters
• Hearing aids
• Implanted pacemakers

Prosthetic Device Examples
• Insulin pumps
• Knee immobilizers
• Mastectomy surgical bras
• Maxillofacial devices implanted
• Membrane implants (neutron, spinal, joint)
• Ocular implants
• Orthobiologics implants
• Orthopedic shoes, shoe lifts, inserts, arch supports, heel protectors
• Pressure garments - Edema gloves
• Pressure garments - Mast pants, burn garments
• Salem sump with anti-reflux valve
• Shoulder and elbow implants
• Skin implants - Synthetic
• Slings, braces, collars, casts, splints, embolism stockings, arch pads, pelvic traction belts, traction pulley clamp assemblies and cords
• Slings - Medical
• Specialized orthotic shoes, post-operation shoes, cast shoes, diabetic shoes and inserts, and other similar apparatus
• Speech aids (electronic) worn on the body
• Sphincters - Medical
• Splints and splint materials
• Stent implants through endoscopy
• Stents (biliary, coronary and urinary)
• Stockings - Compression
• Sutures, staples, and skin glue for closing wounds
• Tendon implants
• TENS units worn on the body
• Testicular and penile implants
• Trachea tubes
• Trusses

(b) **When is a device not worn on or in the body?** For the purpose of this exemption, "worn on the body" means the entire device is something a person puts on or has on their person, to be carried with and habitually becomes part of the person as a whole, much in the sense that a person wears clothing or other personal items. Such devices are designed to be wholly worn on the body and portable. A device is not "worn on or in the body" simply because part of it is attached to the body in some way for a period of time. These devices cannot be partially floor-standing, plugged into an outlet, or moved by virtue of dragging, wheels, or with the assistance of a separate device (e.g., a cart or intravenous stand).

(c) **Examples of items that are not prosthetic devices worn on or in the body.** The following are examples of items not considered prosthetic devices worn on or in the body.

Example 4. Continuous positive airway pressure (CPAP) machines are commonly used by patients with sleep apnea disorders to facilitate normal breathing. Patients using a CPAP machine are normally hooked up to the machine via tubing and individually tailored masks. Even though

the mask is normally "worn" for significant periods of time each night, the mask by itself cannot accomplish the intended purpose. The machine performing the function is not worn on the body as a complete system. Neither the mask separately, nor the machine as a whole system, is a prosthetic device.

Example 5. Heart-lung machines generally replace the function of the heart and lungs during surgery, as well as regulating body temperature and providing an avenue of introduction for anesthetics or other medications directly into a patient's bloodstream. While a heart-lung machine is attached to the patient, it is commonly a floor-standing or wheeled unit and is not a prosthetic device.

PART 3 - APPLICABLE TAXES

(301) **What basic tax information do I need to be aware of when selling, purchasing, using or manufacturing medical products?** This subsection provides general tax-reporting information for persons who sell, purchase, use, or manufacture, medical products.

(302) **How are medical products taxed?** In general, sales of medical products are taxable. Sales of medical products to consumers such as doctors, hospitals, or patients are subject to retailing business and occupation (B&O) tax and the retail sales tax. These taxes apply to the sale of medical products as follows:

(a) **Retail sales tax.** Retail sales tax applies to the sale of medical products to a consumer unless a specific exemption applies. RCW 82.04.050 and 82.08.020. Specific exemptions are discussed in Part 4 of this rule.

(b) **Retailing B&O tax.** There is no general B&O tax exemption for sales of medical products. Even if a sale of a medical product is exempt from retail sales tax, the gross proceeds from the sale of the medical product to a consumer is subject to the retailing B&O tax.

(c) **Wholesaling B&O tax.** Sales to persons who resell the medical products (e.g., pharmacies) are subject to the wholesaling B&O tax. Persons making wholesale sales should refer to WAC 458-20-102 for information regarding their responsibility to obtain a reseller permit.

(d) **Manufacturing B&O tax.** Persons who manufacture products including medical products, in this state are subject to the manufacturing B&O tax upon the value of these products. Manufacturers selling the products at retail or wholesale in this state are also subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the manufacturer must report under both the "production" (manufacturing) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a Multiple Activities Tax Credit (MATC). Refer to WAC 458-20-19301 for a more detailed explanation of the MATC.

Persons who manufacture molds or other products that they use in a manufacturing process are subject to the manufacturing B&O tax upon the value of the product manufactured. (See also WAC 458-20-112 and 458-20-134 regarding "value of products" and "commercial or industrial use," respectively.) Such persons also incur a use tax liability with respect to their use of the molds or products, unless a specific exemption applies. For example, RCW 82.12.02565 provides a use tax exemption for the use of certain molds in a manufacturing operation. Refer to WAC 458-20-13601 for additional information regarding the manufacturers machinery and equipment sales tax and use tax exemptions.

(e) **Use tax or deferred retail sales tax.** Purchases of medical products at retail are subject to retail sales tax unless a specific exemption exists in the law. If the seller does not collect retail

sales tax, a buyer who is not reselling the products must pay the retail sales tax (commonly referred to as the "deferred retail sales tax") or use tax directly to the department, unless the specific items purchased are exempt under the law. For additional information on use tax see WAC 458-20-178.

(303) **Retail sales tax should be paid by the consumer based on the principal use of the product.** Some medical products can be put to both an exempt and taxable use. At the time of purchase a buyer may not know exactly how the item or items will be used. In such cases, retail sales tax must be paid to the seller at the time of purchase when the buyer expects to principally (i.e., more than ((~~fifty~~)) 50 percent of the time) put the item to a taxable use in the normal course of business. However, if the buyer expects to principally put the item to use in an exempt manner, the buyer may provide the seller with an appropriately completed exemption certificate that lists the retail sales tax exempt item or types of items included in the purchase, such as a Streamlined Sales Tax Agreement Certificate of Exemption (SSUTA exemption certificate), or the seller may capture the relevant data elements that would otherwise be captured in a completed SSUTA exemption certificate, or otherwise meet the requirements of RCW 82.08.050(7). See subsection (304) of this rule for more information on exemption certificates and other department approved documentation. When a seller receives an appropriately completed exemption certificate or other approved documentation, that seller is relieved of the responsibility to collect the retail sales tax for those specific items or types of items identified on the certificate and sold in that transaction.

(a) **Items put to taxable use where tax was not paid.** If the buyer does not pay sales tax on an item, and later puts that item to use in a manner that is not exempt of sales tax, the buyer must pay deferred sales or use tax to the department. The deferred sales tax liability should be reported by the buyer on the use tax lines of the excise tax return (including both state and local portions of the tax). The tax should be reported based on the location and sales tax rate which is in effect where the buyer took possession of the item.

(b) **Items put to exempt use where tax was paid.** If the buyer does not give an exemption certificate or other approved documentation to the seller indicating a certain item is exempt of retail sales tax, or the seller does not capture the relevant data elements required under SSUTA or otherwise meet the requirements of RCW 82.08.050(7), the seller must collect the tax at the time of purchase on that item. If the buyer later puts that item to first use in an exempt manner, the buyer may take a deduction on the excise tax return equal to the value of the item. This deduction should be claimed in the deduction column of the retail sales tax line, and should be identified as a "taxable amount for tax paid at source" deduction on the deduction detail worksheet. When completing the local sales tax section of the tax return, the value of the item must be credited using the seller's tax location code (assuming the buyer took possession of the item at the seller's location) and computed at the local sales tax rate paid to the seller.

(c) **Examples.**

Example 6. Purchase of items which are principally exempt. ABC Medical Center (ABC) purchases a case of sterile silicon tubing. One case contains ((~~twenty~~)) 20 units of sterile tubing in individually sealed sterile packaging. The tubing purchased by ABC is either used to deliver medically prescribed oxygen from tanks to a patient (an exempt use), or used by ABC's laboratory to conduct certain tests (not

an exempt use). At the time of purchase, ABC does not know how many of the ((~~twenty~~)) 20 packages in the case will be used for oxygen tank systems versus how many will be drawn out of inventory by the lab. However, according to ABC's inventory records from past periods, the tubing will principally be used as part of the medically prescribed oxygen systems. ABC provides the seller of the tubing with a properly completed exemption certificate (in this case, the "Sales Tax Exemption Certificate for Health Care Providers") or other approved documentation. The seller is not required to collect retail sales tax on the case of sterile tubing. As ABC puts the tubing to use, it must keep track of when a package of tubing is used by the laboratory. Deferred sales tax is due and should be reported on and remitted with the excise tax return for the period in which ABC used the tubing.

Example 7. Purchase of items which are principally taxable. Assume the same items and situation as in Example 6, except that for this example, according to ABC's inventory records from past periods, the tubing will be principally used for retail sales taxable purposes in the laboratory. ABC cannot provide an exemption certificate or other approved documentation for purchase of the tubing and must pay retail sales tax to the seller. As ABC puts the tubing to use, it may keep track of when a package of tubing is put to exempt use with a medically prescribed oxygen system. ABC may then take on its excise tax return a tax paid at source deduction for the value of the package used.

(304) **Sellers must obtain ((~~an exemption certificate~~)) required exemption documentation or information on any retail sales exempted from the retail sales tax.** Unless otherwise provided in this rule, sellers making retail sales to medical practitioners, nursing homes, and hospitals must obtain an exemption certificate approved by the department, such as a SSUTA exemption certificate, capture the relevant data elements required in completing a SSUTA exemption certificate, or otherwise meet the requirements of RCW 82.08.050(7) to document any tax-exempt sales of the products discussed in this rule when those businesses are the consumers. Information about exemption certificates may be obtained by:

(a) Using the department's website at dor.wa.gov/; ((~~or~~))

(b) Reference to RCW 82.08.050(7); or

(c) Calling the department's telephone information center at ((~~1-800-647-7706~~)) 1-360-705-6705.

PART 4 - COMMON RETAIL SALES TAX AND USE TAX EXEMPTIONS

(401) **What common retail sales tax and use tax exemptions apply to the sale of medical products?** This part of the rule provides a nonexhaustive list of retail sales tax and use tax exemptions available with respect to various medical products.

(402) **Sales of medical products pursuant to a prescription.** Most retail sales tax exemptions available for sales of medical products require that the item is purchased under authority of a prescription.

(a) **What is a prescription?** A "prescription" is an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe. See RCW 82.08.0281. The specific requirements for a prescription may differ depending on the item exempted and the RCW chapter under which the person issuing the prescription is licensed. Close attention must be paid to the details given for each specific exemption explained in the following subsections of this rule.

(b) **No automatic exemption.** A prescription does not automatically qualify a sale of a medical product for a sales tax or use tax exemption. Unless a specific exemption exists in statute for the sale or use of the item in question the item is not exempt, even with a prescription. For example, if a physician prescribes a regimen of exercise at the local fitness club, the mere issuance of the prescription does not qualify the sales of that service for a retail sales tax exemption because no such exemption exists in statute.

(c) **When medical procedures are prescribed.** When a medical procedure is prescribed by a duly licensed practitioner authorized to prescribe the same, that overall prescription fulfills the prescription requirement (if any) for each eligible exempt item used in the procedure. For example, an orthopedic surgeon conducts joint replacement surgery for a patient's diseased joint. As part of that surgical procedure, prescription drugs and other eligible exempt items are used. The surgeon does not specifically issue a separate written prescription for each eligible exempt item. The surgeon's order for the surgical procedure and the oral directions provided by the surgeon during the procedure fulfill any prescription requirement for each eligible item used in an exempt manner during that procedure.

(d) **Dispensed pursuant to a prescription.** The purchase of drugs to be dispensed in the diagnosis, cure, mitigation, treatment, or prevention of disease or to affect the structure or any function of the body, by hospitals or other persons licensed to prescribe such drugs, are considered dispensed pursuant to a prescription and therefore exempt, providing the buyer gives the seller an exemption certificate or other approved documentation as discussed in Part 3 of this rule.

(403) **Sales tax and use tax exemptions available with respect to various medical products.**

(a) **Sales to a free hospital are exempt from sales tax and use tax.** RCW 82.08.02795 and 82.12.02745 provide retail sales tax and use tax exemptions for items sold to and used by a "free hospital" when those items are reasonably necessary for the operation of, and provision of health care by a free hospital. For the purpose of these exemptions, "free hospital" is a hospital that does not charge patients for health care provided by the hospital.

(b) **Sales of drugs for human use can be exempt from retail sales tax and use tax when sold under the authority of a prescription.** RCW 82.08.0281 and 82.12.0275 provide retail sales tax and use tax exemptions for drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription. These exemptions apply to the distribution of "sample" prescription drugs provided free of charge to duly licensed practitioners authorized by the laws of this state to prescribe. For the exemptions to apply, the drug involved must be intended to interact with a specific patient through direct contact with that patient, whether applied internally or externally to the patient's body, or as part of a test conducted on a tissue sample taken from that patient. A seller is not required to collect sales tax when it obtains a properly completed exemption certificate indicating prescription drugs, intended for human use sold to medical practitioners, nursing homes, and hospitals, will be put to an exempt use under the authority of a prescription, captures the data elements described in subsection (304) of this rule, or otherwise meets the requirements of RCW 82.08.050(7). Otherwise, the retail sales tax must be collected. See Part 3 of this rule for information about exemption certificates and other approved documentation.

(c) **Sales of disposable devices used to deliver prescription drugs for human use.** RCW 82.08.935 and 82.12.935 provide retail sales tax and use tax exemptions for disposable devices used to deliver drugs for human use, pursuant to a prescription.

(i) **What are disposable devices used to deliver drugs?** "Disposable devices used to deliver drugs" include single-use items such as a single-use syringe, intravenous (IV) tubing, and IV catheters. A stand or device that holds the tubing or catheter is not a disposable device used to deliver drugs.

(ii) **Example 8. Disposable devices.** A nursing home purchases single-use syringes, tubing used to deliver drugs, and stands used to hold the IV fluid containers. If the nursing home provides the seller with a completed "Sales Tax Exemption Certificate for Health Care Providers," or other approved documentation, retail sales tax does not apply to the purchase of single-use syringes and tubing. However, retail sales tax applies to the IV stands because the stands are "durable medical equipment," not disposable or single-use, and no specific exemption for them exists in the law. For information about durable medical equipment, see Part 2 of this rule.

(d) **Sales of "over-the-counter" drugs with a prescription are exempt from retail sales tax and use tax.** RCW 82.08.940 and 82.12.940 provide retail sales tax and use tax exemptions for over-the-counter drugs sold for human use, pursuant to a prescription. See subsection (205) of this rule for the definition of over-the-counter drug.

(i) **Example 9.** A patient's medical practitioner prescribes over-the-counter pain relief medication. The patient takes the prescription to a pharmacy. The sale of the over-the-counter drug is exempt from retail sales tax. In contrast, if the patient's medical practitioner simply recommends that the patient use an over-the-counter pain relief medication, without completing a prescription for the medication, the sale of the over-the-counter drug is subject to retail sales tax.

(ii) **Example 10.** A hospital makes bulk purchases of various over-the-counter drugs to dispense to patients pursuant to a doctor's prescription. The hospital's purchases of such drugs are exempt from retail sales tax providing the hospital gives the seller an exemption certificate or other approved documentation as discussed in Part 3 of this rule.

(iii) **Example 11.** An employer purchases drug test kits from a local drug store and administers them to current and prospective employees as a condition of employment. The employer's purchase of the drug tests is subject to retail sales tax because the tests are not prescribed by a licensed physician for the employees or prospective employees.

(e) **Dietary supplements (also known as nutrition products) with a prescription are exempt from retail sales and use taxes.** Sales of dietary supplements not covered by either of the retail sales tax or use tax exemptions for "food and food ingredients" are generally subject to retail sales tax or use tax. See RCW 82.08.0293 and 82.12.0293. However, RCW 82.08.925 and 82.12.925 provide specific retail sales tax and use tax exemptions for sales of "dietary supplements" for human use, pursuant to a prescription. A "dietary supplement" is any product, other than tobacco, intended to supplement the diet, and that satisfies all three of the criteria listed in (e)(i) through (iii) of this subsection.

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection.

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003. See RCW 82.08.0293.

(f) **Licensed naturopaths have their own retail sales tax and use tax exemptions available.** The sale or use of medicines of mineral, animal, and botanical origin which are prescribed, administered, dispensed, or used by a licensed naturopath in the treatment of a human patient are exempt from retail sales and use taxes. See RCW 82.08.0283 and 82.12.0277.

"Naturopathic medicines" are vitamins, minerals, botanical medicines, homeopathic medicines, hormones, and those legend drugs and controlled substances consistent with naturopathic medical practice in accordance with rules established by the secretary of health. Controlled substances are limited to codeine and testosterone products that are contained in Schedules III, IV, and V in chapter 69.50 RCW. See RCW 18.36A.020.

(g) **Drugs and devices used for family planning may be exempt.** RCW 82.08.0281 and 82.12.0275 provide sales tax and use tax exemptions for drugs and devices sold or used under certain conditions for family planning purposes. Family planning purposes include promoting, inhibiting, preventing, and determining of conception. This includes all single-patient use items, whether ingested, attached, or applied to persons for family planning purposes. Persons making tax-exempt sales of these drugs and devices to medical practitioners, clinics, or hospitals must obtain an exemption certificate, capture the data elements described in subsection (304) of this rule, or otherwise meet the requirements of RCW 82.08.050(7) to substantiate the exempt nature of any sale, as discussed in Part 3 of this rule.

The purchase, sale, or use qualifies for exemption when either one of the following conditions exists:

• The drug or device is supplied by a family planning clinic that is under contract with the Washington state department of health to provide family planning services; or

• The family planning items are or will be dispensed to patients, pursuant to a prescription. Persons dispensing these items are required to obtain and maintain files of prescriptions to document the exempt nature of such sales.

(h) **Medically prescribed oxygen is exempt from retail sales tax and use tax.** RCW 82.08.0283 provides a retail sales tax exemption for sales of medically prescribed oxygen for an individual prescribed by a person licensed under chapter 18.57 RCW (Osteopathy—Osteopathic medicine and surgery) or chapter 18.71 RCW (Physicians) for use in the medical treatment of that individual. A comparable use tax exemption is provided in RCW 82.12.0277. Persons making tax-exempt sales of these items must obtain an exemption certificate, capture the data el-

ements described in subsection (304) of this rule, or otherwise meet the requirements of RCW 82.08.050(7) to substantiate the exempt nature of any sale as discussed in Part 3 of this rule.

(i) **What is medically prescribed oxygen?** The exemption for "medically prescribed oxygen" is not limited to gaseous or liquid oxygen (chemical designation O^2). Medically prescribed oxygen is defined by RCW 82.08.0283 to include, among other things, oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen systems. The primary use of the equipment must be for the generation or storage of medically prescribed oxygen (O^2). These systems include regulators, cannulae, masks, and similar items used to deliver the oxygen to the individual from the tax-exempt oxygen generation or storage device.

(ii) **Accessories may not be exempt.** Exempt medical oxygen systems are sometimes connected to the patient through taxable systems. The exemption for medically prescribed oxygen only applies to items up to the point the exempt oxygen system is connected to the taxable system. From that point of connection forward to the patient, masks, tubing, or other similar items remain part of the taxable system and are subject to retail sales tax.

(iii) **Examples.**

(A) **Example 12.** A physician prescribes oxygen for a patient. The patient rents an oxygen concentrator system and a separate cart to transport the system. The prescribed oxygen concentrator system can be rented exempt of sales tax. However, the exemption for "medically prescribed oxygen" does not include a separate cart used to transport a tax-exempt system. For information about durable medical equipment, see Part 2 of this rule. If the oxygen concentrator system and cart are rented for one nonitemized price the rental may be a bundled transaction. See Part 5 of this rule for information on how tax applies to a bundled transaction.

(B) **Example 13.** A physician prescribes a "continuous positive airway pressure (CPAP)" system for a patient diagnosed with a sleep apnea disorder. The CPAP system primarily supplies room air, under pressure, to keep the patient's airway passages open and thereby prevent obstruction of airflow in and out of the lungs. As a result, the sale of the CPAP system is subject to retail sales tax because it is not a system that satisfies the statutory definition of "medically prescribed oxygen." Note: Certain CPAP systems, when designed to be entirely worn on the body, can qualify for exemption from retail sales tax as prosthetic devices. See Part 2 of this rule for more information.

(C) **Example 14.** Assume the same facts for a CPAP system as provided in the previous example (h)(i)(B) of this subsection. In addition, the physician prescribes an oxygen trickle by which medical oxygen is provided to the patient from an oxygen tank through a tube attached to the mask of the CPAP system. The addition of an oxygen trickle does not change the purpose or taxability of any part of the CPAP system. The CPAP system does not generate or store oxygen and is not eligible for the exemption provided for medically prescribed oxygen. The oxygen, oxygen tank, and any tubing used to convey the oxygen is covered by the exemption for medically prescribed oxygen, but only up to the point that it attaches to the taxable CPAP system.

(i) **Insulin has its own specific exemption from retail sales tax and use tax - No prescription is required.** RCW 82.08.985 and 82.12.985 provide specific sales tax and use tax exemptions for insulin for hu-

man use. A prescription is not required for the sale of insulin to be exempt from tax.

(j) **Sales of laboratory reagents and other diagnostic substances may be exempt from retail sales and use taxes, under the right circumstances.** The definition of drug includes compounds, substances, or preparations (e.g., laboratory reagents and other diagnostic substances) used for the diagnosis of disease. Thus, sales of laboratory reagents and other diagnostic substances are not subject to retail sales tax when prescribed for an individual by a duly licensed practitioner and used to diagnose, cure, mitigate, treat, or prevent disease in humans. RCW 82.08.0281. A comparable use tax exemption is provided in RCW 82.12.0275. Laboratory reagents and diagnostic substances must physically interact with a specific patient's specimen to qualify for exemption. Persons making tax-exempt sales of these items must obtain an exemption certificate, capture the data elements described in subsection (304) of this rule, or otherwise meet the requirements of RCW 82.08.050(7) to substantiate the exempt nature of any sale as discussed in Part 3 of this rule.

(i) **What are laboratory reagents and other diagnostic substances?** "Laboratory reagents and other diagnostic substances" are substances employed to produce a chemical reaction in order to detect, measure, or produce, other substances. To be a diagnostic substance, the application of the substance to a patient's specimen must result in identification of the characteristics of a particular disease.

(ii) **Laboratory reagents, other diagnostic substances or prepared media when sold in a container.** Reagents, diagnostic substances, and prepared media often come prepared in a container (test tube, vial, cylinder, Petri dish, etc.) ready for use. It makes no difference to the taxability of the substance if it is sold with or without a container. The function of the substance determines its taxability. The term "prepared media" includes transport media if the resulting culture grown on the medium is used in performing diagnostic tests for specific patients.

(iii) **Laboratory reagents and other diagnostic substances.** This subsection provides examples of laboratory reagents and other diagnostic substances that may qualify for sales and use tax exemptions under RCW 82.08.0281 and 82.12.0275, provided all requirements for the exemptions are met. The following items are reagents or other diagnostic substances:

(A) Stains, dyes, and decolorizers that react with and cause a change in a cellular tissue. The substances are used to stain the cell tissues in a manner that will mark or highlight certain portions of cells;

(B) Decalcifying solution, dehydrating solution, and clearing agents that chemically react with the patient's specimen; and

(C) Test strips impregnated with a reagent which, when applied to a patient's specimen, test for indicators of a disease.

(iv) **What substances are not reagents?** Some substances are used solely for purposes of preparing specimens for examination and diagnosis or to facilitate examination of a specimen. Such substances do not themselves produce a chemical reaction resulting in the detection, measurement, or production of another substance. They merely facilitate or enable specimen testing and are not exempt under RCW 82.08.0281 or 82.12.0275. The following lists examples of substances and items which are not reagents:

(A) Paraffin that is extracted from a tissue specimen without having chemically altered the cells;

(B) Gelatin that is extracted out of the specimen before staining and leaves the cell structures unaffected;

(C) Electrodes;

(D) Tissue cassettes;

(E) Freezing medium;

(F) Liquid agar when used to gel patient specimens;

(G) Test tubes or cylinders that do not contain a reagent;

(H) Plain slides and cover slips that are not coated with a reagent;

(I) Mounting medium to adhere the cover slip to the slide; and

(J) Acids and other solutions when used for cleaning purposes.

(v) **What about reagents and diagnostic substances that can be used in more than one way (multiple use substances)?** Some reagents or other diagnostic substances have multiple uses, some of which may qualify for a sales or use tax exemption. Such substances are exempt only to the extent they are used as part of a test prescribed to diagnose disease in humans. For example, alcohol can be used either as a reagent (e.g., to react with a cellular tissue) or to clean counters, furniture, etc. Alcohol used as a cleaning agent is subject to retail sales or use tax. See Part 3 of this rule for guidance on when to apply retail sales tax to products with multiple uses, with both retail sales taxable and exempt uses being possible.

(k) **Sales of controls, calibrators, and standards used with laboratory test equipment are not exempt from retail sales and use taxes.** The sales tax and use tax exemptions provided by RCW 82.08.0281 and 82.12.0275 do not apply to drugs (compounds, substances, or preparations) used as a control, calibrator or standard in conjunction with the test of patient specimens in a medical laboratory.

(i) **What are controls?** A "control" is a material, solution, lyophilized (freeze-dried) preparation or pool of collected serum designed to be used in the process of quality control. Controls do not physically interact with a specific patient's specimen. The concentrations of the substances of interest in the control are known within limits determined during its preparation or before routine use. Controls are generally used with each test of patient specimens to validate the accuracy of that particular test.

(ii) **What are calibrators?** A "calibrator" is a material, solution, or lyophilized (freeze-dried) preparation designed to be used in calibration of medical laboratory machines. The values or concentrations of substances of interest in the calibration material are known within limits determined during its preparation or before use. Calibrators are generally used at specified intervals such as every eight hours, at midnight, or at shift changes, in accordance with the machine manufacturer's requirements or the requirements of administering agencies to verify the accuracy of the machine.

Calibrators are subject to retail sales tax or use tax because they are used to diagnose problems with machines and they do not physically interact with a patient's specimen to diagnose disease.

(iii) **What are standards?** A "standard" is a reference material of fixed and known chemical composition capable of being prepared in an essentially pure form. Standard also includes any certified reference material generally accepted or officially recognized as the unique standard used to test and calibrate medical lab equipment. Standards are often used in the original setup of medical lab equipment.

A standard is subject to retail sales tax and use tax because it is used to test and calibrate equipment and does not physically interact with a patient's specimen.

(l) **Sales of human blood, tissue, organs, or body parts may be exempt from retail sales and use taxes - No prescription or exemption certificate is required.** RCW 82.08.02806 provides a retail sales tax exemption for human blood, tissue, organs, bodies or body parts when used for medical research ((~~or~~)) and quality control testing purposes. RCW 82.12.02748 provides a comparable use tax exemption.

(i) **Definitions of human blood, tissue, organs, or body parts.** For the purposes of this exemption the following definitions apply:

(A) "Blood" means human whole blood, plasma, blood derivatives, and related products (e.g., bone marrow).

(B) "Tissue" includes human musculoskeletal tissue, musculoskeletal tissue derivatives, ligament tissue, skin tissue, heart valve tissue, human bone, and human eye tissue.

(C) "Organs" or "body parts" means a part of a human body having a special function.

(ii) **Materials consisting of both human and animal components.** Materials consisting of both human and animal components are not "human blood, tissue, organs, or body parts" and do not qualify for this exemption.

(iii) **Sales of spermatozoa.** These retail sales tax and use tax exemptions do not apply to sales or purchases of spermatozoa (male reproductive cell).

(m) **Durable medical and mobility enhancing equipment - Retail sales tax or use tax applies in most cases.** Retail sales tax or use tax applies to the sale or use of durable medical equipment and mobility enhancing equipment, unless a specific exemption applies. See subsections (202) and (204) of this rule for the definition of durable medical and mobility enhancing equipment.

(n) **Sales of prosthetic devices may be exempt of retail sales and use taxes.** RCW 82.08.0283 provides a retail sales tax exemption for sales of prosthetic devices prescribed, fitted, or furnished for an individual by a person licensed under the laws of this state to prescribe, fit, or furnish prosthetic devices. The exemption includes repair and replacement parts, as well as labor and services rendered in respect to repairing, cleaning, altering, or improving prosthetic devices. RCW 82.12.0277 provides a corresponding use tax exemption. Persons making tax-exempt sales of these prosthetic devices to medical practitioners, nursing homes, and hospitals, must obtain an exemption certificate, capture the data elements described in subsection (304) of this rule, or otherwise meet the requirements of RCW 82.08.050(7) to substantiate the exempt nature of any sale as described in Part 3 of this rule. See subsection (206) of this rule for the definition of prosthetic device.

(o) **Kidney dialysis devices are exempt of retail sales and use taxes with a prescription.** RCW 82.08.945 provides a retail sales tax exemption for sales of kidney dialysis devices for human use pursuant to a prescription. The exemption also includes repair and replacement parts, as well as labor and services rendered in respect to repairing, cleaning, altering, or improving kidney dialysis devices. RCW 82.12.945 provides a comparable use tax exemption. For the purpose of this exemption, a "kidney dialysis device" is a device which physically performs the dialyzing or separating process on blood. Kidney dialysis device does not include other equipment or tools used in conjunction with a kidney dialysis device.

Example 15. A kidney dialysis device is wired to a dedicated backup generator that exists only to service the dialysis device when the main source of power is interrupted or is unavailable. Under those

conditions the dialysis process cannot be performed without the use of the generator to power the dialysis device. Even so, the generator does not perform the actual dialysis process on the patient's blood and is not a kidney dialysis device.

(p) **Nebulizers are exempt of retail sales and use taxes with a prescription.** RCW 82.08.803 and 82.12.803 provide sales tax and use tax exemptions in the form of a refund for the sale or use of a nebulizer for human use pursuant to a prescription. A nebulizer is "a device, and not a building fixture, that converts a liquid medication into a mist so that it can be inhaled." The exemptions include repair and replacement parts, as well as labor and services rendered in respect to repairing, cleaning, altering, or improving a nebulizer.

Under these exemptions, sellers must collect the tax on sales subject to these exemptions. To obtain a refund of tax paid, buyers must apply for a refund directly from the department by submitting a completed refund application form to the department and including the original sales receipt. Any buyer submitting an application for refund should refer to WAC 458-20-229 or use the department's website at dor.wa.gov/content/ContactUs.

(q) **Ostomic items are exempt of retail sales and use taxes - No prescription is required.** RCW 82.08.804 and 82.12.804 provide specific sales tax and use tax exemptions for ostomic items for colostomy, ileostomy, or urostomy patients. "Ostomic items" are disposable medical supplies used by colostomy, ileostomy, and urostomy patients and include bags, belts to hold up bags, tapes, tubes, adhesives, deodorants, soaps, jellies, creams, germicides, and related supplies. "Ostomic items" do not include undergarments, pads and shields to protect undergarments, sponges, or rubber sheets. A prescription is not required for the sale of ostomic items to be exempt from tax.

PART 5 - BUNDLED TRANSACTIONS

(501) **What is a bundled transaction?** A "bundled transaction" is the retail sale of two or more products, except real property and services to real property, where:

- The products are otherwise distinct and identifiable; and
- The products are sold for one nonitemized price.

A bundled transaction does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the buyer of the products included in the transaction.

(a) **How are bundled transactions generally taxed for retail sales tax purposes?** A transaction is generally considered a bundled transaction subject to retail sales tax if more than ((~~ten~~)) 10 percent of the purchase price or sales price is attributable to retail sales taxable products. RCW 82.08.190 and 82.08.195.

(b) **Exception.** A transaction which otherwise meets the definition of a "bundled transaction" is not a bundled transaction when both of the following are true:

(i) The transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies; and

(ii) The seller's purchase price or sales price of the taxable tangible personal property is ((~~fifty~~)) 50 percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the ((~~fifty~~)) 50 percent determination for a transaction.

(502) **How are kits (or trays) used for medical procedures taxed if they contain a combination of individually taxable and nontaxable items?** Medical procedure kits are often purchased as a plastic-wrapped package that includes the various items needed to perform a particular medical procedure. A procedure kit can combine items that are either subject to retail sales tax or exempt from retail sales tax if sold separate from a kit or tray, as individual items. However, when a kit involves a bundled transaction sold for one nonitemized price, the sale of the entire kit is either subject to retail sales tax or exempt. This subsection explains how to determine whether a particular medical procedure kit is subject to or exempt from retail sales tax. Persons making a tax-exempt sale of a kit must obtain an exemption certificate from the buyer that lists the general item types within the kit that are exempt as discussed in Part 3 of this rule, capture the data elements described in subsection (304) of this rule, or otherwise meet the requirements of RCW 82.08.050(7). If a particular item within a kit is only exempt pursuant to a prescription, the item (or the procedure in which the item is used) must be prescribed by a duly licensed practitioner authorized by the laws of this state to prescribe the same.

Example 16. A glucose testing kit is prescribed for a human patient. The kit includes a glucose meter, five sample test reagent strips, and a lancet. The glucose meter is durable medical equipment, has a purchase price of $40.00, and is subject to retail sales tax when sold separately. (See Part 2 of this rule for more information concerning durable medical equipment.) The lancet is a single-use tool not covered by any exemption, has a purchase price of $40.00, and is subject to retail sales tax when sold separately. In this case, the test reagent strips qualify as disposable drug delivery devices, have a purchase price of $20.00, and are exempt from retail sales tax when sold separately pursuant to a prescription. The total purchase price of the kit is $100.00.

To determine if the full purchase price of the kit is subject to retail sales tax, the purchase (or sales) price of the taxable components should be compared to the total purchase (or sales) price of the kit. If the taxable components exceed ((~~fifty~~)) 50 percent of the price, the entire kit is subject to retail sales tax. In this case, the purchase price for both the glucose meter and lancet ($40.00 + $40.00 = $80.00) are more than ((~~fifty~~)) 50 percent of the total kit purchase price of $100.00. Therefore, retail sales tax is due on the sale of the kit. But if the taxable components were ((~~fifty~~)) 50 percent or less of the total kit purchase price, sales tax would not be due on the kit.

[Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 14-18-019, § 458-20-18801, filed 8/25/14, effective 9/25/14. Statutory Authority: RCW 82.32.300. WSR 92-05-065, § 458-20-18801, filed 2/18/92, effective 3/20/92; WSR 87-05-042 (Order 87-1), § 458-20-18801, filed 2/18/87; WSR 83-07-032 (Order ET 83-15), § 458-20-18801, filed 3/15/83. Statutory Authority: RCW 82.01.060(2) and 82.32.300. WSR 78-07-045 (Order ET 78-4), § 458-20-18801 (Rule 188), filed 6/27/78; Order 74-2, § 458-20-188 (codified as WAC 458-20-18801), filed 6/24/74.]

WSR 22-19-033
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Filed September 14, 2022, 11:00 a.m., effective October 15, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-306 WAC, Hemp program, by: Aligning with the United States Department of Agriculture's (USDA) final rule for the domestic production of hemp, published in January of 2021:

- Adding the definitions for "microgreen" and "remediation" to WAC 16-306-030.
- Replacing "destruction" with "disposal" throughout the entire chapter.
- Creating WAC 16-306-075 setting the certification process for immature nonflowering hemp plants.
- Updating WAC 16-306-080 to increase the inspection window from 15 days to 30 days.
- Clarifying language in WAC 16-306-090 by adding "mature" to clarify that it is mature hemp that will be tested for THC concentration, in order to distinguish between the immature and nonflowering hemp plants that are now allowed to be certified and harvested.
- Clarifying language in WAC 16-306-120 to include "visually inspected" for immature, nonflowering hemp plants.
- Adding a new subsection (3) to WAC 16-306-170 (changing current subsection (3) to subsection (4)) to include an option for remediation of hemp that tests higher than the allowed 0.3 percent but less than 0.7 percent for THC concentration.
- Clarifying WAC 16-306-200:
  - Increasing the "negligent violation" threshold for THC concentration from 0.5 percent to one percent.
  - Removing the department's reporting requirements on the production of hemp without a license to USDA and United States Attorney General as these requirements were removed in USDA hemp final rule.
- Clarifying WAC 16-306-210 to specify that culpable violations will be reported to the "US Attorney General," instead of just "Attorney General."

Additionally, the department is amending the following sections throughout the chapter to provide clarity and transparency to hemp producers in regard to testing, the appeals process, and enforcement:

- Replacing the word "marijuana" with "cannabis" in WAC 16-306-020 and 16-306-030.
- Clarifying language in WAC 16-306-080 (replacing "shall" with "may").
- Clarifying language in WAC 16-306-100 to remove the references to hemp being certified for human consumption from the language. The department is also clarifying the language in this section regarding the list of pesticides that is available on the department's website.
- Expanding WAC 16-306-180 to include recipients of negligent or culpable violations amongst those who may request an adjudicative proceeding.
- Amending WAC 16-306-200:

- Including unlicensed hemp producers as those who are subject to a corrective action plan.
- Clarifying that producers cannot receive more than one negligent violation per growing season.

Lastly, the department is amending the following sections to reduce fees for hemp producers:

- Removing the reference to a late license fee for applications received after March 31 from WAC 16-306-040(b) to reduce the cost to licensees.
- Removing late license fee and license modification fee from WAC 16-306-140 to reduce the cost to licensees.

Citation of Rules Affected by this Order: New WAC 16-306-075; and amending WAC 16-306-020, 16-306-030, 16-306-040, 16-306-050, 16-306-080, 16-306-090, 16-306-100, 16-306-120, 16-306-140, 16-306-170, 16-306-180, 16-306-200, and 16-306-210.

Statutory Authority for Adoption: RCW 15.140.030.

Adopted under notice filed as WSR 22-16-112 on August 3, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 7, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 8, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 14, 2022.

Derek I. Sandison
Director

OTS-3910.3

AMENDATORY SECTION (Amending WSR 20-03-174, filed 1/22/20, effective 2/22/20)

WAC 16-306-020 Activities outside the scope of the hemp program. The following activities are not subject to regulatory sanctions or penalties under this chapter, except for the limitation of THC content under chapter 15.140 RCW:

(1) Possessing, transporting, marketing or exchanging legally obtained hemp and hemp products;

(2) Growing, producing, possessing, processing, marketing or exchanging ((~~marijuana~~)) cannabis as defined in RCW 69.50.101.

[Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-020, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-030 Definitions. "Acceptable hemp THC level" means the application of the measurement of uncertainty to the reported THC concentration level on a dry weight basis producing a distribution or range that includes 0.3 percent or less.

"Agricultural Improvement Act of 2018" means sections 7605, 10113, 10114, and 12619 of the Agricultural Improvement Act of 2018, P.L. 115-334.

"Applicant" means a person who submits an application for a hemp producer license to participate in the hemp program as required under this chapter.

"Contiguous land area" means a specific field with designated boundaries that is planted with hemp. Separate parcels connected only by thin or narrow plantings of hemp or separated by physical barriers such as ditches or roads are not considered contiguous for the purposes of this rule.

"Continuous licensing" means the hemp producer licensee renews their license annually prior to expiration, such that the licensee is continuously operating under a valid license.

"Corrective action plan" means a plan by the department for a licensed hemp producer to correct a negligent violation of, or noncompliance with, a hemp production plan, its terms, or any other regulation set forth under this chapter.

"Department" means the Washington state department of agriculture.

"Destroyed" means incinerated, tilled under the soil, made into compost, or rendered nonretrievable in another manner approved by the department.

"Disposal" means the material is collected for destruction by a person authorized to handle ((~~marijuana~~)) cannabis such as a Drug Enforcement Agency (DEA)-registered reverse distributor, or in another manner approved by the department.

"Hemp" means the plant Cannabis sativa L. and any part of the plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

"Hemp processor" means a person who takes possession of raw hemp material with the intent to modify, package, or sell a transitional or finished hemp product.

"Key participant" means a person or persons who have a direct or indirect financial interest in the entity producing hemp, such as an owner or partner in a partnership. A key participant also includes persons in a corporate entity at executive levels including chief executive officer, chief operating officer and chief financial officer. This does not include such management as farm, field, or shift managers.

"Legal description" means a method of locating or describing land in relation to the public land survey system such as section, township, and range.

"Licensee" means any person who holds a license from the department to grow or produce hemp in Washington state.

"Lot" refers to a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout. In addition, "lot" is a common term in agriculture

that refers to the batch or contiguous, homogeneous whole of a product being sold to a single buyer at a single time. Under the terms of this chapter, "lot" is to be defined by the producer in terms of farm location, field acreage, and variety.

"Measurement of uncertainty" means the parameter, associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement. The measurement of uncertainty is similar to a margin of error. When the measurement of uncertainty, normally expressed as a +/- with a number, (e.g., +/- 0.05) is combined with the reported measurement, it produces a range and the actual measurement has a known probability of falling within that range.

"Microgreen" means an immature nonflowering hemp plant harvested for sale or distribution at fewer than 12 inches in height.

"Process" means the processing, compounding, or conversion of hemp into hemp commodities or products.

"Produce" or "production" means the planting, cultivation, growing, or harvesting of hemp, including hemp seed.

"Registered land area" means a contiguous land area, including greenhouses and storage areas registered with the department as a condition of licensing, on which a licensee will conduct licensed activities. A registered land area may include more than one field, greenhouse, or storage area so long as those fields, greenhouses, or storage areas are at the same physical address.

"Remediation" means the process by which a licensed hemp producer transforms noncompliant plants into useful and compliant material.

"Storage area" means any area, building, plant or facility registered with the department in which a licensee plans to store hemp.

"THC concentration" means the percent of total delta-9 tetrahydrocannabinol, which is the conversion of delta-9 tetrahydrocannabinolic acid into THC.

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104. WSR 22-01-137, § 16-306-030, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-030, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-040 Hemp producer license application. (1) An applicant for a hemp producer license must:

(a) Provide the information required for a hemp producer license on a form provided by the department that at a minimum includes the following:

(i) The name and business address of the applicant;

(ii) For corporate applicants, the type of business entity, such as corporation, LLC, or partnership, the state or country where the business is incorporated, and the name and address of the entity's agent in Washington state;

(iii) The legal description (section, township, and range) in which any proposed registered land area is located; and

(iv) Geospatial location coordinates of any proposed field, greenhouse, or other site where hemp is produced.

(b) Apply to the department for participation in the program between January 1st and March 31st. Applications may be received after March 31st but ((~~are subject to a late license fee~~)) will remain subject to the same expiration date;

(c) Pay fees as required under this chapter;

(d) Consent to entrance of their property by the department to inspect their registered land area with or without prior notice; and

(e) Report hemp crop acreage to USDA Farm Service Agency (FSA). A link to FSA information on how to report hemp crop acreage to FSA is available on the United States Department of Agriculture (USDA) hemp production program website.

(2) Licenses will expire on the last day of April following the year the license is issued.

(3) All applications must be accompanied by a criminal history report completed within 60 days of the application date. If the application is for a business entity, a completed criminal history report must be provided for each key participant.

(a) The criminal history report must indicate the applicant has not been convicted of a state or federal felony related to a controlled substance for the 10 years prior to the date of when the report was completed. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.

(b) A person with a prior felony related to controlled substances within 10 years of applying for a producer license is not eligible for the license. Key participants of associations, corporations, and other business entities with a prior felony related to a controlled substance within 10 years of applying for a producer license are not eligible for the license under this felony drug conviction limitation. Business entities may still be eligible if the key participant with a prior felony is discharged.

(4) Any person who materially falsifies information in the application shall be ineligible to participate in the program.

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104. WSR 22-01-137, § 16-306-040, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-040, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-174, filed 1/22/20, effective 2/22/20)

WAC 16-306-050 Hemp producer license. (1) A person must obtain a hemp producer license prior to planting or growing hemp in this state, including growing hemp seed crop.

(2) A licensed producer may sell or exchange hemp produced under the license once the department has issued documentation declaring the hemp to meet the THC concentration requirements.

(3) The department may inspect and sample a producer's licensed operations. The producer must permit unrestricted access to all hemp plants, plant parts, grain and seeds within a registered land area whether growing or not, and all land and facilities used by the producer for the growing and storage of hemp, pesticide storage or housing, and all documents and records pertaining to the licensee's hemp business operations during business hours.

(4) The licensee must pay all applicable fees adopted under this chapter for any required inspections and testing. Samples may be taken at the department's discretion for testing.

(5) No registered land area may contain cannabis plants or parts thereof that the licensee knows or has reason to know are of a variety that will produce a plant that when tested will produce more than 0.3 percent THC concentration on a dry weight basis. No licensee shall use any such variety for any purpose associated with the growing of hemp.

(6) Licenses will expire on the last day of April following the year the license is issued. This date is not tied to the harvest and planting season. Rather it is tied to the window for applications (January 1st – March 31st) and the ((~~thirty~~)) 30 days for the department to make a decision. For example, if a producer applies for a license February 1, 2020, and is granted a license on March 1, 2020, the license would expire April 30, 2021.

(7) Unless the license is renewed, the licensee must dispose of any plant material that is not harvested prior to expiration of the license ((~~must be destroyed~~)).

(8) Upon any change to the registered land area(s) after issuance of the license, the licensee must submit to the department for approval an updated legal description, geospatial location, and a description of the changes to the registered land area(s) and required fees.

(9) At a minimum, licensees are required to post a sign on each side of every registered land area listed on the application including the following information:

(a) The department-issued license number;

(b) Crop type; and

(c) The department contact phone number.

(10) Licensees growing hemp for seed certification must also follow the requirements in chapter 16-302 WAC.

[Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-050, filed 1/22/20, effective 2/22/20.]

NEW SECTION

WAC 16-306-075 Immature nonflowering hemp plants. Licensed hemp producers that grow hemp for certain purposes that do not bring plants to their flowering stage, like clones and microgreens, are not required to meet the same sampling and testing requirements as operations that grow flowering hemp, as these immature, nonflowering plants do not exceed 0.3 percent THC when the plants are harvested before reaching 12 inches in height. Immature plants must meet the following requirements for THC certification:

(1) The hemp producer licensee must notify the department of their intent to grow microgreens, lettuces, or cut immature plants in their license application, or email hemp@agr.wa.gov with their intent to grow upon the start of their first planting.

(2) At least seven days prior to a hemp producer licensee's immature hemp plant harvest, the licensee must notify the department and may be subject to inspection. An inspection may include:

(a) Visual inspection of all the hemp plants to be harvested to ensure they are immature plants of less than 12 inches; and

(b) Licensee compliance with chapter 15.140 RCW, Hemp Production, and this chapter.

(3) After visual inspection, the department may issue a THC certification required by WAC 16-306-120. This certification is specifically for immature cut hemp plants, and will expire one month after inspection. Certification permits the transport of immature hemp plants under WAC 16-306-130 for the time period of the certification.

[]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-080 Hemp inspection and sampling criteria. (1) All hemp producer licensees are subject to inspection by the department. The department ((~~shall~~)) may inspect registered land areas under a producer license at least once during each license period. The department's inspections of the registered land area may include the following:

(a) Inspections for unauthorized plant growth;

(b) Inspections for hemp in any form on the registered land area;

(c) Inspections for rogue, volunteer, or off-type hemp plants;

(d) Audits of existing business data and reports related to hemp;

(e) Identifying compliance with required signage as specified in WAC 16-306-050; and

(f) Assessing compliance with other applicable licensing terms and conditions.

(2) The department shall take hemp samples from registered land areas licensed under a producer license within ((~~15~~)) 30 days prior to the anticipated harvest of cannabis plants to test for THC concentration.

(3) The licensee or designated employee shall accompany the sampling agent throughout the sampling process.

(4) Registered land areas may be inspected by the department for a period of 365 days from the end of the license period to check for unauthorized plant growth such as, but not limited to, volunteer plants.

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104). WSR 22-01-137, § 16-306-080, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-080, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-174, filed 1/22/20, effective 2/22/20)

WAC 16-306-090 Hemp THC testing criteria. (1) Mature hemp will be tested for THC concentration in a department-run or approved laboratory as determined by the department using post-decarboxylation or other testing methods approved by the department.

(2) Hemp testing will take place at times and on dates determined by the department.

(3) The department will apply the measurement of uncertainty to the reported THC concentration to determine if hemp material is in compliance under this chapter.

[Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-090, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-174, filed 1/22/20, effective 2/22/20)

WAC 16-306-100 Voluntary ((~~certification~~)) testing for ((~~hemp intended for human consumption~~)) pesticides and heavy metals. (1) In addition to testing required under WAC 16-306-090, producers may ((~~obtain certification that hemp meets the department's standards for human consumption if tested~~)) request voluntary testing for the following:

(a) ((~~Nonapproved pesticide or herbicide use.~~)) A link to the list of ((~~approved~~)) pesticides ((~~and herbicides~~)) that are allowed for use on hemp is available on the department website((~~; and~~)).

(b) Approved limits of mycotoxin. The sample and related lot fail testing for mycotoxin if the results exceed the following limits:

(i) Total of Aflatoxin B1, B2, G1, G2: 20 µg/kg of substance;

(ii) Ochratoxin A: 20 µg/kg of substance.

(c) Approved limits for heavy metals. The sample and related lot fail testing for heavy metals if the results exceed the following limits:

Metal	µ/daily dose (5 grams)
Inorganic arsenic	10.0
Cadmium	4.1
Lead	6.0
Mercury	2.0

(2) The producer must inform the department if they wish to ((~~participate in the voluntary certification for human consumption~~)) receive voluntary testing for pesticides and heavy metals at the time of sampling ((~~as specified under WAC 16-306-080~~)) and in their harvest report.

(3) The licensee will be required to reimburse the department or the approved laboratory for the actual costs incurred for conducting such tests.

[Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-100, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 20-03-174, filed 1/22/20, effective 2/22/20)

WAC 16-306-120 THC certification. (1) If the hemp meets THC concentration requirements in this chapter, the department will issue a document of certification attesting that hemp has been tested or visually inspected for THC concentration and is in compliance with this chapter.

(2) No hemp may leave a registered land area identified on a license without being issued THC certification by the department.

(3) Hemp plant material from different registered land areas or lots may not be combined until the department issues certification for each field, lot, or registered land area. Hemp seeds and grain are excluded from this restriction.

[Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-120, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-140 Hemp producer license fees. ((~~(1)~~)) Hemp producer annual license fee((~~s are as follows:~~)) is $1,200.

((~~Annual License Fee~~	~~License Modification Fee~~	~~Late License Fee (After March 31)~~
~~$1,200~~	~~$200~~	~~$200~~

~~(2) The license modification fee is required when a licensee submits changes to the registered land area(s) as specified in WAC 16-306-050(8).~~

~~(3) The late license fee is added to any application submitted after March 31st and is in addition to the annual license fee.~~))

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104). WSR 22-01-137, § 16-306-140, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-140, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-170 Hemp noncompliance for THC concentration. (1)(a) If a hemp producer licensee's hemp tests higher than the acceptable hemp THC level, the licensee may be subject to suspension or revocation of their license. The lot must be ((~~destroyed or~~)) disposed of in a manner approved by the department. If determined to be appropriate, the department may give notice of noncompliance to appropriate law enforcement agencies and the Washington state liquor and cannabis board, with a summary of the actions taken to ((~~destroy~~)) dispose of the noncompliant hemp.

(b) Producers must document the ((~~destruction or~~)) disposal of all noncompliant hemp. This documentation must be submitted to the department following the completion of the ((~~destruction or~~)) disposal process.

(2) If a licensee's hemp tests higher than 0.3 percent but less than 0.5 percent THC concentration, the licensee may either request a THC retest within 30 days or resampling of the same lot, at their own expense.

(3) If a licensee's hemp tests higher than 0.3 percent but less than 0.7 percent THC concentration, the licensee may remediate their crop using methods approved by the department. The remediated crop

then must be resampled and retested within 30 days, at the licensee's own expense.

(4) If at any time a licensee's hemp tests higher than the acceptable hemp THC level, the licensee may be subject to revocation or suspension of their license.

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104. WSR 22-01-137, § 16-306-170, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-170, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-180 License denial, suspension or revocation, and right to adjudicative proceeding. Upon notice of intent by the department to an applicant to deny a hemp producer license, notice of intent to a licensee to suspend or revoke a license, ((~~or~~)) notice of ((~~intent for destruction of a hemp material or crop~~)) disposal of noncompliant hemp, or notice of a department finding that the licensee has committed a negligent or culpable violation, a person may request an adjudicative proceeding under chapter 34.05 RCW, the Administrative Procedure Act, and chapter 16-08 WAC.

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104. WSR 22-01-137, § 16-306-180, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-180, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-200 Corrective action plans. (1) ((~~A hemp producer licensee may be subject to a corrective action plan established by the department to correct negligent violations of this chapter including~~)) When the department determines that a hemp producer has committed a negligent violation, the department will issue a notice of violation. This notice will include a corrective action plan. Producers shall not receive more than one negligent violation per calendar year. Negligent violations include, but are not limited to:

(a) Failing to provide ((~~a~~)) an accurate legal description of land on which the producer produces hemp;

(b) Failing to obtain a license or other required authorization from the department; or

(c) Producing Cannabis sativa L. with delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

(2) A hemp producer ((~~licensee~~)) shall comply with a corrective action plan established by the department to correct the negligent violation((~~, including~~)). The corrective action plan will include:

(a) A reasonable date by which the hemp producer shall correct the negligent violation;

(b) A requirement that the hemp producer ((~~shall~~)) periodically report to the department, as applicable, on the compliance of the hemp

producer with the regulations under this chapter for a period of at least two calendar years.

(3) Licensees may be subject to license suspension or revocation for violations of chapter 15.140 RCW ((~~or~~)), this chapter, or for failing to comply with a corrective action plan.

(4) A hemp producer ((~~licensee~~)) that negligently fails to comply with the regulations under this chapter three times in a five-year period shall be ineligible to produce hemp for a period of five years beginning on the date of the third violation.

(5) The department will not consider hemp producers as committing a negligent violation by producing plants exceeding the acceptable hemp THC level if they use reasonable efforts to grow hemp and the plant does not have a THC concentration of more than ((~~0.5~~)) 1.0 percent on a dry weight basis. For sampling and testing violations, the department will consider the entire harvest from a distinct lot in determining whether a violation occurred. This means that if testing determines that each sample of five plants from distinct lots has a THC concentration exceeding the acceptable hemp THC level (or ((~~0.5~~)) 1.0 percent if the hemp producer has made reasonable efforts to grow hemp), ((~~USDA considers this as~~)) this is considered one negligent violation. If an individual produces hemp without a license, this will be considered one violation.

(6) ((~~Negligent violations are not subject to criminal enforcement. However, the department will report the production of hemp without a license issued by the department to the United States Department of Agriculture (USDA) and the Attorney General.~~

~~(7)~~)) Hemp found to be produced in violation of this chapter such as hemp produced on a property not disclosed by the licensed producer, or without a license, ((~~would be~~)) is subject to the same disposal ((~~or destruction~~)) requirements as for hemp above the acceptable hemp THC level.

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104. WSR 22-01-137, § 16-306-200, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-200, filed 1/22/20, effective 2/22/20.]

AMENDATORY SECTION (Amending WSR 22-01-137, filed 12/14/21, effective 1/14/22)

WAC 16-306-210 Culpable violations. If ((~~it is determined~~)) the department determines a violation was committed with a culpable mental state greater than negligence, meaning, acts made intentionally, knowingly or with recklessness, the department will report the violation to USDA, the U.S. Attorney General, and the local law enforcement officer as applicable.

[Statutory Authority: RCW 15.140.030, 15.140.060 and 2021 c 104. WSR 22-01-137, § 16-306-210, filed 12/14/21, effective 1/14/22. Statutory Authority: RCW 15.140.030 and chapter 34.05 RCW. WSR 20-03-174, § 16-306-210, filed 1/22/20, effective 2/22/20.]

WSR 22-19-035
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed September 14, 2022, 11:42 a.m., effective October 15, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state liquor and cannabis board has adopted new WAC 314-20-350, 314-24-350, and 314-28-350, contract packaging services endorsement for breweries, wineries, and distilleries, and amends WAC 314-11-065 Types of liquor allowed on a licensed premises, in order to implement SB 5940 (chapter 64, Laws of 2022; codified as RCW 66.24.248). SB 5940 created a new packaging services endorsement allowing breweries, wineries, and distilleries to contract with each other and with other nonliquor licensed businesses if the contract does not include alcohol products. The endorsement covers certain packaging services, such as canning, bottling, bagging, mixing, and repacking. The adopted rules implement SB 5940, inform licensees about the availability of the endorsement and its requirements and align existing agency rules with the law.

Citation of Rules Affected by this Order: New WAC 314-20-350, 314-24-350 and 314-28-350; and amending WAC 314-11-065.

Statutory Authority for Adoption: RCW 66.08.030.

Other Authority: RCW 66.24.248.

Adopted under notice filed as WSR 22-15-121 on July 20, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 1, Repealed 0.

Date Adopted: September 14, 2022.

David Postman
Chair

OTS-3933.1

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-11-065 ((What)) Types 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;

(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 66.12.160);

(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; and

(e) Licensees with an endorsement under WAC 314-20-350, 314-24-350, or 314-28-350 may keep other types of liquor on the premises to provide contract packaging services consistent with RCW 66.24.248.

(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.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-11-065, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.291], 66.44.310. WSR 04-15-162, § 314-11-065, filed 7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-065, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-065, filed 2/26/01, effective 3/29/01.]

OTS-3929.1

NEW SECTION

WAC 314-20-350 Contract packaging services endorsement for domestic breweries and microbreweries. Consistent with RCW 66.24.248:

(1) There is an endorsement available to domestic breweries, microbreweries, wineries, distilleries, and craft distilleries to pro-

vide contract packaging services to other domestic breweries, microbreweries, wineries, distilleries, craft distilleries, and nonliquor licensed businesses.

(2) Contract packaging services allowed under the endorsement include:

(a) Canning, bottling, and bagging;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(3) An application for an endorsement under this section must be submitted to the board's licensing division. If a licensee is in good standing at the time of the application request, the endorsement will be issued without further requirement for additional licensing or administrative review. "Good standing" means currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits. The applicant must submit a copy of the proper federal permits with the application. If at any time after the endorsement is issued a licensee begins contract packaging a product for which new federal permits are required, the licensee must submit a copy of the proper federal permits to the board's licensing division.

(4) Consistent with RCW 66.08.130, endorsement holders must make a copy of any contracts and federal permits available to representatives of the board upon request.

(5) The annual fee for this endorsement is $100.

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OTS-3930.1

NEW SECTION

WAC 314-24-350 Contract packaging services endorsement for domestic wineries. Consistent with RCW 66.24.248:

(1) There is an endorsement available to domestic breweries, microbreweries, wineries, distilleries, and craft distilleries to provide contract packaging services to other domestic breweries, microbreweries, wineries, distilleries, craft distilleries, and nonliquor licensed businesses.

(2) Contract packaging services allowed under the endorsement include:

(a) Canning, bottling, and bagging;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(3) An application for an endorsement under this section must be submitted to the board's licensing division. If a licensee is in good standing at the time of the application request, the endorsement will be issued without further requirement for additional licensing or administrative review. "Good standing" means currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits. The applicant must submit a copy of the proper federal permits with the application. If at any time after the endorsement is issued a licensee begins contract packaging a product for which new federal permits are required, the licensee must submit a copy of the proper federal permits to the board's licensing division.

(4) Consistent with RCW 66.08.130, endorsement holders must make a copy of any contracts and federal permits available to representatives of the board upon request.

(5) The annual fee for this endorsement is $100.

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OTS-3931.1

NEW SECTION

WAC 314-28-350 Contract packaging services endorsement for domestic distilleries and craft distilleries. Consistent with RCW 66.24.248:

(1) There is an endorsement available to domestic breweries, microbreweries, wineries, distilleries, and craft distilleries to provide contract packaging services to other domestic breweries, microbreweries, wineries, distilleries, craft distilleries, and nonliquor licensed businesses.

(2) Contract packaging services allowed under the endorsement include:

(a) Canning, bottling, and bagging;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(3) An application for an endorsement under this section must be submitted to the board's licensing division. If a licensee is in good standing at the time of the application request, the endorsement will be issued without further requirement for additional licensing or administrative review. "Good standing" means currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits. The applicant must submit a copy of the proper federal permits with the application. If at any time after the endorsement is issued a licensee begins contract packaging a product for which new federal permits are required, the licensee must submit a copy of the proper federal permits to the board's licensing division.

(4) Consistent with RCW 66.08.130, endorsement holders must make a copy of any contracts and federal permits available to representatives of the board upon request.

(5) The annual fee for this endorsement is $100.

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WSR 22-19-038
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed September 14, 2022, 1:27 p.m., effective October 15, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update chapter 139-10 WAC to match agency processes and practices, update the curriculum of the services academies, and restructure WAC to be more accommodating to stakeholders.

Citation of Rules Affected by this Order: Repealing 3; and amending 12.

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 22-16-060 on July 29, 2022.

Changes Other than Editing from Proposed to Adopted Version: The Washington state criminal justice training commission received public comment about additional references regarding certified corrections officers complying with chapter 139-06 WAC and asked for references to be included. Additionally, items were added to the listed curriculums of the services academies, including cultural awareness and the historical intersection of race and corrections.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 11, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 12, Repealed 3.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 14, 2022.

Derek Zable
Records Manager

OTS-3992.5

AMENDATORY SECTION (Amending WSR 09-16-135, filed 8/5/09, effective 9/5/09)

WAC 139-10-210 Requirement of basic corrections training for correctional personnel. As ((~~provided in RCW 43.101.220, all full-time corrections employees in the state of Washington with the exception of the Washington state department of corrections prison division or of any city, county, or political subdivision of the state of Washington must, as a condition of continued employment, successfully complete a basic corrections academy as prescribed, sponsored, or conducted by the commission~~)) a condition of continued employment, unless exempted by the commission, all correctional personnel, as defined in RCW 43.101.010, with the exception of those employed by the Washington

state department of corrections prison division, must commence training in a basic corrections academy within the initial six-month period of employment, unless otherwise extended or waived by the commission, and then successfully complete the training. The commission and the department of corrections share the responsibility of developing and defining training standards and providing training for community corrections officers employed within the community corrections division of the department of corrections. ((~~This requirement to complete basic training must be fulfilled within the initial six months of corrections employment unless otherwise extended or waived by the commission.~~)) Requests for extension or waiver of the basic training requirement must be submitted to the commission in writing as designated by ((~~its policies~~)) commission policy and procedures.

(1) ((~~Corrections~~)) Correctional personnel must ((~~attend~~)) successfully complete the appropriate basic corrections academy ((~~training~~)) according to job function as ((~~described~~)) referred below:

(a) Corrections officers academy((~~. All employees whose primary job function is to provide for the custody, safety, and security of adult prisoners in jails and detention facilities. Representative job classifications include, but are not limited to, custody and corrections officers~~)), as described in WAC 139-10-230.

(b) Misdemeanant ((~~probation/classification~~)) probation counselors academy((~~. All employees whose primary job function is the case management of offenders under county/city supervision, to include: Assessment, case planning, counseling, supervision, and monitoring. Representative job classes include, but are not limited to adult probation officers~~)), as described in WAC 139-10-235.

(c) Community corrections officers academy and basic arrest, search, and seizure academy((~~. All employees whose primary job function is the case management in the community of adult offenders under state department of corrections supervision, to include: Monitoring adjustment of offenders involved with in/outpatient treatment programs, counseling offenders and/or referring them for counseling or other resource/treatment programs, and making home/field visits pursuant to offender classification standards. Representative job classifications include, but are not limited to, community corrections officers, community risk management specialists, hearings officers, and victim advocates~~)), as described in WAC 139-10-530.

(d) Juvenile services academy((~~. All employees working with juveniles whose primary job function is the case management of offenders, to include: Assessment, case planning, counseling, supervision, and monitoring. Representative job classes include, but are not limited to, juvenile probation counselors, case aides/assistants, trackers, juvenile drug court counselors, and community surveillance officers~~)), as described in WAC 139-10-237.

(e) Juvenile corrections officers academy((~~. All employees responsible for the care, custody, and safety of youth in county facilities. Representative job classes include, but are not limited to, juvenile detention workers, juvenile corrections officers, and juvenile supervision officers~~)), as described in WAC 139-10-240.

(f) Juvenile ((~~residential counselors~~)) rehabilitation academy((~~. All employees responsible for the case management, custody, safety, counseling, supervision, and application of researched based treatment interventions to youth committed to the care and supervision of the juvenile rehabilitation administration. Representative job classes include, but are not limited to, juvenile residential rehabilitation counselors, juvenile rehabilitation community counselors, juvenile re-~~

~~habilitation counselor assistants, juvenile rehabilitation security officers, juvenile rehabilitation coordinators, and juvenile rehabilitation supervisors.~~

~~(2) It is the responsibility of the employing agency to determine the most appropriate basic academy for an employee to attend within the guidelines set by the commission.~~

~~An agency may elect to decline basic academy training if such employee occupies a middle management or an executive position, as defined in WAC 139-10-410, 139-10-510, and 139-25-110.~~

~~(3) Failure to comply with the above requirements will result in a notification of noncompliance from the commission directed to the individual employee and, as appropriate, the employing agency director, chief or sheriff, the chief executive of the local unit of government, and any other agency or individual determined by the commission.~~

~~(4)~~)), as described in WAC 139-10-245.

(2) Each agency employing correctional personnel ((~~covered by RCW 43.101.220~~)), as defined in RCW 43.101.010, is responsible for full and complete compliance with the above training requirements. Additionally, each such agency must provide the commission with employment information necessary for the establishment and maintenance of complete and accurate training records on all affected employees, as required by WAC 139-10-213.

[Statutory Authority: RCW 43.101.080. WSR 09-16-135, § 139-10-210, filed 8/5/09, effective 9/5/09; WSR 05-20-027, § 139-10-210, filed 9/28/05, effective 10/29/05; WSR 04-13-071, § 139-10-210, filed 6/15/04, effective 7/16/04; WSR 00-17-017, § 139-10-210, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.220. WSR 95-08-036 and 95-09-070, § 139-10-210, filed 3/30/95 and 4/19/95, effective 4/30/95 and 5/20/95. Statutory Authority: RCW 43.101.080(2). WSR 87-19-105 (Order 15-D), § 139-10-210, filed 9/18/87; WSR 86-19-021 (Order 1-B), § 139-10-210, filed 9/10/86. Formerly WAC 139-36-020.]

AMENDATORY SECTION (Amending WSR 05-20-028, filed 9/28/05, effective 10/29/05)

WAC 139-10-212 Physical requirements for admission to basic corrections academies. ((~~Each successful applicant~~)) (1) For admission to ((~~a basic~~)) the corrections officers academy or juvenile corrections officers academy ((~~sponsored or conducted by the commission~~)), each recruit must possess good health and physical capability to actively and fully participate in defensive tactics training and other required physical activities.

(2) In order to minimize risk of injury and maximize the benefit of such participation, each ((~~trainee~~)) recruit in any academy session must, as a precondition of ((~~his or her~~)) their academy ((~~attendance~~)) admission, demonstrate a requisite level of physical fitness, as established by the commission.

For this purpose, each ((~~academy applicant~~)) recruit must be evaluated ((~~in the assessment areas of aerobic capacity, strength, and flexibility,~~)) in accordance with the ((~~requirements~~)) policies and procedures established by the commission. ((~~Such evaluation will be based upon composite performance ratings in the overall assessment as established by the commission.~~))

(3) Failure to demonstrate a requisite level of fitness ((~~within the overall assessment~~)) will result in ineligibility for academy ((~~attendance and completion~~)) admission.

[Statutory Authority: RCW 43.101.080. WSR 05-20-028, § 139-10-212, filed 9/28/05, effective 10/29/05; WSR 00-17-017, § 139-10-212, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 91-14-010, § 139-10-212, filed 6/24/91, effective 7/25/91; WSR 91-01-044, § 139-10-212, filed 12/12/90, effective 7/1/91.]

AMENDATORY SECTION (Amending WSR 18-13-059, filed 6/14/18, effective 7/15/18)

WAC 139-10-213 Employment and separation of ((~~corrections~~)) correctional personnel—Notification to commission. ((~~Upon employment,~~)) All counties and municipal corporations of the state of Washington, or any political subdivision thereof, shall ((~~immediately~~)) notify the commission ((~~on a personnel action report~~)) within 15 days by an approved form ((~~provided by the commission~~)) of each instance where ((~~corrections~~)) correctional personnel begins continuing and regular employment with that agency((~~. The commission shall maintain these notices in a permanent file, subject to RCW 43.101.400~~)) and each instance where correctional personnel has been separated for any reason. Agencies employing corrections officers must give additional notices as specified in WAC 139-06-020.

[Statutory Authority: RCW 43.101.080. WSR 18-13-059, § 139-10-213, filed 6/14/18, effective 7/15/18.]

AMENDATORY SECTION (Amending WSR 18-19-067, filed 9/17/18, effective 10/18/18)

WAC 139-10-215 ((~~Basic corrections academy equivalency certification.~~)) Equivalency process for corrections officers. ((~~(1) A certificate of equivalent basic corrections training shall be issued only to corrections employees who successfully complete the equivalency process as required by the Washington state criminal justice training commission and shall be recognized in the same manner as the certificate of completion of a basic corrections academy.~~

~~(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time custody and case management employees of publicly funded corrections agencies within this state who have either:~~

~~(a) Obtained certification through successful completion of an accepted basic corrections training program in this or another state.~~

~~(b) Previously held certification in this state and incurred a break or interruption of corrections employment in excess of twenty-four months but less than sixty months and who are required to attend the equivalency.~~

~~The determination of program acceptability shall be the responsibility of the commission's executive director or his/her designee and~~

~~shall be based upon a description and/or curriculum specifying subject areas and hourly allocation thereto.~~

~~(3) The decision to request an employee's participation within the equivalency process shall be discretionary with the chief executive officer of the employing agency. Such request shall be made to the commission in the approved form, signed by the chief executive officer of the requesting agency and shall include:~~

~~(a) Documented certification of successful completion of a basic corrections training program accepted by the training commission for the purposes of equivalency participation pursuant to the provisions of section (2) above;~~

~~(b) Written curriculum detailing specific areas of training and hours of training in specific areas;~~

~~(c) Copies of current and valid basic cardiopulmonary resuscitation (CPR) card and current and valid basic or advanced first-aid card(s) taken within the past year;~~

~~(d) Statement of applicant's health and physical condition from a licensed physician giving clearance for participation in physical training and defensive tactics coursework.~~

~~(4) Following receipt and acceptance of the above by the training commission, the applicant may participate in the equivalency process which shall include written examinations of specific core material classes, practical testing in basic skill areas, and full participation in mock scenes.~~

~~(5) Upon completion of the examination process outlined in section (4) and evaluation of the applicant's performance, the training commission shall:~~

~~(a) Issue a certificate of equivalent basic training;~~

~~(b) Issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the training commission may require;~~

~~(c) Require completion of the appropriate basic corrections academy program.~~

~~(6) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the training commission if it is determined that sufficient justification exists for such action. Any action or determination by commission staff regarding a requestor or applicant for equivalency certification may, upon written request of the involved individual or agency, be appealed to the training commission executive director, or designee~~)) The corrections officers equivalency academy process is provided in WAC 139-05-210.

[Statutory Authority: RCW 43.101.080. WSR 18-19-067, § 139-10-215, filed 9/17/18, effective 10/18/18; WSR 03-13-098, § 139-10-215, filed 6/17/03, effective 7/18/03; WSR 00-17-017, § 139-10-215, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 91-01-041, § 139-10-215, filed 12/12/90, effective 1/12/91.]

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-10-220 Completion requirements of basic corrections ((~~academy~~)) academies. ((~~(1)~~)) Each ((~~trainee~~)) recruit in a basic corrections academy ((~~shall~~)) will receive ((~~certification~~)) a diploma

only upon full and successful completion of the academy ((~~process~~)) as prescribed by the ((~~Washington state criminal justice training~~)) commission. The performance of each ((~~trainee~~)) recruit shall be evaluated as follows:

((~~(a) Scholarship.~~)) (1) Academic performance.

(a) A standardized ((~~examination~~)) evaluation process ((~~shall~~)) will be utilized ((~~by each~~)) in all basic corrections ((~~academy~~)) academies sponsored or conducted by the commission((~~,~~)) in evaluating the level of scholastic achievement ((~~and skill proficiency~~)) of each ((~~trainee~~)) recruit.

(b) Such process shall include the application of a designated minimum passing score for written examinations and the availability of a retesting procedure.

((~~(b) Participation. Each trainee shall be required to participate fully in all academy classes, practice exercises and physical training programs. No applicant for basic corrections training shall begin the basic academy assignment if his or her health and physical condition precludes active and full participation in the physical activities required for certification. In no instance shall certification be granted until successful completion of physical fitness training, including defensive tactics, has been achieved.~~

~~(c) Deportment and conduct.~~)) (c) Failure to achieve the required minimum passing score will result in termination of academy enrollment.

(2) Practical skills.

(a) A standardized evaluation process will be utilized in all corrections officers academies and juvenile corrections officers academies sponsored or conducted by the commission in evaluating the level of skill proficiency of each recruit.

(b) Such process shall include the application of a designated minimum passing score of all skill proficiencies identified by the commission and the availability of a retesting procedure.

(c) Failure to achieve a final passing grade in each practical skills dimension will result in termination of academy enrollment.

(3) Conduct and participation.

(a) Each recruit will be required to participate fully in all academy classes and adhere to all rules, regulations, and policies of the commission.

(b) Failure to ((~~maintain a standard of deportment and conduct as defined in the~~)) adhere to all rules, regulations and policies of the ((~~basic corrections academy may~~)) commission will result in termination of academy enrollment.

((~~(2) Upon the written request of a trainee, or the head of a trainee's employing agency, any action affecting such trainee's status or eligibility for certification shall be reviewed pursuant to the procedural rules and regulations adopted by the commission.~~))

[Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-10-220, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 93-13-099, § 139-10-220, filed 6/21/93, effective 7/22/93; WSR 87-19-105 (Order 15-D), § 139-10-220, filed 9/18/87; WSR 86-19-021 (Order 1-B), § 139-10-220, filed 9/10/86. Formerly WAC 139-36-030.]

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-10-222 Readmission to basic corrections academies. No person may be readmitted to any basic corrections ((~~training~~)) academy except as provided in this section and in accordance with WAC 139-06-130.

(1) Any request for readmission ((~~to any academy shall~~)) must be made and submitted by the individual's employing ((~~or sponsoring~~)) agency ((~~chief executive officer~~)) head, or designee, in accordance with commission policies and procedures.

(2) Any individual whose academy enrollment was terminated ((~~from any academy~~)) for academic failure, skills deficiency, disciplinary reasons other than those specified in subsection (3) of this section, or who ((~~has~~)) had voluntarily withdrawn ((~~from any academy~~)) for any reason, may be readmitted to a subsequent academy session only if:

(a) The ((~~head of the~~)) individual's current employing agency head, or their designee, submits to the commission a written request for readmission of the individual to the academy ((~~program,~~)); and

(b) The executive director of the commission, or designee, is satisfied that any conditions to the individual's readmission ((~~previously~~)) specified by the ((~~agency~~)) commission executive director, or designee, have been met.

(3) ((~~Any individual dismissed from any academy for disciplinary reasons other than those specified by section (4), below, may be readmitted to a subsequent academy program only if:~~

~~(a) The head of the individual's current employing agency, or designee, submits to the commission a written request for readmission, and~~

~~(b) The executive director of the commission, or designee, is satisfied that any conditions to the individual's readmission previously specified by the director or designee have been met, and determines there no longer exists "good cause" to exclude the individual from the academy program.~~

~~(4)~~)) Any person ((~~dismissed from any~~)) whose academy enrollment was terminated for an integrity violation((~~,~~)) including, but not limited to: Cheating, the making of materially false statements, ((~~or~~)) the commission of a crime ((~~shall not be eligible~~)), or other violation contained in RCW 43.101.105 will be ineligible for readmission to any subsequent academy within ((~~twenty-four~~)) 24 months from the date of dismissal((~~. Such ineligibility shall not be affected by any new employment or reemployment during the period of ineligibility specified in the preceding sentence of this subsection.~~

~~(5)~~)) regardless of employer or employment status.

(4) An exception to the ineligibility period specified in subsection ((~~(4)~~)) (3) of this section may be granted at the sole discretion of the commission executive director, or designee, based upon mitigating circumstances.

((~~However,~~)) (a) No person may be considered for such early readmission after an integrity violation dismissal unless a written request is made by the head of the agency employing the individual at the time of the request.

((~~Such request may be granted by the executive director upon hearing the matter in a proceeding conducted in accordance with the applicable procedures of the commission.~~)) (b) Requests for early readmission must follow applicable commission policies and procedures to be considered.

(c) The executive director's, or designee's, decision under this subsection shall be subject to ((~~further~~)) review only for abuse of discretion.

((~~(6)~~)) (5) After the ineligibility period specified in subsection ((~~(4)~~)) (3) of this section has passed, or after an exception ((~~thereto~~)) has been granted by the commission under subsection ((~~(5)~~)) (4) of this section, the person previously dismissed for an integrity violation may be readmitted to a subsequent academy session only if((~~:~~

~~(a) The head of the individual's current employing agency submits to the commission a written request for readmission, and~~

~~(b) The executive director of the commission, or designee, is satisfied that any conditions to the individual's readmission specified by the agency director or designee have been met, and determines there no longer exists "good cause" to exclude the individual from the academy program.~~

~~(7) Any and all information deemed to be relevant to the eligibility for readmission under this section of any law enforcement or corrections trainee or prospective trainee may be disseminated without restriction between the commission staff and any employer or prospective employer.~~

~~(8) For purposes of this section, reserves and volunteers will be deemed to be employees of the agencies which sponsor them for participation in a training academy~~)) the conditions of subsection (2) of this section are satisfactorily met.

[Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-10-222, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 93-07-119, § 139-10-222, filed 3/24/93, effective 4/24/93.]

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-10-230 ((~~Basic~~)) Corrections officers academy eligibility and curriculum. (1) All employees whose primary job function is to provide for the custody, safety, and security of adult prisoners in jails and detention facilities must complete the corrections officers academy. Representative job classifications include, but are not limited to, custody and corrections officers.

(2) The ((~~basic~~)) corrections officers academy curriculum ((~~of the Washington state criminal justice training commission,~~)) shall be ((~~one hundred sixty~~)) at least 400 instructional hours in length and ((~~shall~~)) may include, but not be limited to, the following subject matter areas:

((~~(1)~~)) (a) Core skills
((~~(a)~~)) (i) Observation skills
((~~(b)~~)) (ii) Communication skills
((~~(c)~~)) (iii) Security management
((~~(d)~~)) (iv) Supervision of inmates
((~~(e)~~)) (v) Discipline of inmates
((~~(f)~~)) (vi) Proper use of physical force
((~~(g)~~)) (vii) Writing skills
((~~(2)~~)) (b) Key skills
((~~(a)~~)) (i) Legal issues

((~~(b)~~)) (ii) Dealing with aggressive behavior
((~~(c)~~)) (iii) Dealing with medical problems
((~~(d)~~)) (iv) Dealing with mental illness problems
((~~(e)~~)) (v) Problem solving
((~~(f)~~)) (vi) Report writing
((~~(g)~~)) (vii) Avoiding inmate manipulation
((~~(h)~~)) (viii) Booking and classification
((~~(i)~~)) (ix) Fingerprinting
((~~(3)~~)) (c) Related skills
((~~(a)~~)) (i) Stress management
((~~(b)~~)) (ii) Physical fitness
((~~(c)~~)) (iii) Professionalism
((~~(d)~~)) (iv) Human relations/cultural awareness
((~~(e) Self-leadership~~)) (v) Historical intersection of race and corrections.

[Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-10-230, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 87-19-105 (Order 15-D), § 139-10-230, filed 9/18/87; WSR 86-19-021 (Order 1-B), § 139-10-230, filed 9/10/86. Formerly WAC 139-36-031.]

AMENDATORY SECTION (Amending WSR 05-13-079, filed 6/14/05, effective 7/15/05)

WAC 139-10-235 ((Basic)) Misdemeanant ((~~probation/classification academy~~)) probation counselors academy eligibility and curriculum. (1) All employees whose primary job function is the case management of adult offenders under county/city supervision, to include: Assessment, case planning, counseling, supervision, and monitoring must complete the misdemeanant probation counselors academy. Representative job classes include, but are not limited to, adult probation officers and counselors.

(2) The ((~~basic~~)) misdemeanant ((~~probation/classification~~)) probation counselors academy curriculum ((~~of the commission must~~)) shall be at least ((~~eighty~~)) 80 instructional hours in length and ((~~will~~)) may include, but not be limited to, the following subject matter areas:

((~~(1)~~)) (a) Core skills
((~~(a)~~)) (i) Assessment
((~~(b)~~)) (ii) Motivation
((~~(c)~~)) (iii) Goal setting/action planning
((~~(d)~~)) (iv) Monitoring and intervention
((~~(2)~~)) (b) Key skills
((~~(a)~~)) (i) Interpersonal skills
((~~(b)~~)) (ii) Interviewing
((~~(c)~~)) (iii) Classification
((~~(d)~~)) (iv) Supervision and discipline
((~~(e)~~)) (v) Offense prevention
((~~(3)~~)) (c) Related skills
((~~(a)~~)) (i) Dealing with aggressive and resistive behavior
((~~(b)~~)) (ii) Legal issues
((~~(c)~~)) (iii) Report writing
((~~(d)~~)) (iv) Counseling techniques
((~~(e)~~)) (v) Managing information

(vi) Human relations/cultural awareness
(vii) Historical intersection of race and corrections.

[Statutory Authority: RCW 43.101.080. WSR 05-13-079, § 139-10-235, filed 6/14/05, effective 7/15/05; WSR 00-17-017, § 139-10-235, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 87-19-105 (Order 15-D), § 139-10-235, filed 9/18/87; WSR 86-19-021 (Order 1-B), § 139-10-235, filed 9/10/86. Formerly WAC 139-36-032.]

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-10-237 ((~~Basic~~)) Juvenile services academy eligibility and curriculum. (1) All employees whose primary job function is to assess, case plan, and/or manage, counsel, and/or monitor juvenile offenders must complete the juvenile services academy. Representative job classes include, but are not limited to, juvenile probation counselors, guardian ad litems, case aides/assistants, trackers, juvenile drug court counselors, and community surveillance officers.

(2) The ((~~basic~~)) juvenile services academy curriculum ((~~of the Washington state criminal justice training commission~~)) shall be ((~~eighty~~)) at least 40 instructional hours in length and ((~~shall~~)) may include, but not be limited to, the following subject matter areas:

((~~(1) Core skills~~
~~(a) Assessment~~
~~(b) Motivation~~
~~(c) Goal setting/action planning~~
~~(d) Monitoring and intervention~~
~~(2) Key skills~~
~~(a) Interpersonal skills~~
~~(b) Interviewing~~
~~(c) Classification~~
~~(d) Supervision and discipline~~
~~(e) Offense prevention~~
~~(3) Related skills~~
~~(a) Dealing with aggressive and resistive behavior~~
~~(b) Ethnic competency~~
~~(c) Legal issues~~
~~(d) Report writing~~
~~(e) Counseling techniques~~
~~(f) Skill training~~
~~(g) Teamwork.~~))
(a) Core skills
(i) Observation skills
(ii) Writing skills
(iii) Interpersonal communication
(iv) Professionalism
(v) Legal authority
(b) Key skills
(i) Juvenile law
(ii) Behavioral health issues
(iii) Personal safety
(iv) De-escalation
(v) Adolescent development
(c) Related skills

(i) Trauma informed care
(ii) Stress management
(iii) Interviewing
(iv) Human relations/cultural awareness
(v) Historical intersection of race and corrections.

[Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-10-237, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 87-19-105 (Order 15-D), § 139-10-237, filed 9/18/87.]

AMENDATORY SECTION (Amending WSR 05-01-110, filed 12/15/04, effective 1/15/05)

WAC 139-10-240 ((~~Basic~~)) Juvenile corrections officers academy eligibility and curriculum. (1) All employees whose primary job function is the care, custody, and safety of juvenile offenders in county facilities must complete the juvenile corrections officers academy. Representative job classes include, but are not limited to, juvenile detention workers, juvenile corrections officers, and juvenile supervision officers.

(2) The ((~~basic~~)) juvenile corrections officers academy curriculum ((~~of the Washington state criminal justice training commission~~)) shall be at least ((~~eighty~~)) 80 instructional hours in length and ((~~shall~~)) may include, but not be limited to, the following subject matter areas:

((~~(1)~~)) (a) Core skills
((~~(a)~~)) (i) Observation skills
((~~(b)~~)) (ii) Interpersonal skills
((~~(c)~~)) (iii) Security management
((~~(d)~~)) (iv) Supervision of youth
((~~(e)~~)) (v) Discipline of youth
((~~(f)~~)) (vi) Proper use of physical force
((~~(g) Writing skills~~
~~(2)~~)) (b) Key skills
((~~(a)~~)) (i) Legal issues
((~~(b)~~)) (ii) Dealing with aggressive behavior
((~~(c)~~)) (iii) Handling medical problems
((~~(d)~~)) (iv) Handling mental illness problems
((~~(e)~~)) (v) Report writing
((~~(f)~~)) (vi) Skills training
((~~(g)~~)) (vii) Reception and classification
((~~(3)~~)) (c) Related skills
((~~(a)~~)) (i) Professionalism
((~~(b)~~)) (ii) Physical fitness
((~~(c)~~)) (iii) Stress management
(iv) Human relations/cultural awareness
(v) Historical intersection of race and corrections.

[Statutory Authority: RCW 43.101.080. WSR 05-01-110, § 139-10-240, filed 12/15/04, effective 1/15/05; WSR 00-17-017, § 139-10-240, filed 8/4/00, effective 9/4/00. Statutory Authority: RCW 43.101.080(2). WSR 87-19-105 (Order 15-D), § 139-10-240, filed 9/18/87; WSR 86-19-021 (Order 1-B), § 139-10-240, filed 9/10/86. Formerly WAC 139-36-033.]

AMENDATORY SECTION (Amending WSR 05-01-111, filed 12/15/04, effective 1/15/05)

WAC 139-10-245 ((Basic)) Juvenile ((~~residential counselor~~)) rehabilitation academy eligibility and curriculum. (1) All employees whose primary job function is the case management, custody, safety, counseling, supervision, and/or the application of treatment interventions to juvenile offenders committed to the care and supervision of the juvenile rehabilitation administration must complete the juvenile rehabilitation academy. Representative job classes include, but are not limited to, juvenile residential rehabilitation counselors, juvenile rehabilitation community counselors, juvenile rehabilitation counselor assistants, juvenile rehabilitation security officers, juvenile rehabilitation coordinators, and juvenile rehabilitation supervisors.

(2) The ((~~basic~~)) juvenile ((~~residential~~)) rehabilitation counselor academy curriculum ((~~of the Washington state criminal justice training commission~~)) shall be at least ((~~eighty~~)) 80 instructional hours in length and ((~~shall~~)) may include, but not be limited to, the following subject matter areas:

((~~(1)~~)) (a) Core skills
((~~(a)~~)) (i) Observation skills
((~~(b)~~)) (ii) Interpersonal skills
((~~(c)~~)) (iii) Security management
((~~(d)~~)) (iv) Supervision of youth
((~~(e)~~)) (v) Discipline of youth
((~~(f)~~)) (vi) Proper use of physical force
((~~(g)~~)) (vii) Applying research-based treatment
((~~(h)~~)) (viii) Writing skills
((~~(2)~~)) (b) Key skills
((~~(a)~~)) (i) Legal issues
((~~(b)~~)) (ii) Dealing with aggressive behavior
((~~(c)~~)) (iii) Handling medical problems
((~~(d)~~)) (iv) Handling mental illness problems
((~~(e)~~)) (v) Skills training
((~~(3)~~)) (c) Related skills
((~~(a)~~)) (i) Professionalism
((~~(b)~~)) (ii) Stress management
(iii) Human relations/cultural awareness
(iv) Historical intersection of race and corrections.

[Statutory Authority: RCW 43.101.080. WSR 05-01-111, § 139-10-245, filed 12/15/04, effective 1/15/05.]

AMENDATORY SECTION (Amending WSR 06-02-004, filed 12/22/05, effective 1/22/06)

WAC 139-10-530 Basic community corrections officers academy and basic arrest, search, and seizure academy eligibility and curriculums. (1) All employees whose primary job function is the case management in the community of adult offenders under the state department of corrections supervision, to include: Monitoring adjustment of offenders involved with in/outpatient treatment programs, counseling offenders and/or referring them for counseling or other resource/treatment programs, and making home/field visits pursuant to offender classifica-

tion standards must complete both the basic community corrections officers academy and the basic arrest, search, and seizure academy. Representative job classifications include, but are not limited to, community corrections officers, community risk management specialists, hearings officers, and victim advocates.

(2) The basic community corrections officers academy curriculum ((~~of the commission must~~)) shall be at least ((~~eighty~~)) 80 instructional hours in length and will include, but not be limited to, the following subject matter areas:

((~~(1)~~)) (a) Core skills
((~~(a)~~)) (i) Assessment
((~~(b)~~)) (ii) Motivation
((~~(c)~~)) (iii) Goal setting/action planning
((~~(d)~~)) (iv) Monitoring and intervention
((~~(e)~~)) (v) Arrest and search procedures
((~~(2)~~)) (b) Key skills
((~~(a)~~)) (i) Interpersonal skills
((~~(b)~~)) (ii) Interviewing
((~~(c)~~)) (iii) Classification
((~~(d)~~)) (iv) Offense prevention
((~~(3)~~)) (c) Related skills
((~~(a)~~)) (i) Dealing with aggressive and resistive behavior
((~~(b)~~)) (ii) Legal issues
((~~(c)~~)) (iii) Counseling techniques
((~~(d)~~)) (iv) Managing information
((~~(e)~~)) (v) Security management.

(3) The basic arrest, search, and seizure academy curriculum shall be at least 40 instructional hours in length and will include, but not be limited to, the following subject matter areas:

(a) Core skills
(i) Arrest procedures
(ii) Search procedures
(iii) Field safety techniques
(b) Key skills
(i) Verbal de-escalation
(ii) Home assessments
(c) Related skills
(i) Dealing with aggressive and resistive behavior
(ii) Legal issues
(iii) Evidence procedures
(iv) Personal safety
(v) Security management.

[Statutory Authority: RCW 43.101.080. WSR 06-02-004, § 139-10-530, filed 12/22/05, effective 1/22/06; WSR 05-13-078, § 139-10-530, filed 6/14/05, effective 7/15/05.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 139-10-214	Termination of corrections personnel—— Notification to commission.

WAC 139-10-221	Scholastic performance requirements for basic corrections training.
WAC 139-10-550	Basic arrest, search, and seizure academy.

WSR 22-19-040
PERMANENT RULES
DEPARTMENT OF CORRECTIONS
[Filed September 14, 2022, 3:11 p.m., effective October 15, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Revision of chapter 137-69 WAC and the full repeal of chapter 137-65 WAC are required to align with the statutory revisions made following the passing of 2SHB 1818. The statutory revisions will no longer allow the department of corrections to assess or collect costs of supervision fees. Furthermore, the statutory revisions will no longer allow an assessment and collection of the interstate transfer application fee for individuals seeking to transfer the supervision of their Washington sentence out of Washington state.

Citation of Rules Affected by this Order: Repealing WAC 137-65-010, 137-65-020, 137-65-030, 137-65-050 and 137-69-020; and amending WAC 137-69-030.

Statutory Authority for Adoption: RCW 72.01.090.

Adopted under notice filed as WSR 22-15-051 on July 15, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 5.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 5; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 14, 2022.

Cheryl Strange
Secretary

OTS-3835.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 137-65-010	Purpose.
WAC 137-65-020	Scope.
WAC 137-65-030	Fee.
WAC 137-65-050	Instructions.

OTS-3836.1

AMENDATORY SECTION (Amending WSR 11-16-058, filed 7/29/11, effective 8/29/11)

WAC 137-69-030 Manner and degree of supervision. ((~~(1)~~)) Offenders transferred to Washington state under the interstate compact shall be supervised in a manner determined by Washington state and consistent with the supervision of other similar offenders sentenced in Washington state.

((~~(2) Washington state shall impose a supervision fee on an offender whom the state accepts for supervision under the interstate compact.~~))

[Statutory Authority: RCW 72.01.090 and chapter 9.94A RCW. WSR 11-16-058, § 137-69-030, filed 7/29/11, effective 8/29/11.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 137-69-020 Interstate transfer application fee.

WSR 22-19-043
PERMANENT RULES
STATE BOARD OF HEALTH
[Filed September 15, 2022, 9:38 a.m., effective October 16, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-203-130, the adopted rule amendments modernize the language, structure, and standards of the keeping of animals rule. The revision changes the rule title to domestic animal waste. The rule serves as the state board of health's (board) cornerstone rule on the safe handling and disposal of animal waste and is one section of the board's rules on general sanitation, chapter 246-203 WAC. The rule establishes minimum standards to help prevent, control, and abate health hazards and nuisances associated with the handling and disposal of domestic animal waste. This includes waste from livestock animals such as horses and cattle, and waste from nonlivestock animals such as dogs and cats. The rule includes standards to: (1) Avoid unsanitary accumulations of waste in containment areas where animals are held or housed for a period of time; (2) prevent contamination of other people's property, drinking water sources, and surface water bodies with potential to affect human health; (3) promote safe handling and disposal of nonlivestock waste; and (4) promote safe stockpiling of livestock waste.

Citation of Rules Affected by this Order: Amending WAC 246-203-130.

Statutory Authority for Adoption: RCW 43.20.050.

Adopted under notice filed as WSR 22-08-003 on March 23, 2022.

Changes Other than Editing from Proposed to Adopted Version: The adopted rule includes the following clarifying, nonsubstantive changes:

WAC 246-203-130(3) pertaining to overlap with more stringent standards in federal, state, or municipal law, is amended to include examples of laws and regulations with more stringent standards that supersede the rule.

WAC 246-203-130(3) pertaining to exempt diffuse sources of animal waste is amended to replace the term "free-range grazing" with "open-range grazing" to more accurately describe this grazing practice.

WAC 246-203-130 (3)(c) pertaining to not stockpiling nonlivestock waste is deleted to avoid internal conflict with the definition of stockpiling.

WAC 246-203-130 (3)(c)(ii) pertaining to nonlivestock waste disposal is amended to avoid conflict with other state rules regarding commercial composting of nonlivestock waste.

WAC 246-203-130 (3)(d)(i) pertaining to odor and pest control of livestock waste stockpiles is amended to clarify the standard as a performance standard to control odors and pests with livestock waste stockpiles to the extent reasonable.

WAC 246-203-130(4) pertaining to enforcement is amended to emphasize voluntary compliance via education.

A final cost-benefit analysis is available by contacting Stuart Glasoe, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-236-4111, TTY 711, email stuart.glasoe@sboh.wa.gov, website https://sboh.wa.gov/rulemaking/agency-rules-and-activity/keeping-animals.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 8, 2022.

Michelle A. Davis
Executive Director

OTS-2840.5

AMENDATORY SECTION (Amending WSR 91-02-051, filed 12/27/90, effective 1/31/91)

WAC 246-203-130 ((~~Keeping of animals.~~)) Domestic animal waste.

((~~(1) Any person, firm or corporation is prohibited from keeping or sheltering animals in such a manner that a condition resulting from same shall constitute a nuisance.~~

~~(2) In populous districts, stable manure must be kept in a covered watertight pit or chamber and shall be removed at least once a week during the period from April 1st to October 1st and, during the other months, at intervals sufficiently frequent to maintain a sanitary condition satisfactory to the health officer. Manure on farms or isolated premises other than dairy farms need not be so protected and removed unless ordered by the health officer.~~

~~(3) Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water.~~)) (1) A person may not keep or shelter animals in such a manner that the domestic animal waste creates a nuisance or health hazard. The purpose of this section is to establish standards for the prevention, control, and abatement of health hazards and nuisance detrimental to human health related to the disposal of domestic animal waste, including handling and storage of domestic animal waste, as described in subsection (3) of this section.

(2) The following definitions apply throughout this section unless the context clearly indicates otherwise.

(a) "Containment area" means an area where domestic animals are held, housed, or kept for a period of time and includes, but is not limited to, stables, corrals, confinement areas, kennels, pens, and yards.

(b) "Domestic animal" means an animal domesticated to live and breed in a tame condition under the care of humans. Domestic animal includes livestock and nonlivestock such as dogs and cats.

(c) "Domestic animal waste" means excreta from a domestic animal and includes associated wash water, feed, and bedding soiled with the excreta.

(d) "Health hazard" includes any organism, chemical, condition, or circumstance that poses a direct and immediate risk to human health.

(e) "Livestock" means domestic animals raised for use or for profit, especially on a farm, and includes horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, and game birds.

(f) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW, or an authorized representative.

(g) "Nuisance" includes an act or omission that harms, endangers, or interferes with the health or safety of another person.

(h) "Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(i) "Sanitary" means of or relating to conditions that affect hygiene and health, especially relating to cleanliness and other precautions against disease.

(j) "Stockpiling" means the temporary piling of domestic animal waste from livestock prior to use or disposal. Stockpiling does not include active composting or lagoon storage of domestic animal waste from livestock.

(k) "Surface water" means a body of water open to the atmosphere and subject to surface runoff including, but not limited to, lakes, ponds, streams, rivers, and marine waters.

(3) Unless a standard is superseded by a more stringent standard in federal, state, or municipal law, a person must meet the following standards in order to help prevent, control, and abate nuisance and health hazards related to the disposal of domestic animal waste. For purposes of these rules, examples of more stringent standards include, but are not limited to, the Dairy Nutrient Management Act, chapter 90.64 RCW, the state Water Pollution Control Act (WPCA), chapter 90.48 RCW, agricultural activities nuisance law under RCW 7.48.300 through 7.48.320, concentrated animal feeding operations permits issued by the department of ecology under the federal Clean Water Act and/or the WPCA, and fugitive dust or air emission plans approved by the department of ecology or a local government agency under the Washington Clean Air Act, chapter 70A.15 RCW. Except for open-range grazing, livestock trails, trail riding, and other diffuse sources of domestic animal waste, a person must:

(a) Collect domestic animal waste at intervals sufficient to maintain sanitary conditions in containment areas;

(b) Handle domestic animal waste to prevent deposition, leaching, and runoff to:

(i) Another person's property;

(ii) Drinking water sources; and

(iii) Surface water bodies used for swimming, shellfish harvesting, or other activity with potential to affect human health;

(c) Handle domestic animal waste from nonlivestock as follows:

(i) Hold the waste in a watertight container if stored for more than one day prior to proper disposal; and

(ii) Bag and dispose of the waste as solid waste, unless waste is composted by a regulated compost facility per WAC 173-350-220; and

(d) Handle domestic animal waste from livestock that is collected and stockpiled for later use or disposal as follows:

(i) Apply control measures as reasonable to minimize and reduce odors and attraction of flies and rodents;

(ii) Store the waste no longer than one year; and

(iii) Site the stockpile:

(A) One hundred feet or more from a drinking water well;

(B) Two hundred feet or more from a public drinking water spring;

(C) Outside the sanitary control area of a public drinking water source if different from the areas set forth in (d)(iii)(A) and (B) of this subsection;

(D) One hundred feet or more from a surface water body unless:

(I) The surface water body is upgradient or is protected by a levee or other physical barrier; or

(II) The surface water body is protected by one or more control or treatment practices that capture and prevent leachate. Practices include, but are not limited to, storage pads, covers, storage structures, and filter strips; and

(E) Outside seasonally or frequently flooded areas unless used or disposed of prior to flooding.

(4) The local health officer may investigate and enforce this section. Enforcement actions may include any proceeding within the local health officer's statutory authority. Before taking enforcement action the local health officer must attempt to communicate with the person who may be in violation of this section to explore the facts and, if the local health officer determines that a violation has occurred, seek voluntary compliance by education and allow the person reasonable time to correct the violation.

[Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-203-130, filed 12/27/90, effective 1/31/91; Regulation .50.130, effective 3/11/60.]

WSR 22-19-048
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed September 15, 2022, 2:53 p.m., effective October 16, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 388-71 WAC, Home and community services and programs; and chapter 388-113 WAC, Disqualifying crimes and negative actions. The department adopted repealed and amended sections on rules that will no longer be applicable once all individual providers have been hired by the consumer directed employer (CDE). The purpose supports the implementation of chapter 278, Laws of 2018, Consumer directed employment program—Individual providers.

Citation of Rules Affected by this Order: Repealing WAC 388-71-0500, 388-71-0505, 388-71-0507, 388-71-0515, 388-71-0518, 388-71-0540, 388-71-05410, 388-71-0543, 388-71-0561, 388-71-05640, 388-71-06020, 388-71-06040, 388-71-06060, 388-71-06080, 388-71-06125, 388-71-06145, 388-71-0650, 388-71-06155 and 388-71-06165; and amending WAC 388-71-0503, 388-71-0510, 388-71-0511, 388-71-0513, 388-71-0520, 388-71-0523, 388-113-0010, 388-113-0020, and 388-113-0025.

Statutory Authority for Adoption: RCW 74.08.090 and 74.39A.250.

Adopted under notice filed as WSR 22-14-039 on June 27, 2022.

Changes Other than Editing from Proposed to Adopted Version: WAC subchapter heading - remove "Individual Provider"; amend definition of "Long-term care worker" in WAC 388-71-0503 to "'Long-term care worker' means direct care workers employed by home care agencies."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, Repealed 19.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 9, Repealed 19.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 19.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 19.

Date Adopted: September 15, 2022.

Katherine I. Vasquez
Rules Manager

SHS-4923.5

((~~INDIVIDUAL PROVIDER AND~~)) HOME CARE AGENCY PROVIDER QUALIFICATIONS

AMENDATORY SECTION (Amending WSR 22-06-088, filed 3/1/22, effective 4/1/22)

WAC 388-71-0503 What definitions apply to WAC 388-71-0500 through WAC 388-71-05640? "Agency provider" means a long-term care worker who works for a home care agency.

"Area agencies on aging (AAA)" means a contracted entity that aging and long-term support administration (ALTSA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs and to provide case management services and supports to individuals ((~~eighteen~~)) 18 and older who receive medicaid-funded LTC in their own homes.

"Applicant" means a person who is in the process of becoming an in-home long-term care worker.

"Background check" means a name and date of birth check, or a fingerprint-based background check, or both.

"Background check result" is defined in WAC 388-113-0010.

"Background check central unit (BCCU)" means the DSHS entity responsible for conducting background checks for the department.

"Character, competence, and suitability determination (CC&S)" is defined in WAC 388-113-0050.

"Client" means an individual receiving medicaid-funded in-home long term services from the department.

"Department" means the department of social and health services or its designees.

"Family member" includes, but is not limited to a parent, child, sibling, aunt, uncle, niece, nephew, cousin, grandparent, grandchild, grandniece, grandnephew, or such relatives when related by marriage.

"Fingerprint-based background check" means a search of in-state criminal history records through the Washington state patrol and national criminal history records through the Federal Bureau of Investigation.

"Home care agency (HCA)" means an entity that is licensed by the department of health to provide home care services through a contract arrangement with the department to clients in places of permanent or temporary residence.

"Home care agency long-term care worker" means a long-term care worker who works for a home care agency.

((~~**"Individual provider (IP)"** as defined in RCW 74.39A.240 limited to individual providers contracted with the department.~~))

"Long-term care worker" ((~~as defined in RCW 74.39A.009 (17) but limited to individual providers contracted with the department or hired by the home care agency~~)) means direct care workers employed by home care agencies.

"Name and date of birth check" is a search conducted by the background check central unit (BCCU) of Washington state criminal history and negative action records using the applicant's name and date of birth.

"Negative actions" are listed in WAC 388-113-0030.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074. WSR 22-06-088, § 388-71-0503, filed 3/1/22, effective 4/1/22. Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0503, filed 8/30/21, effective 10/1/21.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0510 What are the qualifications of a LTC worker ((~~providing in-home services~~)) under this chapter? In order to be qualified as a long-term care worker, an applicant must:

(1) Not have a disqualifying crime or negative action under chapter 388-113 WAC based on a completed background check;

(2) Not be disqualified based on a character, competence, and suitability determination;

(3) Complete training and certification requirements listed in WAC 388-71-0520 and WAC 388-71-0523; and

(4) If required, have an active home care aide certification or other qualifying credential by the department of health((~~.~~))

((~~(5) In addition to the qualifications listed in subsections (1) through (4) of this section, an individual provider must:~~

~~(a) Have a current and valid individual provider services contract with DSHS to provide personal care services;~~

~~(b) Pass the federal exclusion list screening;~~

~~(c) Not have credible allegations of fraud which are pending investigation, unless they fit within the exceptions listed in 42 C.F.R. 455.23;~~

~~(d) Be eighteen years of age or older;~~

~~(e) Provide the department with a valid: Social Security card and picture ID, as determined by DSHS~~)).

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0510, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.056. WSR 14-14-025, § 388-71-0510, filed 6/24/14, effective 7/25/14. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0510, filed 12/20/12, effective 1/20/13. Statutory Authority: 2004 c 276 § 206 (6)(b) and*Townsend vs. DSHS,* U.S. District Court, Western District of Washington, No. C 00-0944Z. WSR 04-16-029, § 388-71-0510, filed 7/26/04, effective 8/26/04. Statutory Authority: RCW 74.08.090, 74.09.520, 43.20A.050, 43.43.842, 74.39A.090, 43.20A.710, 74.39.050, 43.43.830, 74.39.095. WSR 01-11-019, § 388-71-0510, filed 5/4/01, effective 6/4/01. Statutory Authority: RCW 74.08.090, 74.09.520, 43.20A.050, 43.43.842, 74.39A.090, 43.20A.710, 74.39.050, 43.43.830. WSR 00-03-043, § 388-71-0510, filed 1/13/00, effective 2/13/00.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0511 When is a background check required of an ((~~individual provider or~~)) agency provider? ((~~(1) Individual providers are required to complete and pass a name and date of birth background check before initial contracting with the department.~~))

((~~(2)~~)) (1) Agency providers are required to complete and pass a name and date of birth background check prior to working with a client.

((~~(3)~~)) (2) ((~~Individual providers and a~~)) Agency provider workers are required to complete and pass a name and date of birth background check:

(a) Every two years; and

(b) Any time ((~~the department or~~)) the home care agency employer requests a new check.

((~~(4)~~)) (3) In addition to the name and date of birth background check, ((~~individual providers and~~)) agency providers are required to complete and pass a fingerprint-based background check:

(a) If hired after January 7, 2012, and in accordance with provisional hire rules in WAC 388-113-0109;

(b) If they have lived out of state since the last fingerprint-based background check was completed; or

(c) Any time the ((~~department or~~)) home care agency requests a new check.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0511, filed 8/30/21, effective 10/1/21.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0513 How does an ((~~individual provider or~~)) agency provider complete a background check? (1) The ((~~individual provider or~~)) agency provider must:

(a) Complete the background check authorization form;

(b) Answer all questions on the background check authorization form truthfully;

(c) Obtain a fingerprint-based background check result;

(d) Not have any automatically disqualifying conviction(s), pending charge(s), or negative action(s) as described in chapter 388-113 WAC;

(e) Review the background check results and if necessary provide documents or other information to BCCU to correct the background check results; and

(f) When requested by BCCU, provide additional information in order to complete a background check as mandated by statute.

(2) It is the responsibility of the home care agency to ensure compliance with subsection (1) of this section for its agency providers.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326,

74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0513, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.056. WSR 14-14-025, § 388-71-0513, filed 6/24/14, effective 7/25/14. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0513, filed 12/20/12, effective 1/20/13. Statutory Authority: RCW 74.08.090, 74.09.520, 43.20A.050, 43.43.842, 74.39A.090, 43.20A.710, 74.39.050, 43.43.830, 74.39.095. WSR 01-11-019, § 388-71-0513, filed 5/4/01, effective 6/4/01.]

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0520 What are the training requirements for ((~~an individual provider or~~)) a home care agency long-term care worker? ((~~An individual provider or a~~)) A home care agency long-term care worker, hired on or after January 7, 2012, must meet the training requirements described in WAC 388-71-0836 through 388-71-1006. These training requirements also apply to ((~~individual providers or~~)) home care agency long-term care workers who were hired before January 7, 2012, if they did not complete prior training requirements within ((~~one hundred twenty~~)) 120 days of hire and they want to be reinstated to work as a long term care worker. These training requirements and certification, if required, must be met prior to reinstating these individuals to work as a long term care worker.

[Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0520, filed 12/20/12, effective 1/20/13. Statutory Authority: 2008 c 146, RCW 18.20.090, 74.08.090, chapter 70.128 RCW. WSR 09-03-066, § 388-71-0520, filed 1/14/09, effective 2/14/09. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 05-11-082, § 388-71-0520, filed 5/17/05, effective 6/17/05. Statutory Authority: RCW 74.39A.050, 2003 c 140, chapters 18.79, 18.88A RCW. WSR 04-02-001, § 388-71-0520, filed 12/24/03, effective 1/24/04. Statutory Authority: Chapter 74.39A RCW and 2000 c 121. WSR 02-10-117, § 388-71-0520, filed 4/30/02, effective 5/31/02. Statutory Authority: RCW 74.08.090, 74.09.520, 43.20A.050, 43.43.842, 74.39A.090, 43.20A.710, 74.39.050, 43.43.830. WSR 00-03-043, § 388-71-0520, filed 1/13/00, effective 2/13/00.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-71-0523 What are the training and certification requirements for individual providers and home care agency long-term care workers? The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers, including criteria for those providers working limited hours for one person, caring ((~~for only~~)) only for one's child or parent, and providing respite services only((~~.~~)):

Who	Status	Orientation training	Safety training	Basic training	Continuing education	((~~Credential such as certification as a home care aide (HCA)~~)) Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041(1)(a)(i)(A).	ARNP, RN, LPN, HCA, CN-A, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required ((~~twelve~~)) 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.	Not required.Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839.
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on date of his or her hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	Required. ((~~Twelve~~)) 12 hours ((~~from July 1, 2012~~)) under WAC 388-71-0990 and 388-71-0991.	Not required.
(3) An individual provider or home care agency long-term care worker.	((~~Contracted with the department or hired~~)) Hired by a licensed home care agency or the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours ((~~per~~)) under WAC 388-71-0860.	Required. ((~~Seventy~~)) 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. ((~~Twelve~~)) 12 hours under WAC 388-71-0990 and 388-71-0991.	Home care aide certification required under WAC 388-71-0975. Home care aide certification required under WAC 388-71-0975 within ((~~two hundred~~)) 200 days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).

Who	Status	Orientation training	Safety training	Basic training	Continuing education	((~~Credential such as certification as a home care aide (HCA)~~)) Required credential
(4) An individual provider who works limited hours for one person.	Contracted individual providing ((~~twenty~~)) 20 hours or less of care for one person per calendar month and does not meet the criteria in (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((~~Thirty~~)) 30 hours under WAC 388-71-0880.	Not required.	Not required.
(((~~(6) WAC 388-71-0523 REGISTER NO.: WSR 21-10-001, filed 8/30/21 PROBLEM: filed new text should (5)~~))) (5) An individual who provides only respite services and works ((~~three hundred~~)) 300 hours or less in any calendar year.	(a) ((~~Contracted~~)) An individual providing only respite care and works no more than ((~~three hundred~~)) 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section. (b) Individual providing only respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	((~~An individual who provides only respite services and works three hundred or less in any calendar year.~~)) Required. Three hours under WAC 388-71-0860.	((~~Contracted individual providing only respite care and works no more than three hundred hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (7) of this section.~~)) Required. Seven hours under WAC 388-71-0890.	((~~Required. Two hours under WAC 388-71-0860.~~)) Not required.	((~~An individual who provides only respite services and works three hundred hours or less in any calendar year.~~)) Not required.
(6) An individual provider caring only for his or her biological, step, or adoptive adult child.	((~~Contracted~~)) An individual providing care only for his or her adult child **that receives services through the developmental disabilities** administration and not exempt under (1) or (2) of this section.	Required. Two hours per WAC 388-71-0895.	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	((~~Credential such as certification as a home care aide (HCA)~~)) Required credential
(7) An individual provider caring only for his or her biological, step, or adoptive child, or parent.	((~~Contracted~~)) An individual providing care **only** to his or her child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((~~Thirty~~)) 30 hours under WAC 388-71-0880.	Required((~~. An~~)) for an individual provider caring only for his or her biological, step, or adoptive child or parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for his or her biological, step, or adoptive child under WAC 388-71-1001.	Not required.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-71-0523, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 13-02-023, § 388-71-0523, filed 12/20/12, effective 1/20/13.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-113-0010 What definitions apply to this chapter? "Applicant" means an employee, volunteer, student, intern, licensee, service provider, contractor, or other individual who is the subject of the background check and who will work in a position that may have unsupervised access, as defined in RCW 43.43.830 to minors or vulnerable adults.

"Authorized entity" means a service provider, licensee, contractor, or other public or private agency that:

(1) Is required to conduct background checks under the rules listed in WAC 388-113-0005; and

(2) Is authorized to conduct the background checks through the background check central unit.

"Background check" means a name and date of birth check or a fingerprint-based background check, or both.

"Background check central unit (BCCU)" means a division within the department that processes background checks for department authorized service providers and department programs who serve vulnerable individuals across Washington state.

"Background check result" means a notification letter produced by the BCCU that describes the outcome of the background check, as de-

scribed in WAC 388-113-0101, but does not, by itself, include criminal history record information (CHRI).

"Criminal history record information" means the information found in the Records of Arrests and Prosecutions (RAP) sheet about a person's arrests and convictions.

"Department" means the Washington state department of social and health services and its designees.

"Drug" means a:

(1) Controlled substance as defined in RCW 69.50.101;

(2) Legend drug, as defined in RCW 69.41.010;

(3) Precursor drug under Chapter 69.43 RCW; or

(4) Imitation controlled substance, as defined in RCW 69.52.020.

"Final finding" is described in WAC 388-71-0105.

"Founded" is defined in WAC 110-30-0020.

"Fingerprint-based background check" means a search of in-state criminal history records through the Washington state patrol and national criminal history records through the Federal Bureau of Investigation (FBI).

"Individual provider (IP)" as defined in RCW 74.39A.240.

"Minor" means any person under the age of ((~~eighteen~~)) 18 who is receiving services from a program or facility under chapter 388-71 WAC, Home and community services and programs, chapter 388-106 WAC, Long-term care services, chapter 388-76 WAC, Adult family home minimum licensing requirements, chapter 388-78A WAC, Assisted living facility licensing rules, chapter 388-97 WAC, Nursing homes, chapter 388-101 WAC, Certified community residential services and supports, chapter 388-107 WAC, Licensing requirements for enhanced service facilities, or chapter 388-825 WAC, Developmental disabilities administration service rules.

"Name and date of birth check" is a search conducted by the background check central unit (BCCU) of Washington state criminal history and negative action records using the applicant's name and date of birth.

"Negative Action" means actions as described in WAC 388-113-0030.

"Pending charge" means a criminal charge for a crime has been filed in a court of law for which the department has not received documentation showing the disposition of the charge.

"Record of Arrest and Prosecution (RAP sheet)" means a record kept by law-enforcement authorities of a person's arrests and convictions.

"Requesting entity" means the person or entity that requested the background check from the background check central unit (BCCU).

"Unsupervised access" is described in RCW 43.43.830(13).

"Vulnerable adult" is defined in RCW 74.34.020(17).

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, § 388-113-0010, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.056. WSR 14-14-025, § 388-113-0010, filed 6/24/14, effective 7/25/14.]

AMENDATORY SECTION (Amending WSR 21-23-014, filed 11/4/21, effective 12/5/21)

WAC 388-113-0020 Which criminal convictions and pending charges automatically disqualify an individual from having unsupervised access to adults or minors who are receiving services in a program under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, 388-115, and 388-107 WAC? (1) Individuals who must satisfy background checks requirements under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, 388-115, and 388-107 WAC must not work in a position that may involve unsupervised access to minors or vulnerable adults if the individual has been convicted of or has a pending charge for any of the following crimes:

(a) Abandonment of a child;
(b) Abandonment of a dependent person;
(c) Abuse or neglect of a child;
(d) Arson 1;
(e) Assault 1;
(f) Assault 2 (less than five years);
(g) Assault 3 (less than five years);
(h) Assault 4/simple assault (less than three years);
(i) Assault 4 domestic violence felony;
(j) Assault of a child;
(k) Burglary 1;
(l) Child buying or selling;
(m) Child molestation;
(n) Coercion (less than five years);
(o) Commercial sexual abuse of a minor/patronizing a juvenile prostitute;
(p) Communication with a minor for immoral purposes;
(q) Controlled substance homicide;
(r) Criminal mistreatment;
(s) Custodial assault;
(t) Custodial interference;
(u) Custodial sexual misconduct;
(v) Dealing in depictions of minor engaged in sexually explicit conduct;
(w) Drive-by shooting;
(x) Drug crimes involving one or more of the following:
(i) Manufacturing or possession with the intent to manufacture a drug;
(ii) Delivery or possession with the intent to deliver a drug other than marijuana;
(iii) Delivery of marijuana (less than three years).
(y) Endangerment with a controlled substance;
(z) Extortion 1;
(aa) Extortion 2 (less than five years);
(bb) Forgery (less than five years);
(cc) Homicide by abuse, watercraft, vehicular homicide (negligent homicide);
(dd) Identity theft (less than five years);
(ee) Incendiary devices (possess, manufacture, dispose);
(ff) Incest;
(gg) Indecent exposure/public indecency (felony);
(hh) Indecent liberties;
(ii) Kidnapping;
(jj) Luring;

(kk) Malicious explosion 1;
(ll) Malicious explosion 2;
(mm) Malicious harassment;
(nn) Malicious placement of an explosive 1;
(oo) Malicious placement of an explosive 2 (less than five years);
(pp) Malicious placement of imitation device 1 (less than five years);
(qq) Manslaughter;
(rr) Murder/aggravated murder;
(ss) Possess depictions minor engaged in sexual conduct;
(tt) Promoting pornography;
(uu) Promoting prostitution 1;
(vv) Promoting suicide attempt (less than five years);
(ww) Prostitution (less than three years);
(xx) Rape;
(yy) Rape of child;
(zz) Residential burglary;
(aaa) Robbery 1;
(bbb) Robbery 2 (less than five years);
(ccc) Selling or distributing erotic material to a minor;
(ddd) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
(eee) Sexual exploitation of minors;
(fff) Sexual misconduct with a minor;
(ggg) Sexually violating human remains;
(hhh) Stalking (less than five years);
(iii) Theft 1 (less than ((~~ten~~)) 10 years);
(jjj) Theft from a vulnerable adult 1;
(kkk) Theft 2 (less than five years);
(lll) Theft from a vulnerable adult 2 (less than ((~~ten~~)) 10 years);
(mmm) Theft 3 (less than three years);
(nnn) Unlawful imprisonment;
(ooo) Unlawful use of building for drug purposes (less than five years);
(ppp) Use of machine gun in a felony;
(qqq) Vehicular assault;
(rrr) Violation of temporary restraining order or preliminary injunction involving sexual or physical abuse to a child;
(sss) Violation of a temporary or permanent vulnerable adult protection order (VAPO) that was based upon abandonment, abuse, financial exploitation, or neglect; and
(ttt) Voyeurism.

(2) If "(less than ((~~ten~~)) 10 years)," "(less than five years)," or "(less than three years)" appears after a crime listed in subsection (1) of this section, the individual is not automatically disqualified if the required number of years has passed since the date of the conviction. This will result in a letter from the background check central unit indicating a character, competence, and suitability review is required before allowing unsupervised access to children or vulnerable adults. This provision applies to convictions that the department has determined under subsection (3) of this section as equivalent to a crime listed in subsection (1) of this section once the period of time listed in subsection (1) of this section has passed.

(3) When the department determines that a conviction or pending charge in federal court or in any other court, including state court

is equivalent to a Washington state crime that is disqualifying under this section, the equivalent conviction or pending charge is also disqualifying.

(4) In instances where a court has issued a certificate of restoration of opportunity of one of the crimes listed above, according to the procedure in RCW 9.97.020, the conviction is not automatically disqualifying but is subject to a character, competence, and suitability review.

[Statutory Authority: RCW 74.08.090, 43.43.842, and 74.39A.056. WSR 21-23-014, § 388-113-0020, filed 11/4/21, effective 12/5/21; WSR 18-08-066, § 388-113-0020, filed 4/2/18, effective 5/3/18. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.056. WSR 14-14-025, § 388-113-0020, filed 6/24/14, effective 7/25/14.]

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

WAC 388-113-0025 Are there any exceptions to the automatic disqualification under WAC 388-113-0020? (1) Under the conditions described in this section, an individual is not automatically disqualified from having unsupervised access to minors and vulnerable adults if he or she:

(a) Has worked continuously for the same employer for whom he or she was working on July 24, 2014; and

(b) Does not have a conviction or pending charge that was automatically disqualifying under rules that were in effect on July 24, 2014; and

(c) Works for a program or facility that operates under chapters 388-71 WAC, ((~~Individual providers and~~)) home care agencies; 388-115 WAC, individual providers; 388-106 WAC, long-term care services; 388-76 WAC, Adult family ((~~home~~)) homes; 388-78A WAC, Assisted living ((~~facility~~)) facilities; or 388-97 WAC, Nursing homes and was convicted of, or has a pending charge for:

(i) Residential burglary;

(ii) Unlawful use of building for drug purposes (five or more years);

(iii) Vehicular assault; or

(d) Works for a program or facility that operates under chapter 388-825 WAC (developmental disabilities administration programs) or supported living and was convicted of, or has a pending charge for:

(i) Assault 3;

(ii) Manufacture of a controlled substance;

(iii) Delivery of a controlled substance; or

(iv) Possession of a controlled substance with the intent to manufacture or deliver.

(2) In addition to the requirements under subsection (1)((~~,~~)) of this section, in order for an individual to be eligible for an exception under this section, the following conditions must also be satisfied:

(a) The conviction date for the crimes listed in (1)(c) and (d) must be before July 25, 2014;

(b) The individual has to continue to work for the same employer; and

(c) The employer or hiring entity must:

(i) Review the individual's character, competence, and suitability to have unsupervised access to minors or to vulnerable adults, and;

(ii) Have documentation on file demonstrating the results of the character, competence, and suitability review; and

(iii) Have documentation on file demonstrating that the individual meets all of the conditions in subsection (2) of this section, including a copy of a background check result letter dated prior to July 25, 2014, indicating the individual was not disqualified from having unsupervised access to minors or vulnerable adults.

[Statutory Authority: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, 43.43.837 and 2018 c 278. WSR 21-18-081, recodified as § 388-113-0025, filed 8/30/21, effective 10/1/21. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.056. WSR 14-14-025, § 388-113-0040, filed 6/24/14, effective 7/25/14.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-71-0500	What is the purpose of this section of the chapter?
WAC 388-71-0505	Who hires and supervises an individual provider?
WAC 388-71-0507	What responsibilities do clients have related to individual provider work week limits?
WAC 388-71-0515	What are the responsibilities of an individual provider when providing services to a client?
WAC 388-71-0518	What responsibilities do individual providers have related to work week limitation?
WAC 388-71-0540	When will the department reject your choice of individual provider?
WAC 388-71-05410	What are the client's rights if the department rejects their choice of individual provider?
WAC 388-71-0543	When may the department reject your choice of an individual provider?
WAC 388-71-0561	When does an individual provider have the right to an administrative hearing and how can a hearing be requested?
WAC 388-71-05640	Self-directed care—Who must direct self-directed care?
WAC 388-71-06020	What is the purpose of WAC 388-71-06020 through 388-71-06165?
WAC 388-71-06040	What definitions apply to WAC 388-71-06020 through 388-71-06165?

WSR 22-19-062
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed September 16, 2022, 1:24 p.m., effective October 17, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule change makes it so that wheeled all-terrain vehicles no longer need to be retitled after being modified for on-road use.

Citation of Rules Affected by this Order: Amending WAC 308-94A-005.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 22-14-107 on July 6, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 16, 2022.

Ellis Starrett
Rules Coordinator

OTS-3880.1

AMENDATORY SECTION (Amending WSR 11-21-068, filed 10/17/11, effective 11/17/11)

WAC 308-94A-005 Certificates of title and registration. (1) **Is a certificate of title issued for off-road ((~~and~~))<u>,</u> nonhighway vehicles<u>, and wheeled all-terrain vehicles</u>?** Yes, a certificate of title is issued using the same laws, rules, and procedures for other classes of vehicles. The certificate of title will indicate the comment "not eligible for road use" if a vehicle is not manufactured for road use or "modified for on-road use" if an off-road motorcycle as defined in chapter 46.04 RCW has been modified for use on highways and roads.

(2) **What are the licensing options for off-road and nonhighway vehicles described in RCW 46.04.365?** If your vehicle:

(a) Is licensed for road use under chapter 46.16A RCW:

(i) Your license plates will be valid for off-road use, but you may need an ORV license in designated areas;

(ii) You may purchase an annual or temporary off-road use permit.

(b) Is not manufactured for road use, you may only purchase an annual or temporary off-road use permit;

(c) Is an off-road motorcycle as defined in chapter 46.04 RCW, you can license it for road use by complying with chapter 46.61 RCW and filing a motorcycle highway use declaration with the department((~~;~~

~~(d) Is not going to be operated on public roadways or trails, you may title your vehicle without licensing it~~)).

(3) **What is an ORV use permit?**

(a) The temporary ORV use permit authorized under RCW 46.09.430 is:

(i) Valid for sixty days from the date of application;

(ii) Available to nonresidents and Washington residents who choose not to annually license their ORV; and

(iii) Not transferable to another vehicle.

(b) The annual ORV registration authorized under RCW 46.09.410 is:

(i) Valid for one year from the date of application;

(ii) Available to Washington residents and nonresidents when the ORV is primarily used in Washington state; and

(iii) Not transferable to another vehicle.

(4) **What do I do with the annual or temporary off-road permit?** The permit must be((~~:~~

~~(a)~~)) carried on the vehicle((~~;~~

~~(b)~~)) and made available to any law enforcement officer on request.

(5) **May I operate my off-road/nonhighway vehicle using a temporary or annual vehicle use permit on any dirt, gravel road, or trail in Washington?** No. Check with local, state, or federal authorities in the areas you intend to operate the vehicle.

(6) **What are the licensing options for wheeled all-terrain vehicles described in RCW 46.09.310?**

(a) In accordance with RCW 46.09.442, you must minimally register your vehicle for off-road use by purchasing:

(i) A metal tag; and

(ii) An off-road tab.

(b) If your vehicle has been modified for on-road use and you are electing to use it on a public roadway, you must:

(i) Submit the wheeled all-terrain vehicle (WATV) road use declaration; and

(ii) Purchase an off-road and on-road tab.

(c) You may elect to revert to off-road use only at any subsequent registration period. Adding on-road use will not require the resubmission of a WATV road use declaration.

Note: Modifying the vehicle does not require the purchase of an on-road tab.

(7) **Do I need to retitle my wheeled all-terrain vehicle after I have modified it for on-road use?** No, that is a registration activity only.

[Statutory Authority: RCW 46.01.110. WSR 11-21-068, § 308-94A-005, filed 10/17/11, effective 11/17/11. Statutory Authority: RCW 46.16.110. WSR 06-21-024, § 308-94A-005, filed 10/9/06, effective 11/9/06. Statutory Authority: RCW 46.01.110. WSR 01-13-008, § 308-94A-005, filed 6/8/01, effective 7/9/01; WSR 99-24-013, § 308-94A-005, filed 11/22/99, effective 12/23/99.]

WSR 22-19-066
PERMANENT RULES
SKAGIT VALLEY COLLEGE
[Filed September 16, 2022, 2:41 p.m., effective October 17, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Over the past year, college staff have been in the process of reviewing college policies related to Title IX to ensure compliance with the law and to consolidate and clarify language. Based on that work, it is recommended to repeal WAC 132D-310-005 and revise WAC 132D-150-500, 132D-150-560, and 132D-150-580 to ensure that we have a policy and procedure that allows for Title IX and non-Title IX harassment and discrimination procedures. The completion of this work is consistent with ongoing guidance from the assistant attorney general's office and language of other colleges in the Washington community and technical college system.

Citation of Rules Affected by this Order: Repealing WAC 132D-310-005; and amending WAC 132D-150-500, 132D-150-560, and 132D-150-580.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 22-11-043 [22-16-090] on September [August] 1, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 12, 2022.

Pam Davis
Executive Assistant to the President
Rules Coordinator

OTS-3784.1

AMENDATORY SECTION (Amending WSR 21-13-151, filed 6/22/21, effective 7/23/21)

WAC 132D-150-500 Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the Skagit Valley College's standard disciplinary procedures, WAC 132D-150-010 through 132D-150-410, these supplemental procedures shall take precedence. Skagit Valley College may, at its discretion, contract with an admin-

istrative law judge or other person to act as a presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair. If any provision of this code is invalidated by court order or operation of law, the affected provision of the code will no longer apply.

[Statutory Authority: RCW 28B.50.150. WSR 21-13-151, § 132D-150-500, filed 6/22/21, effective 7/23/21.]

AMENDATORY SECTION (Amending WSR 21-13-151, filed 6/22/21, effective 7/23/21)

WAC 132D-150-560 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) ((~~Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.~~

~~(5)~~)) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

((~~(6)~~)) (5) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

[Statutory Authority: RCW 28B.50.150. WSR 21-13-151, § 132D-150-560, filed 6/22/21, effective 7/23/21.]

AMENDATORY SECTION (Amending WSR 21-13-151, filed 6/22/21, effective 7/23/21)

WAC 132D-150-580 Appeals. ((~~The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132D-150-290.~~

~~(1) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).~~

~~(2) President's office shall serve the final decision on the parties simultaneously.~~)) All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office or designee within 21 days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions of law in the initial order or dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or dismissal shall be deemed final.

Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 days from the date of service to submit written responses to the president's office or designee addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the president's office or designee shall serve copies of the responses to the other parties.

Parties receiving a copy of the responses shall have five days in which to submit a written reply addressing issues raised in the responses to the president's office or designee.

The president or their designee, based on their review of parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.

The president's office or designee shall serve the final decision on the parties simultaneously.

All administrative decisions reached through this process are and may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in chapter 34.05 RCW.

[Statutory Authority: RCW 28B.50.150. WSR 21-13-151, § 132D-150-580, filed 6/22/21, effective 7/23/21.]

OTS-3802.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132D-310-005	Skagit Valley College antidiscrimination policy.

WSR 22-19-074
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 20, 2022, 8:25 a.m., effective November 1, 2022]

Effective Date of Rule: November 1, 2022.

Purpose: This rule making adopts a fee increase of 5.86 percent for the factory assembled structures (FAS) rules. The fee increase is the maximum allowed by the state office of financial management for fiscal year 2023. A fee increase is needed to cover the operating expenses of the FAS program. The current fee levels are insufficient to cover current program expenses. The increase will ensure that revenues match expenditures, otherwise service levels may need to be reduced. This rule making also adopts an amendment to correct a typo for rule clarity.

Citation of Rules Affected by this Order: Amending WAC 296-150C-3000, 296-150F-3000, 296-150I-3000, 296-150M-3000, 296-150P-3000, 296-150T-3000, and 296-150V-3000.

Statutory Authority for Adoption: Chapters 43.22 and 43.22A RCW.

Adopted under notice filed as WSR 22-13-147 on June 21, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: September 20, 2022.

Joel Sacks
Director

OTS-3806.1

AMENDATORY SECTION (Amending WSR 21-07-126, filed 3/23/21, effective 4/23/21)

WAC 296-150C-3000 Commercial coach fees.

GENERAL INFORMATION	
Manufacture:	Manufacturer #
1. Building use:	2. Building occupancy:
3. Type of construction: VB	4. Square footage of building:
5. Valuation of the building shall be based on the following: • Square footage of the building multiplied by the amount in the BVD valuation table ..... $	

6.	**Total** valuation:	$	. . . . .
PERMIT FEE			
7.	Calculate from building permit fee table using the total valuation	$	. . . . .
STRUCTURAL PLAN REVIEW FEE*			
8.	One year design review: (Valid for one year) multiply the total on line 7 by ((~~0.404~~)) 0.428. . .	$	. . . . .
9.	Master plan review: (Valid for the code cycle) multiply the total on line 7 by ((~~0.578~~)) 0.611.	$	. . . . .
	* Minimum plan review fee is 2 1/2 hours x ((~~$87.90~~)) $93.00 per hour		
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)			
10.	Fire and life-safety plan review:		
a.	One year design—Multiply the total on line 7 by ((~~0.173~~)) 0.183.	$	. . . . .
b.	Master plan design—Multiply the total on line 7 by ((~~0.289~~)) 0.305.	$	. . . . .
	• Required for all structures that are more than 4,000 square feet and for all A and I occupancy		
PLUMBING PLAN-REVIEW FEE			
11.	Plumbing ((~~$20.70 + $6.80~~)) $21.90 + $7.10 per fixture	$	. . . . .
12.	Medical gas ((~~$20.70 + $6.80~~)) $21.90 + $7.10 per gas outlet	$	. . . . .
DESIGN RENEWAL OR ADDENDUM			
13.	((~~11.56%~~)) 12.23% of building permit + ((~~$87.90~~)) $93.00	$	. . . . .
RESUBMITTAL			
14.	((~~11.56%~~)) 12.23% of building permit + ((~~$87.90~~)) $93.00	$	. . . . .
ELECTRICAL PLAN-REVIEW FEE			
15.	See WAC 296-46B-906(9) for electrical review fees		
INSIGNIA FEES			
16.	FIRST SECTION	$	((~~26.30~~)) 27.80
17.	EACH ADDITIONAL SECTION	$	((~~16.20~~)) 17.10
TOTAL FEES			
18.	**Total** plan review fees: Add lines 8 or 9 and 10 through 15	$	. . . . .
19.	**Total fees due:** Includes plan fees and insignia fees	$	. . . . .
20.	**Total amount paid**	$	. . . . .

Square Foot Construction Costs (BVD Table)[a, b, c, and d]

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
A-2 Assembly, restaurants, bars, banquet halls	162.22	157.56	152.17	147.00	136.96	134.24	141.52	124.06	120.36
A-3 Assembly, churches	195.10	187.93	182.68	174.00	162.21	157.26	167.26	146.94	140.02
A-3 Assembly, general, community halls, libraries, museums	163.81	156.64	150.39	142.71	129.91	125.96	135.97	114.63	108.71
A-4 Assembly, arenas	192.16	184.99	178.74	171.06	158.31	154.36	164.32	143.04	137.12
B Business	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
E Educational	176.97	170.85	165.64	158.05	146.37	138.98	152.61	127.91	123.09

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/ assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

a Private garages use utility, miscellaneous
b Unfinished basements (all use group) = $15.00 per sq. ft.
c For shell only buildings deduct 20 percent
d N.P. = not permitted

Building Permit Fees

Total Valuation	Fee
$1.00 to $500.00	$23.50
$501.00 to $2,000.00	$23.50 for the first $500.00 plus $3.05 for each additional $100.00, or fraction thereof, to and including $2,000.00
$2,001.00 to $25,000.00	$69.25 for the first $2,000.00 plus $14.00 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.00 to $50,000.00	$391.25 for the first $25,000.00 plus $10.10 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$643.75 for the first $50,000.00 plus $7.00 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$993.75 for the first $100,000.00 plus $5.60 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00	$3,233.75 for the first $500,000.00 plus $4.75 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001.00 and up	$5,608.75 for the first $1,000,000.00 plus $3.65 for each additional $1,000.00, or fraction thereof

INITIAL FILING FEE (first time applicants)	((~~$43.40~~)) $45.90
DESIGN PLAN FEES:	

INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee × ((~~1.156~~)) 1.223*	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee × ((~~1.156~~)) 1.223*	
RENEWAL FEE - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$87.90~~)) $93.00
RESUBMIT FEE - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$87.90~~)) $93.00
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$87.90~~)) $93.00
ELECTRONIC PLAN SUBMITTAL FEE ((~~$6.10~~)) $6.40 per page for the first set of plans and $1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
PLUMBING PLAN FEE, ((~~$20.70~~)) $21.90 + PER FIXTURE FEE of	((~~$6.80~~)) $7.10
MEDICAL GAS PLAN FEE, ((~~$20.70~~)) $21.90 + PER OUTLET FEE of	((~~$6.80~~)) $7.10
Note: Mechanical systems are included in the primary plan fee	
FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee × ((~~1.156~~)) 1.223	
One year design 15% of the permit fee × ((~~1.156~~)) 1.223	
ELECTRICAL PLAN REVIEW - Find fee @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN (minimum 3 hours)	((~~$87.90~~)) $93.00 per hour
INITIAL FEE - ONE YEAR DESIGN (minimum 2 hours)	((~~$87.90~~)) $93.00 per hour
RENEWAL FEE (minimum 1 hour)	((~~$87.90~~)) $93.00 per hour
ADDENDUM (minimum 1 hour)	((~~$87.90~~)) $93.00 per hour
PLANS APPROVED BY PROFESSIONALS - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$87.90~~)) $93.00
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS - 5% of permit fee × ((~~1.156~~)) 1.223 +	((~~$87.90~~)) $93.00
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time* and mileage***)	((~~$87.90~~)) $93.00
TRAVEL (Per hour)	((~~$87.90~~)) $93.00
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	((~~$87.90~~)) $93.00
TRAVEL (Per hour**)	((~~$87.90~~)) $93.00
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
ALTERATION INSPECTION (one hour minimum + alteration insignia fee)	((~~$114.20~~)) $120.80
INSIGNIA FEES:	
FIRST SECTION (NEW or ALTERATION)	((~~$26.30~~)) $27.80
EACH ADDITIONAL SECTION (NEW or ALTERATION)	((~~$16.20~~)) $17.10
REISSUED-LOST/DAMAGED	((~~$16.20~~)) $17.10
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	((~~$87.90~~)) $93.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((~~$16.20~~)) $17.10
REFUND FEE	((~~$28.90~~)) $30.50

*Minimum plan review fee is 2 1/2 hours at the field technical service rate
**Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments
***Per state guidelines
****Actual charges incurred

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 21-07-126, § 296-150C-3000, filed 3/23/21, effective 4/23/21; WSR 20-04-081, § 296-150C-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150C-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150C-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150C-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapter 43.22 RCW. WSR 07-19-086, § 296-150C-3000, filed 9/18/07, effective 10/19/07. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150C-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150C-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW. WSR 05-23-002, § 296-150C-3000, filed 11/3/05, effective 12/4/05. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150C-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150C-3000, filed 12/14/04, effective 2/1/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150C-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150C-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150C-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150C-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150C-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106, 18.27 and 43.22 RCW. WSR 98-12-041, § 296-150C-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 70.87.030, 18.27.070, [18.27.]075, 43.22.350, [43.22.]355, [43.22.]434 and [43.22.]480(2). WSR 97-11-053, § 296-150C-3000, filed 5/20/97, effective 6/30/97. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150C-3000, filed 10/23/96, effective 11/25/96.]

OTS-3807.1

AMENDATORY SECTION (Amending WSR 21-07-126, filed 3/23/21, effective 4/23/21)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

GENERAL INFORMATION			
Manufacture:		Manufacturer #	
1. Building use:		2. Building occupancy:	
3. Type of construction:		4. Square footage of building:	
5. Valuation of the building shall be based on the following:			
• Square footage of the building multiplied by the amount in the BVD valuation table			$ . . . . .
6. **Total** valuation:			$ . . . . .
PERMIT FEE			
7. Calculate from building permit fee table using the total valuation			$ . . . . .
STRUCTURAL PLAN REVIEW FEE*			
8. One year design review:	(Valid for one year) multiply the total on line 7 by ((~~0.404~~)) 0.428		$ . . . . .
9. Master plan review:	(Valid for the code cycle) multiply the total on line 7 by ((~~0.578~~)) 0.611		$ . . . . .
* Minimum plan review fee is 2 1/2 hours x ((~~$98.90~~)) $104.60 per hour			
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)			
10. Fire and life-safety plan review:			
a. One year design—Multiply the total on line 7 by ((~~0.173~~)) 0.183			$ . . . . .
b. Master plan design—Multiply the total on line 7 by ((~~0.289~~)) 0.305			$ . . . . .
• Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy			
PLUMBING PLAN-REVIEW FEE			
11. Plumbing ((~~$20.70 + $6.80~~)) $21.90 + $7.10 per fixture			$ . . . . .
12. Medical gas ((~~$20.70 + $6.80~~)) $21.90 + $7.10 per gas outlet			$ . . . . .
DESIGN RENEWAL OR ADDENDUM			
13. ((~~11.56%~~)) 12.23% of building permit + ((~~$98.90~~)) $104.60			$ . . . . .
RESUBMITTAL			
14. ((~~11.56%~~)) 12.23% of building permit + ((~~$98.90~~)) $104.60			$ . . . . .
ELECTRICAL PLAN-REVIEW FEE			
15. See WAC 296-46B-906(9) for electrical review fees			
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)			
16. Notification to local enforcement agency fee:			$ ((~~42.60~~)) 45.00
INSIGNIA FEES			
17. FIRST SECTION			$ ((~~316.30~~)) 334.80
18. EACH ADDITIONAL SECTION			$ ((~~28.20~~)) 29.80
TOTAL FEES			
19. **Total** plan review fees:	Add lines 8 or 9 and 10 through 15		$ . . . . .
20. **Total fees due:**	Includes plan fees, insignia fees, and NLEA fees		$ . . . . .
21. **Total amount paid**			$ . . . . .

Square Foot Construction Costs (BVD Table)[a, b, c, and d]

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
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F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/ assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

[a] Private garages use utility, miscellaneous
[b] Unfinished basements (all use group) = $15.00 per sq. ft.
[c] For shell only buildings deduct 20 percent
[d] N.P. = not permitted

Table 1-A - Building Permit Fees

Total Valuation	Fee
$1.00 to $500.00	$23.50
$501.00 to $2,000.00	$23.50 for the first $500.00 plus $3.05 for each additional $100.00, or fraction thereof, to and including $2,000.00

Total Valuation	Fee
$2,001.00 to $25,000.00	$69.25 for the first $2,000.00 plus $14.00 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.00 to $50,000.00	$391.25 for the first $25,000.00 plus $10.10 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$643.75 for the first $50,000.00 plus $7.00 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$993.75 for the first $100,000.00 plus $5.60 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00	$3,233.75 for the first $500,000.00 plus $4.75 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001.00 and up	$5,608.75 for the first $1,000,000.00 plus $3.65 for each additional $1,000.00, or fraction thereof

INITIAL FILING FEE (first time applicants)	((~~$77.20~~)) $81.70
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee × ((~~1.156~~)) 1.223*	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee × ((~~1.156~~)) 1.223*	
RENEWAL FEE - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$98.90~~)) $104.60
RESUBMIT FEE - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$98.90~~)) $104.60
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$98.90~~)) $104.60
ELECTRONIC PLAN SUBMITTAL FEE ((~~$6.10~~)) $6.40 per page for the first set of plans and $1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
PLUMBING PLAN FEE, ((~~$20.70~~)) $21.90 + PER FIXTURE FEE of	((~~$6.80~~)) $7.10
MEDICAL GAS PLAN FEE, ((~~$20.70~~)) $21.90 + PER OUTLET FEE of	((~~$6.80~~)) $7.10
Note: Mechanical systems are included in the primary plan fee	
FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee × ((~~1.156~~)) 1.223	
One year design - 15% of the permit fee × ((~~1.156~~)) 1.223	
ELECTRICAL PLAN REVIEW - Find fees @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN (minimum 3 hours)	((~~$98.90~~)) $104.60 per hour
INITIAL FEE-ONE YEAR DESIGN (minimum 2 hours)	((~~$98.90~~)) $104.60 per hour
RENEWAL FEE (minimum 1 hour)	((~~$98.90~~)) $104.60
ADDENDUM (minimum 1 hour)	((~~$98.90~~)) $104.60 per hour
PLANS APPROVED BY DESIGN PROFESSIONALS - 10% of permit fee × ((~~1.156~~)) 1.223 +	((~~$98.90~~)) $104.60
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST THREE SETS - 5% of permit fee × ((~~1.156~~)) 1.223 +	((~~$98.90~~)) $104.60
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time** and mileage***)	((~~$98.90~~)) $104.60
TRAVEL (Per hour**)	((~~$98.90~~)) $104.60
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour**)	((~~$98.90~~)) $104.60
TRAVEL (Per hour**)	((~~$98.90~~)) $104.60
PER DIEM***	
HOTEL****	
MILEAGE***	

RENTAL CAR****	
PARKING****	
AIRFARE****	
INSIGNIA FEES:	
FIRST SECTION	((~~$316.30~~)) $334.80
EACH ADDITIONAL SECTION	((~~$28.20~~)) $29.80
REISSUED-LOST/DAMAGED	((~~$77.20~~)) $81.70
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	((~~$98.90~~)) $104.60
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	((~~$42.60~~)) $45.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((~~$15.70~~)) $16.60
REFUND FEE	((~~$28.90~~)) $30.50

*Minimum plan review fee is 2 1/2 hours at the field technical service rate.
**Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
***Per state guidelines.
****Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 21-07-126, § 296-150F-3000, filed 3/23/21, effective 4/23/21; WSR 20-04-081, § 296-150F-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150F-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150F-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150F-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150F-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapter 43.22 RCW. WSR 07-05-063, § 296-150F-3000, filed 2/20/07, effective 4/1/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150F-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW. WSR 05-23-002, § 296-150F-3000, filed 11/3/05, effective 12/4/05. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150F-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150F-3000, filed 12/14/04, effective 2/1/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150F-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.340, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.480, and 43.22.485, 2002 c 268, and chapter 43.22 RCW. WSR 03-12-044, § 296-150F-3000, filed 5/30/03, effective 5/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150F-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150F-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106, 18.27 and 43.22 RCW. WSR 98-12-041, § 296-150F-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 70.87.030, 18.27.070, [18.27.]075, 43.22.350, [43.22.]355, [43.22.]434 and [43.22.]480(2). WSR 97-11-053, § 296-150F-3000, filed 5/20/97, effective 6/30/97. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150F-3000, filed 10/23/96, effective 11/25/96.]

OTS-3808.1

AMENDATORY SECTION (Amending WSR 22-01-193, filed 12/21/21, effective 1/31/22)

WAC 296-150I-3000 Penalties, fees, and refunds.

Penalties

(1) Monetary penalties for infractions listed in WAC 296-150I-0210 may be assessed for each violation of chapter 43.22A RCW in the following amount:

(a) **Failure to have a certified installer on the installation site whenever installation work is being performed:**

First Final Violation	$250.00
Each Additional Final Violation	$1,000.00

(b) **Failure to correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same:**

First Final Violation	Warning
Second Final Violation	$250.00
Third Final Violation	$500.00
Each Additional Final Violation	$1,000.00

(c) **Failure by a certified installer to affix a certification tag to an installed manufactured or mobile home:**

First Final Violation	Warning
Second Final Violation	$250.00
Third Final Violation	$500.00
Each Additional Final Violation	$1,000.00

(d) **Transfer of certification tag(s) from a certified installer to another certified installer without prior written approval of the department:**

First Final Violation	Warning
Each Additional Final Violation	$250.00

(e) **Transfer of certification tag(s) from a certified installer to a noncertified installer:**

First Final Violation to Each Contractor in Violation	$250.00
Each Additional Final Violation to Each Contractor in Violation	$1,000.00

Fees and Refunds

The following fees are payable to the department in advance:

Installer test and certification	((~~$286.30~~)) $303.00
Homeowner test and approval	((~~$143.10~~)) $151.40
Manufactured home installation inspector test and certificate	((~~$143.10~~)) $151.40
Refund	((~~$28.50~~)) $30.10

Certification renewal	((~~$143.10~~)) $151.40
Continuing education class	((~~$57.10~~)) $60.40
Retake failed examination and training at scheduled class	((~~$42.80~~)) $45.30
Manufactured home installer training manual (on thumb drive)	((~~$14.20~~)) $15.00
Installer certification tag	((~~$9.90~~)) $10.40
L&I manufactured home installation inspection permit*	See WAC 296-150M-3000 for fee

* Only available when L&I has an interagency agreement with the local enforcement agency in accordance with WAC 296-150I-0370.

(2) The department shall refund fees paid for training and certification or certification renewal as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.22A RCW or these rules.

(3) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

(a) Change to another scheduled training and examination; or

(b) Request a refund.

(4) An applicant who fails the examination shall not be entitled to a refund.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 22-01-193, § 296-150I-3000, filed 12/21/21, effective 1/31/22; WSR 21-07-126, § 296-150I-3000, filed 3/23/21, effective 4/23/21. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150I-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22A RCW. WSR 17-23-173, § 296-150I-3000, filed 11/21/17, effective 1/1/18. Statutory Authority: Chapter 43.22A RCW and 2009 c 464 [564]. WSR 10-06-043, § 296-150I-3000, filed 2/23/10, effective 4/1/10. Statutory Authority: Chapter 43.22A RCW and 2007 c 432. WSR 08-12-040, § 296-150I-3000, filed 5/30/08, effective 6/30/08.]

OTS-3809.1

AMENDATORY SECTION (Amending WSR 22-01-193, filed 12/21/21, effective 1/31/22)

WAC 296-150M-3000 Manufactured/mobile home fees.

DESIGN PLAN FEES:	
STRUCTURAL ALTERATION	((~~$192.20~~)) $203.40
RESUBMITTAL FEE	((~~$84.90~~)) $89.80
ADDENDUM (Approval expires on the same date as original plan.)	((~~$84.90~~)) $89.80
ELECTRONIC PLAN SUBMITTAL FEE ((~~$5.90~~)) $6.20 per page for the first set of plans and $1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT INSPECTION FEES:	
Combination permit - Mechanical and electrical inspections	((~~$210.00~~)) $222.30

Heat pump	((~~$210.00~~)) $222.30
Air conditioning	((~~$210.00~~)) $222.30
Air conditioning with replacement furnace	((~~$210.00~~)) $222.30
Gas furnace installation includes gas piping	((~~$210.00~~)) $222.30
Fire safety inspection	((~~$210.00~~)) $222.30
MECHANICAL	
Gas*** piping	((~~$93.30~~)) $98.70
Wood stove	((~~$93.30~~)) $98.70
Pellet stove	((~~$93.30~~)) $98.70
Gas*** Room heater	((~~$93.30~~)) $98.70
Gas*** Decorative appliance	((~~$93.30~~)) $98.70
Range: Changing from electric to gas***	((~~$93.30~~)) $98.70
Gas*** Water heater replacement	((~~$69.90~~)) $73.90
ELECTRICAL	
Electric water heater replacement	((~~$116.80~~)) $123.60
Electric water heater ((~~ipeplacing~~)) replacing gas*** water heater	((~~$116.80~~)) $123.60
Each added or modified 120 volt circuit (maximum charge is two circuits)	((~~$116.80~~)) $123.60
Each added 240 volt circuit (for other than heat pumps, air conditioners, furnaces, water heaters, ranges, hot tubs or spas)	((~~$116.80~~)) $123.60
Hot tub or spa (power from home electrical panel)	((~~$116.80~~)) $123.60
Replace main electrical panel/permanently installed transfer equipment	((~~$116.80~~)) $123.60
Low voltage fire/intrusion alarm	((~~$116.80~~)) $123.60
Any combination of furnace, range and water heater changing from electric to gas***	((~~$116.80~~)) $123.60
PLUMBING	
Fire sprinkler system	((~~$262.40~~)) $277.70
Each added fixture	((~~$69.90~~)) $73.90
Replacement of water piping system (this includes two inspections)	((~~$234.20~~)) $247.90
STRUCTURAL	
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)	((~~$104.70~~)) $110.80
Reroofs (may require a plan review)	((~~$187.10~~)) $198.00
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)	((~~$187.10~~)) $198.00
Other structural changes (may require a plan review)	((~~$187.10~~)) $198.00
MISCELLANEOUS	
OTHER REQUIRED INSPECTIONS (per hour*)	((~~$76.60~~)) $81.00
ALL REINSPECTIONS (per hour*)	((~~$76.60~~)) $81.00
Manufactured home installation inspection permit (only available in cities and counties with L&I inspection contract)	((~~$536.20~~)) $567.60
Refund	((~~$23.10~~)) $24.40
INSIGNIA FEES:	
REISSUED - LOST/DAMAGED	((~~$23.10~~)) $24.40
IPIA	
DEPARTMENT AUDIT FEES	
REGULARLY SCHEDULED IPIA AUDIT:	
First inspection on each section (one time only)	((~~$38.40~~)) $40.60
Second and succeeding inspections of unlabeled sections (per hour*)	((~~$84.90~~)) $89.80
OTHER IPIA FEES:	
Red tag removal during a regularly scheduled IPIA audit (per hour* separate from other fees)	((~~$84.90~~)) $89.80
Red tag removal at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
Increased frequency surveillance (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
Attendance at manufacturers training classes (per hour* only)	((~~$84.90~~)) $89.80
Subpart "I" investigations (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
Alterations to a labeled unit (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
IPIA Issues/Responses (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
Monthly surveillance during a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
Monthly surveillance at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80

Plant certifications, recertifications and addenda updates (per hour* plus travel time* and mileage** per each inspector)	((~~$84.90~~)) $89.80
Response to HBT audit during a regularly scheduled IPIA audit (per hour*)	((~~$84.90~~)) $89.80
Response to HBT audit at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
Alternative construction (AC) letter inspections at placement site (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
Replacement of HUD labels (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
State administrative agency (SAA) inspection fee (per hour* plus travel time* and mileage**)	((~~$84.90~~)) $89.80
State administrative agency (SAA) dispute resolution filing fee	((~~$84.90~~)) $89.80
State administrative agency (SAA) dispute resolution (per hour*)	((~~$84.90~~)) $89.80
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour plus travel time* and mileage**)	((~~$78.90~~)) $83.50
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (one free copy per year upon request)	((~~$15.40~~)) $16.30
VARIANCE INSPECTION FEE	((~~$187.10~~)) $198.00
HOMEOWNER REQUESTED INSPECTION	((~~$187.10~~)) $198.00
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	((~~$187.10~~)) $198.00
DEMOLITION OF A MOBILE/MANUFACTURED HOME	((~~$187.10~~)) $198.00
ENERGY CONSERVATION PERMIT	((~~$31.80~~)) $33.60

NOTE: Local jurisdictions may have other fees that apply.

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
**Per state guidelines.
***Gas means all gases; natural, propane, etc.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 22-01-193, § 296-150M-3000, filed 12/21/21, effective 1/31/22; WSR 21-07-126, § 296-150M-3000, filed 3/23/21, effective 4/23/21; WSR 20-04-081, § 296-150M-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150M-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150M-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150M-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150M-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapter 43.22 RCW. WSR 07-05-063, § 296-150M-3000, filed 2/20/07, effective 4/1/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150M-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW and 2005 c 399. WSR 05-24-020, § 296-150M-3000, filed 11/29/05, effective 1/1/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150M-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150M-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.340, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.480, and 43.22.485, 2002 c 268, and chapter 43.22 RCW. WSR 03-12-044, § 296-150M-3000, filed 5/30/03, effective 5/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150M-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 43.22.340, 43.22.350, 43.22.355, 43.22.360, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.450, 43.22.480, and 43.22.485. WSR 00-17-148, § 296-150M-3000, filed 8/22/00, effective 9/30/00. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150M-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106,

18.27 and 43.22 RCW. WSR 98-12-041, § 296-150M-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 70.87.030, 18.27.070, [18.27.]075, 43.22.350, [43.22.]355, [43.22.]434 and [43.22.]480(2). WSR 97-11-053, § 296-150M-3000, filed 5/20/97, effective 6/30/97. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150M-3000, filed 10/23/96, effective 11/25/96.]

OTS-3810.1

AMENDATORY SECTION (Amending WSR 21-07-126, filed 3/23/21, effective 4/23/21)

WAC 296-150P-3000 Recreational park trailer fees.

INITIAL FILING FEE	((~~$40.00~~)) $42.30
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	((~~$113.50~~)) $120.10
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	((~~$150.10~~)) $158.80
RESUBMITTAL FEE	((~~$81.20~~)) $85.90
ADDENDUM (Approval expires on same date as original plan.)	((~~$81.20~~)) $85.90
ELECTRONIC PLAN SUBMITTAL FEE ((~~$5.90~~)) $6.20 per page for the first set of plans and $1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	((~~$81.20~~)) $85.90
TRAVEL (per hour)*	((~~$81.20~~)) $85.90
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	((~~$81.20~~)) $85.90
TRAVEL (per hour)*	((~~$81.20~~)) $85.90
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	((~~$121.20~~)) $128.30
INSIGNIA FEES:	
STATE CERTIFIED	((~~$28.90~~)) $30.50
ALTERATION	((~~$40.00~~)) $42.30
REISSUED-LOST/DAMAGED	((~~$14.80~~)) $15.60
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	((~~$81.20~~)) $85.90
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((~~$15.00~~)) $15.80
REFUND FEE	((~~$28.90~~)) $30.50

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
**Per state guidelines.
***Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 21-07-126, § 296-150P-3000, filed 3/23/21, effective 4/23/21; WSR 20-04-081, § 296-150P-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150P-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150P-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150P-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150P-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150P-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150P-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150P-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150P-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 43.22.340, 43.22.350, 43.22.355, 43.22.360, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.450, 43.22.480, and 43.22.485. WSR 00-17-148, § 296-150P-3000, filed 8/22/00, effective 9/30/00. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150P-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106, 18.27 and 43.22 RCW. WSR 98-12-041, § 296-150P-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 43.22.340 and 43.22.420. WSR 97-16-043, § 296-150P-3000, filed 7/31/97, effective 12/1/97.]

OTS-3811.1

AMENDATORY SECTION (Amending WSR 21-07-126, filed 3/23/21, effective 4/23/21)

WAC 296-150T-3000 Factory-built temporary worker housing fees.

INITIAL FILING FEE	((~~$60.80~~)) $64.30
DESIGN PLAN FEES:	
INITIAL ONE YEAR DESIGN	((~~$176.60~~)) $186.90
RENEWAL FEE	((~~$60.80~~)) $64.30
RESUBMIT FEE	((~~$87.90~~)) $93.00
ADDENDUM (Approval expires on same date as original plan)	((~~$87.90~~)) $93.00
ELECTRONIC PLAN SUBMITTAL FEE ((~~$6.00~~)) $6.30 per page for the first set of plans and $1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	((~~$104.20~~)) $110.30

APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	((~~$16.20~~)) $17.10
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	((~~$87.90~~)) $93.00
TRAVEL (Per hour)*	((~~$87.90~~)) $93.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	((~~$87.90~~)) $93.00
TRAVEL (Per hour*)	((~~$87.90~~)) $93.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	((~~$247.80~~)) $262.30
EACH ADDITIONAL SECTION	((~~$23.80~~)) $25.10
REISSUED-LOST/DAMAGED	((~~$60.80~~)) $64.30
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders 200 Amperage plus	
Service/feeder	((~~$256.70~~)) $271.70
Additional Feeder	((~~$48.60~~)) $51.40
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders 200 Amperage plus	
Service/feeder	((~~$136.00~~)) $143.90
Additional Feeder	((~~$34.40~~)) $36.40
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	((~~$87.90~~)) $93.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free per year)	((~~$16.20~~)) $17.10
REFUND FEE	((~~$28.90~~)) $30.50

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
**Per state guidelines.
***Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 21-07-126, § 296-150T-3000, filed 3/23/21, effective 4/23/21; WSR 20-04-081, § 296-150T-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150T-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150T-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150T-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150T-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150T-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150T-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150T-3000, filed 12/14/04, effective 2/1/05.

Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150T-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150T-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150T-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150T-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 43.22.480. WSR 99-12-079, § 296-150T-3000, filed 5/28/99, effective 6/28/99.]

OTS-3812.1

AMENDATORY SECTION (Amending WSR 21-07-126, filed 3/23/21, effective 4/23/21)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

INITIAL FILING FEE	((~~$43.40~~)) $45.90
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	((~~$301.40~~)) $319.00
INITIAL FEE - ONE YEAR DESIGN	((~~$123.10~~)) $130.30
RENEWAL FEE	((~~$52.20~~)) $55.20
RESUBMIT FEE	((~~$87.90~~)) $93.00
ADDENDUM (Approval expires on same date as original plan)	((~~$87.90~~)) $93.00
ELECTRONIC PLAN SUBMITTAL FEE ((~~$6.00~~)) $6.30 per page for the first set of plans and $1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW - For medical units, find fees at http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	((~~$134.20~~)) $142.00
INITIAL FEE - ONE YEAR DESIGN	((~~$81.10~~)) $85.80
RENEWAL FEE	((~~$81.10~~)) $85.80
ADDENDUM	((~~$81.10~~)) $85.80
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	((~~$16.20~~)) $17.10
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	((~~$87.90~~)) $93.00
TRAVEL (Per hour)*	((~~$87.90~~)) $93.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	((~~$131.60~~)) $139.30

INSIGNIA FEES:	
FIRST SECTION/ALTERATION	((~~$25.20~~)) $26.60
REISSUED-LOST/DAMAGED	((~~$16.20~~)) $17.10
EXEMPT	((~~$43.40~~)) $45.90
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	((~~$87.90~~)) $93.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((~~$16.20~~)) $17.10
REFUND FEE	((~~$28.90~~)) $30.50

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
**Per state guidelines.
***Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 21-07-126, § 296-150V-3000, filed 3/23/21, effective 4/23/21; WSR 20-04-081, § 296-150V-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150V-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150V-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150V-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150V-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150V-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW. WSR 05-23-002, § 296-150V-3000, filed 11/3/05, effective 12/4/05. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150V-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150V-3000, filed 12/14/04, effective 2/1/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150V-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150V-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150V-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150V-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 43.22 RCW. WSR 99-18-069, § 296-150V-3000, filed 8/31/99, effective 10/1/99.]

WSR 22-19-082
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 20, 2022, 1:55 p.m., effective November 1, 2022]

Effective Date of Rule: November 1, 2022.

Purpose: In August 2021, the division of occupational safety and health (DOSH) received notification from the federal Occupational Safety and Health Administration (OSHA) relating to DOSH's fall protection standard. The notification advised L&I to amend our fall protection rule in chapter 296-880 WAC in order to be at-least-as-effective-as those administered by OSHA, as required by the Washington state plan. This rule making amends sections of the current fall protection rule that address roofing activities including leading edge work, work performed on a low or flat pitch roof, and ski area facility and operations.

Amended Sections:

WAC 296-880-090 Quick reference guide.

- Roofing work on a low pitch roof. Threshold height change from 10 feet to six feet.
- Constructing a leading edge. Threshold height change from 10 feet to six feet.
- Ski area facilities and operations: Working at unprotected elevated locations. Threshold height change from more than 10 feet to four feet or more.

WAC 296-880-095 Definitions.

- Numerated this section to provide clarity when cross-referencing.
- Added definition for "Infrequent."
- Removed definition for "Predictable and regular basis."
- Clarified definition for "Safety watch system."
- Added definition for "Temporary."

WAC 296-880-20005 Fall protection required at four feet or more.

- Added clarifying statement noting when fall protection is required at four feet or more.
- Subsection (7)(e) added option for use of a guardrail.
- Subsection (7)(f) added option for use of a safety watch system, if appropriate.
- Added exception for when work other than construction work is being performed under certain circumstances.
- Subsection (8) safety watch system was removed.
- Subsection (9) was renumbered to subsection (8).
- Subsection (10) was renumbered to subsection (9).

WAC 296-880-30005 Construction work.

- Subsection (1) height threshold was changed from 10 feet to six feet.
- Subsection (1)(c) renumbered to subsection (2) and further clarification provided regarding when fall protection is needed at hazards of 10 feet or more to the ground.
- Subsection (1)(d) renumbered to subsection (2)(b).
- Subsection (2) renumbered to subsection (3).

WAC 296-880-30055 Ski area facilities and operations.

- Subsection (1)(a) fall hazard height threshold reduced from 10 feet to four feet or more.

WAC 296-880-40005 Guardrail systems.

- Subsection (2)(d) reference to subsection (g) replaced with reference to subsection (h)(ii).

WAC 296-880-40050 Safety watch system requirements.

- Subsection (1) clarified language regarding when a safety watch system can be used.
- Subsection (2)(a) removed "repair work or servicing equipment" and replaced with "work activity."
- Subsection (2)(b) removed "repair" and "or service" to be consistent in the section.

Citation of Rules Affected by this Order: Amending WAC 296-880-090, 296-880-095, 296-880-20005, 296-880-30005, 296-880-30055, 296-880-40005, and 296-880-40050.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 22-14-097 [22-17-077] on July 5, 2022 [August 16, 2022].

Changes Other than Editing from Proposed to Adopted Version: WAC 296-880-095 definitions are numbered in order to provide ability to cross-reference.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 7, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: September 20, 2022.

Joel Sacks
Director

OTS-3734.4

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-880-090 Quick reference guide.

Unified Fall Protection Quick Reference Guide

General fall protection for all industries	Threshold height	WAC
Above or adjacent to dangerous equipment	Regardless of height	296-880-10010(1)

General fall protection for all industries	Threshold height	WAC
Holes into which an employee can trip, step into, or step through	Regardless of height	296-880-10010(2)
Falling into or onto impalement hazards	Regardless of height	296-880-10010(3)
When on a walking/working surface	Four feet or more	296-880-20005
Ramps, runways, and inclined walkways	Four feet or more	296-880-20005(2)
Holes where work is being performed	Four feet or more	296-880-20005(3)
Skylights	Four feet or more	296-880-20005 (3)(b)
Hatchway and chute holes	Four feet or more	296-880-20005 (3)(c)
Ladderways	Four feet or more	296-880-20005 (3)(d)
Pits and trap door holes	Four feet or more	296-880-20005 (3)(e)
Repair pits and service pits	Four feet or more	296-880-20005 (3)(f)
Manholes	Four feet or more	296-880-20005 (3)(g)
Openings	Four feet or more	296-880-20005(4)
Formwork and reinforcing work	Four feet or more	296-880-20005(5)
Steep pitch roof - Regardless of task	Four feet or more	296-880-20005(6)
Low pitch roof - Other than roofing work or constructing a leading edge	Four feet or more	296-880-20005(7)
Hazardous slopes	Four feet or more	296-880-20005(9)
Vehicles and rolling stock - If suitable anchorages cannot be provided or creates a greater hazard	Four feet or more	296-880-20005(10)
Specific requirements not addressed in WAC 296-880-200 (above)		
Construction work **See also chapter 296-155 WAC*		
Roofing work on a low pitch roof	((~~Ten~~)) Six feet	296-880-30005(1)
Constructing a leading edge	((~~Ten~~)) Six feet	296-880-30005(1)
Engaged in the erection or placement of structural members	Ten feet	296-880-30005(1)
Engaged in excavation and trenching operations	Ten feet	296-880-30005(1)
Order pickers (PITS) **See also chapter 296-863 WAC*		
Operators of order pickers	Regardless of height	296-880-30010 (1) and (2)
Elevating work platforms **See also chapter 296-869 WAC*		
Vehicle mounted aerial devices	Regardless of height	296-880-30015(1)
Manually propelled and self-propelled elevating work platforms	Regardless of height if required by manufacturer	296-880-30015(2)
Boom supported elevating work platforms	Regardless of height	296-880-30015(3)
Powered platforms **See also chapter 296-870 WAC*		
Working on a roof or other elevated working area	Four feet or more	296-880-30020(5)
Window cleaning **See also chapter 296-878 WAC*		
Working on a roof or other elevated working area	Four feet or more	296-880-30025(1)
Scaffolds **See also chapter 296-874 WAC*		
Working on a scaffold	Ten feet or more	296-880-30030(1)
Cranes - *Under the scope of chapter 296-155 WAC, Part L*		
For nonassembly/disassembly work	Six feet or more	296-880-30035(2)
For assembly/disassembly work	Ten feet or more	296-880-30035(3)
Towercranes - Work other than erecting, climbing, and dismantling	Six feet or more	296-880-30035 (4)(a)
Towercranes - Erecting, climbing, and dismantling work	Ten feet or more	296-880-30035 (4)(b)

General fall protection for all industries	Threshold height	WAC
Telecommunications work **See also chapter 296-32 WAC*	Four feet or more	296-880-200 and 296-880-30040
Qualified electrical workers **See also chapter 296-45 WAC*	Four feet or more	296-880-200
Ship repairing, shipbuilding and shipbreaking **See also chapter 296-304 WAC*		
Working aloft or elsewhere at elevation	Five feet or more	296-880-30045
Longshore, stevedore and waterfront related operations **See also chapter 296-56 WAC*		
Maintenance work on cranes, spouts, or similar types of equipment	Eight feet or more	296-880-30050(1)
Floor or wall openings or waterside edges, including bridges or gangway-like structures	Four feet or more	296-880-30050 (2)(a)
Ski area facilities and operations **See also chapter 296-59 WAC*		
Working at unprotected elevated locations	((~~More than ten feet~~)) Four feet or more	296-880-30055 (1)(a)

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-880-090, filed 6/2/20, effective 10/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-880-095 Definitions. For the purposes of this chapter the following definitions apply:

(1) **Aerial device.** A vehicle-mounted device, telescoping or articulating, or both, which is used to position personnel.

(2) **Affected area.** The distance away from the edge of an excavation equal to the depth of the excavation up to a maximum distance of ((~~fifteen~~)) 15 feet. For example, an excavation ((~~ten~~)) 10 feet deep has an affected area extending ((~~ten~~)) 10 feet from the edge of any side of the excavation.

(3) **Anchorage.** A secure point of attachment for lifelines, lanyards, or deceleration devices which is capable of withstanding the forces specified in this chapter.

(4) **Boom-supported elevating work platform.** A self-propelled, integral chassis, elevating work platform with a boom-supported platform that can be positioned completely beyond the base.

(5) **Catch platform.** A type of fall arrest system that consists of a platform installed within four vertical feet of the fall hazard, is at least ((~~forty-five~~)) 45 inches wide and is equipped with a standard guardrail system on all exposed sides.

(6) **Catenary line.** See "horizontal lifeline."

(7) **Competent person.** An individual knowledgeable of fall protection equipment, including the manufacturer's recommendations and instructions for the proper use, inspection, and maintenance; and who is capable of identifying existing and potential fall hazards; and who has the authority to take prompt corrective action to eliminate those hazards; and who is knowledgeable of the requirements contained in this chapter regarding the installation, use, inspection, and maintenance of fall protection equipment and systems.

(8) **Connector.** A device which is used to connect parts of the personal fall arrest system and positioning device systems together. It may be an independent component of the system, such as a carabiner, or it may be an integral component of part of the system (such as a buckle or D-ring sewn into a harness, or a snap hook spliced or sewn to a lanyard or self-retracting lanyard).

(9) **Construction work.** All or any part of excavation, construction, erection, alteration, repair, demolition, and dismantling of buildings and other structures and all operations in connection therewith; the excavation, construction, alteration and repair of sewers, trenches, caissons, conduits, pipe lines, roads and all operations pertaining thereto; the moving of buildings and other structures, and to the construction, alteration, repair, or removal of wharfs, docks, bridges, culverts, trestles, piers, abutments or any other construction, alteration, repair or removal work related thereto.

(10) **Deceleration device.** Any mechanism, such as a rope grab, ripstitch lanyard, specifically woven lanyard, tearing or deforming lanyards, automatic self-retracting lifelines/lanyards, etc., which serves to dissipate a substantial amount of energy during a fall arrest, or otherwise limit the energy imposed on an employee during fall arrest.

(11) **Deceleration distance.** The additional vertical distance a falling employee travels, excluding lifeline elongation and free fall distance, before stopping, from the point at which the deceleration device begins to operate. It is measured as the distance between the location of an employee's full body harness attachment point at the moment of activation (at the onset of fall arrest forces) of the deceleration device during a fall, and the location of that attachment point after the employee comes to a full stop.

(12) **Dropline.** A vertical lifeline secured to an upper anchorage for the purpose of attaching a lanyard or device.

(13) **Elevating work platform.** A device used to position personnel, along with their necessary tools and materials, at work locations. It includes a platform and an elevating assembly. It may be vehicle-mounted or have an integral chassis for mobility and as a means of support.

(14) **Equivalent.** Alternative designs, materials, or methods to protect against a hazard which the employer can demonstrate and will provide an equal or greater degree of safety for employees than the methods, materials, or designs specified in this standard.

(15) **Fall arrest system.** A fall protection system that will arrest a fall from elevation. Fall arrest systems include personal fall arrest systems that are worn by the user, catch platforms, and safety nets.

(16) **Fall distance.** The actual distance from the worker's support to the level where a fall would stop.

(17) **Fall protection work plan.** A written planning document in which the employer identifies all areas on the job site where a fall hazard of ((~~ten~~)) 10 feet or more exists. The plan describes the method or methods of fall protection to be used to protect employees, and includes the procedures governing the installation, use, inspection, and removal of the fall protection method or methods which are selected by the employer. See WAC 296-880-10020.

(18) **Fall restraint system.** A system in which all necessary components function together to restrain/prevent an employee from falling to a lower level. Types of fall restraint systems include standard

guardrail systems, personal fall restraint systems, warning line systems, or a warning line system and safety monitor.

(19) **Feasible.** It is possible to perform the work using a conventional fall protection system (i.e., guardrail system, safety net system, or personal fall arrest system) or that it is technologically possible to use any one of these systems to provide fall protection.

(20) **Free fall.** The act of falling before a personal fall arrest system begins to apply force to arrest the fall.

(21) **Free fall distance.** The vertical displacement of the fall arrest attachment point on the employee's full body harness between onset of the fall and just before the system begins to apply force to arrest the fall. This distance excludes deceleration distance, and lifeline/lanyard elongation, but includes any deceleration device slide distance or self-retracting lifeline/lanyard extension before they operate and fall arrest forces occur.

(22) **Full body harness.** A configuration of connected straps that meets the requirements specified in ANSI Z359.1, that may be adjustable to distribute a fall arresting force over at least the thighs, shoulders and pelvis, with provisions for attaching a lanyard, lifeline, or deceleration devices.

(23) **Full body harness system.** A full body harness and lanyard which is either attached to an anchorage meeting the requirements of this chapter; or it is attached to a horizontal or vertical lifeline which is properly secured to an anchorage(s) capable of withstanding the forces specified in this chapter.

(24) **Handrail.** A rail used to provide employees with a handhold for support.

(25) **Hardware.** Snap hooks, D-rings, bucklers, carabiners, adjusters, or O-rings, that are used to attach the components of a fall protection system together.

(26) **Hazardous slope.** A slope from which construction work is performed where normal footing cannot be maintained without the use of devices due to the pitch of the surface, weather conditions, or surface material.

(27) **Hole.** A gap or void two inches or more in its least dimension, in a floor, roof, or other surface.

(28) **Horizontal lifeline.** A rail, rope, wire, or synthetic cable that is installed in a horizontal plane between two anchorages and used for attachment of a worker's lanyard or lifeline device while moving horizontally; used to control dangerous pendulum like swing falls.

(29) **Infrequent.** The task or job is performed only on occasion, when needed (e.g., equipment breakdown), on an occasional basis, or at sporadic or irregular intervals.

(30) **Lanyard.** A flexible line of webbing, rope, or cable used to secure a positioning harness or full body harness to a lifeline or an anchorage point usually two, four, or six feet long.

(31) **Leading edge.** The advancing edge of a floor, roof, or formwork which changes location as additional floor, roof, or formwork sections are placed, formed, or constructed. A leading edge is considered to be an "unprotected side or edge" during periods when it is not actively and continuously under construction.

(32) **Lifeline.** A vertical line from a fixed anchorage or between two horizontal anchorages, independent of walking or working surfaces, to which a lanyard or device is secured. Lifeline as referred to in this text is one which is part of a fall protection system used as

back-up safety for an elevated worker or as a restraint for workers on a flat or sloped surface.

(33) **Locking snap hook.** A connecting snap hook that requires two separate forces to open the gate; one to deactivate the gatekeeper and a second to depress and open the gate which automatically closes when released; used to minimize roll out or accidental disengagement.

(34) **Low pitched roof.** A roof having a slope equal to or less than four in ((~~twelve~~)) 12.

(35) **Maintenance.** The work of keeping a building, machine, roadway, etc., in a state of good repair.

(36) **Manually propelled elevating work platform.** A manually propelled, integral chassis, elevating work platform with a platform that cannot be positioned completely beyond the base.

(37) **Mechanical equipment.** All motor or human propelled wheeled equipment except for wheelbarrows, mopcarts, robotic thermoplastic welders, and robotic crimpers.

(38) **Opening.** A gap or void ((~~thirty~~)) 30 inches (76 cm) or more high and ((~~eighteen~~)) 18 inches (48 cm) or more wide, in a wall or partition, through which employees can fall to a lower level.

(39) **Personal fall arrest system.** A fall arrest system that is worn by the employee to arrest the employee in a fall from elevation. It consists of an anchor point, connectors, a full body harness, and may include a lanyard, deceleration device, lifeline, or suitable combinations of these.

(40) **Personal fall restraint system.** A fall restraint system that is worn by the employee to keep the employee from reaching a fall point, such as the edge of a roof or elevated work surface. It consists of an anchor point, hardware assemblies, a full body harness and may include a lanyard, restraint lines, or suitable combinations of these.

(41) **Platform.** A work surface elevated above the surrounding floor or ground.

(42) **Positioning device system.** A full body harness or positioning harness that is worn by an employee, and is rigged to allow an employee to be supported on an elevated vertical or inclined surface, such as a wall, pole or column and work with both hands free from the body support.

(43) **Positioning harness.** A body support that meets the requirements specified in ANSI Z359.1 that encircles and closes around the waist and legs with attachment elements appropriate for positioning work.

((~~**Predictable and regular basis.** Employee tasks which are performed either:~~

~~(a) At least once every two weeks; or~~

~~(b) Four employee-hours or more during any sequential four-week period. (To calculate employee-hours multiply the number of employees by the number of hours during a four-week period).~~))

(44) **Qualified person.** One who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work, or the project.

(45) **Repair.** To restore a building, machine, roadway, etc., to an original state after damage or decay.

(46) **Restraint line.** A line from a fixed anchorage or between two anchorages to which an employee is secured in such a way as to prevent the worker from falling to a lower level.

(47) **Roof.** The exterior surface on the top of a building. This does not include floors or formwork which, because a building has not been completed, temporarily become the top surface of a building.

(48) **Roofing work.** The hoisting, storage, application, and removal of roofing materials and equipment, including related insulation, sheet metal, and vapor barrier work, but not including the construction of the roof deck.

(49) **Rope grab.** A fall arrester that is designed to move up or down a lifeline suspended from a fixed overhead or horizontal anchorage point, or lifeline, to which the full body harness is attached. In the event of a fall, the rope grab locks onto the lifeline rope through compression to arrest the fall. The use of a rope grab device is restricted for all restraint applications. See WAC 296-880-40025.

(50) **Runway.** A passageway for persons, elevated above the surrounding floor or ground level, such as a footwalk along shafting or a walkway between buildings.

(51) **Safety line.** See "lifeline."

(52) **Safety monitoring system.** A type of fall restraint system in which a competent person whose only job responsibility is to recognize and warn employees of their proximity to fall hazards when working between the warning line and the unprotected sides and edges, including the leading edge of a low pitch roof or other walking/working surface.

(53) **Safety net system.** A type of fall arrest system, as described in WAC 296-880-40055.

(54) **Safety watch system.** A type of fall protection system ((~~as described in WAC 296-880-40050,~~)) in which a competent person ((~~monitors one worker who is engaged in repair work or servicing equipment on low pitch roofs only~~)) is responsible for recognizing and warning one employee of a fall hazard.

(55) **Scaffold.** A temporary elevated platform, including its supporting structure and anchorage points, used for supporting employees or materials.

(56) **Self-propelled elevating work platform.** A self-propelled, integral chassis, elevating work platform with a platform that cannot be positioned completely beyond the base.

(57) **Self-rescue device.** A piece of equipment designed to allow a person, who is suspended in a personal fall arrest system, to independently rescue themselves after the fall by moving the device up or down until they reach a surface and are no longer suspended.

(58) **Self-retracting lifeline.** A deceleration device which contains a wound line which may be slowly extracted from, or retracted onto, the device under slight tension during normal employee movement, and which after onset of a fall, automatically locks the drum and arrests the fall.

(59) **Service.** To repair or provide maintenance for.

(60) **Shock absorbing lanyard.** A flexible line of webbing, cable, or rope used to secure a full body harness to a lifeline or anchorage point that has an integral shock absorber.

(61) **Snap hook.** See "locking snap hook."

(62) **Standard guardrail system.** A type of fall restraint system that is a vertical barrier consisting of a top rail and midrail, and toeboard when used as falling object protection for persons who may work or pass below, that is erected along all open sides or edges of a walking/working surface, ramps, platforms, or runways.

(63) **Standard strength and construction.** Any construction of guardrails, handrails, covers, or other guards that meets the requirements of this chapter.

(64) **Static line.** See "horizontal lifeline."

(65) **Steep pitched roof.** A roof having a slope greater than four in ((~~twelve~~)) 12.

(66) **Structural member.** A support that is a constituent part of any building or structure. Structural members include columns, girders, beams, trusses, joists, and similar supporting members of a building or structure.

(67) **Suitable.** That which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

(68) **Temporary.** The duration of the task the worker performs is brief or short.

(69) **Toeboard.** A vertical barrier at floor level erected along all open sides or edges of a floor opening, platform, runway, ramp, or other walking/working surface to prevent materials, tools, or debris from falling onto persons passing through or working in the area below.

(70) **Unprotected sides and edges.** Any open side or edge of a floor, roof, balcony/deck, platform, ramp, runway, or walking/working surface where there is no standard guardrail system, or parapet wall of solid strength and construction that is at least ((~~thirty-nine~~)) 39 inches in vertical height.

(71) **Walking/working surface.** Any surface, whether horizontal or vertical on which an employee walks, works, or gains access to a work area or workplace location. Walking/working surfaces include, but are not limited to, floors, the ground, roofs, ramps, bridges, runways, stairs, dockboards, formwork, and reinforcing steel but not including ladders.

(72) **Warning line system.** A barrier erected on a walking and working surface or a low pitch roof (four in ((~~twelve~~)) 12 or less), to warn employees that they are approaching an unprotected fall hazard(s).

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-880-095, filed 6/2/20, effective 10/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-880-20005 Fall protection required at four feet or more. The employer must ensure that fall arrest systems, fall restraint systems, or positioning device systems are provided, installed, and implemented in accordance with WAC 296-880-400 Fall protection system specifications when employees are exposed to fall hazards of four feet or more to the ground or lower level.

(1) Walking/working surfaces with unprotected sides or edges. Except as required in subsections (2) through (10) of this section, the employer must ensure that each employee on a walking/working surface with an unprotected side or edge four feet or more above the ground or lower level is protected by one of the following fall protection systems:

(a) A standard guardrail system, or the equivalent, as specified in WAC 296-880-40005, on all open sides, except where there is entrance to a ramp, stairway, or ladder. The guardrail must be provided

with a standard toeboard wherever: Beneath the open sides, persons can pass, there is moving machinery, or there is equipment with which falling materials could create a hazard.

(i) When employees are using stilts, the height of the top rail or equivalent member of the guardrail system must be increased (or additional rails may be added) an amount equal to the height of the stilts while maintaining the strength specifications of the guardrail system.

(ii) Where employees are working on or from platforms or ladders above the protection of the guardrail system, the employer must either increase the height of the guardrail system (or additional rails may be added) or select and implement another fall protection system as specified in (b), (c), (d), (e), or (f) of this subsection.

(iii) When guardrails must be temporarily removed to perform a specific task, the area must be constantly attended by an employee until the guardrail is replaced. The only duty the employee must perform is to warn persons entering the area of the fall hazard. The employee must be protected from the fall hazard by a personal fall arrest system or personal fall restraint system.

(b) A personal fall restraint system;

(c) A personal fall arrest system;

(d) A safety net system;

(e) A catch platform; or

(f) A warning line system.

(2) Guarding of ramps, runways, and inclined walkways.

(a) Ramps, runways, and inclined walkways that are four feet or more above the ground or lower level must be equipped with a standard guardrail system or the equivalent, as specified in WAC 296-880-40005, along each open side. Wherever tools, machine parts, or materials are likely to be used on the runway, a toeboard must also be installed on each open side to protect persons working or passing below.

(b) Runways used exclusively for special purposes may have the guardrail on one side omitted where operating conditions necessitate such omission, provided the falling hazard is minimized by using a runway not less than ((~~eighteen~~)) 18 inches wide.

Note: See WAC 296-880-40010 for other specific criteria for ramps, runways, and inclined walkways.

(3) Holes.

(a) The employer must protect employees from falling into or through holes four feet or more to the ground or lower level by one of the following fall protection systems:

(i) A standard guardrail system, or the equivalent, as specified in WAC 296-880-40005, on all open sides, except where there is entrance to a ramp, stairway, or ladder. The guardrail must be provided with a standard toeboard wherever, beneath the open sides, persons can pass, or there is moving machinery, or there is equipment with which falling materials could create a hazard;

(ii) A cover, as specified in WAC 296-880-40015;

(iii) A warning line system erected at least ((~~fifteen~~)) 15 feet from all unprotected sides or edges of the hole and meets the requirements of WAC 296-880-40040;

(iv) When the cover, guardrail system, or warning line system must be temporarily removed to perform a specific task, an employee must remain at the hole until the cover, guardrail system, or warning line system is replaced. The only duty the employee must perform is to warn persons entering the area of the fall hazard. The employee must

be protected from the fall hazard by a personal fall arrest system or personal fall restraint system; or

(v) Personal fall arrest systems or personal fall restraint systems.

(b) The employer must guard skylight holes and skylights.

(i) Unprotected skylight holes must be guarded by covers of standard strength and construction, standard guardrail systems on all exposed sides, or employees must be protected by personal fall restraint systems, or personal fall arrest systems.

(ii) If the skylight has been installed and is not capable of supporting, without failure, at least twice the weight of employees, equipment, and materials that may be imposed on the skylight at any one time, the skylight must be guarded by a cover of standard strength and construction, a standard guardrail system on all sides, or employees must be protected by personal fall restraint systems, or personal fall arrest systems.

(c) The employer must guard hatchways and chute holes by one of the following:

(i) Hinged covers of standard strength and construction and a standard guardrail system with only one exposed side. When the hole is not in use, the cover must be closed or the exposed side must be guarded at both top and intermediate positions by removable standard guardrail systems; or

(ii) A removable standard guardrail system with toeboard on not more than two sides of the hole and fixed standard guardrail system with toeboards on all other exposed sides. The removable guardrail must be kept in a place when the hole is not in use and must be hinged or otherwise mounted so as to be conveniently replaceable.

(d) The employer must guard ladderways or platforms by a standard guardrail system with standard toeboards on all exposed sides, except at the entrance to a hole, with the passage through the guardrail either provided with a swinging gate or so offset that a person cannot walk directly into the hole.

(e) The employer must guard pits and trap door holes by covers of standard strength and construction. While the cover is not in place, the pit or trap door holes must be protected on all exposed sides by a standard guardrail system.

(f) The employer must guard repair pits, service pits, and assembly pits by a cover, a guardrail system, a fall restraint system or fall arrest system.

(g) The employer must guard manholes by standard covers which need not be hinged in place. While the cover is not in place, the hole must be constantly attended or must be protected by a removable standard guardrail system.

(4) Guarding of openings. The employer must ensure that each employee working on, at, above, or near openings (including those with chutes attached) where the outside bottom edge of the opening is four feet or more above a lower level and the inside bottom edge of the opening is less than ((~~thirty-nine~~)) 39 inches above the working surface, are protected from falling by the use of a guardrail system, a safety net system, a personal fall arrest system, or personal fall restraint system.

(5) Fall protection during form and reinforcing work. The employer must ensure that employees exposed to fall hazards of four feet or more while placing or tying reinforcing steel or working on the face of formwork or reinforcing steel are protected by personal fall arrest systems, positioning device systems, or safety net systems.

(6) Fall protection on steep pitched roofs. Regardless of the work activity, the employer must ensure that employees exposed to fall hazards of four feet or more while working on a roof with a pitch greater than four in ((~~twelve~~)) 12 use one of the following:

(a) Fall restraint system. Safety monitor systems and warning line systems are prohibited on steep pitched roofs;

(b) A personal fall arrest system; or

(c) A positioning device system.

(7) Fall protection on low pitched roofs. The employer must ensure that employees exposed to fall hazards of four feet or more while engaged in work, other than roofing work or constructing a leading edge on low pitched roofs use one of the following:

(a) A personal fall restraint system;

(b) A personal fall arrest system;

(c) A positioning device system; ((~~or~~))

(d) A warning line system;

(e) A standard guardrail system;

(f) Safety watch system when work, other than construction work, is performed that is both infrequent and temporary, and not within six feet of the roof edge.

Exception: When work, other than construction work, is performed 15 feet or more from the roof edge, the employer is not required to provide any fall protection, provided the work is both infrequent and temporary and the employer implements and enforces a work rule prohibiting employees from going within 15 feet of the roof edge without using fall protection in accordance with (a) through (f) of this subsection.

(8) ((~~Safety watch system. When one employee is conducting repair work or servicing equipment on a low pitch roof four feet or more above a lower level, employers are allowed to use a safety watch system in accordance with WAC 296-880-40050.~~

~~(9)~~)) Hazardous slopes. Employees exposed to falls of four feet or more while performing construction work on a hazardous slope must use personal fall restraint systems or positioning device systems.

((~~(10)~~)) (9) Vehicles and rolling stock. The employer must ensure that employees exposed to fall hazards of four feet or more to the ground or lower level from vehicles or rolling stock on which employees must be located in order to perform their job duties are protected by fall arrest systems, fall restraint systems, or positioning device systems.

Exception: Where suitable anchorages cannot be provided or when the use of fall protection creates a greater hazard, work may be performed on vehicles or rolling stock without a fall protection system.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-880-20005, filed 6/2/20, effective 10/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-880-30005 Construction work. This section applies to work activities under the scope of chapter 296-155 WAC, Safety standards for construction work, unless specifically addressed in WAC 296-880-200 of this chapter.

(1) The employer must ensure that a fall arrest system, fall restraint system, or positioning device system is provided, installed, and implemented in accordance with ((~~this chapter~~)) WAC 296-880-400 Fall protection system specifications when employees are exposed to

fall hazards of ((~~ten~~)) six feet or more to the ground or lower level while:

(a) Engaged in roofing work on a low pitched roof;

(b) Constructing a leading edge((~~,~~)).

Exception: Employees not directly involved with constructing the leading edge, or are not performing roofing work must comply with WAC 296-880-200 Fall protection required at four feet or more.

((~~(c)~~)) (2) The employer must ensure that a fall arrest system, fall restraint system, or positioning device system is provided, installed, and implemented in accordance with WAC 296-880-400 Fall protection system specifications when employees are exposed to fall hazards of 10 feet or more to the ground or lower level while:

(a) Engaged in the erection or placement of structural members.

Exception: When the erection or placement of structural members is performed on or from a floor, deck, roof, or similar surface you must comply with WAC 296-880-200 Fall protection required at four feet or more.

((~~(d)~~)) (b) Engaged in excavation and trenching operations.

(i) Exceptions. Fall protection is not required at excavations when employees are:

(A) Directly involved with the excavation process and on the ground at the top edge of the excavation; or

(B) Working at an excavation site where appropriate sloping of side walls has been implemented as the excavation protective system.

(ii) Fall protection is required for employees standing in or working in the affected area of a trench or excavation exposed to a fall hazard of ((~~ten~~)) 10 feet or more; and:

(A) The employees are not directly involved with the excavation process; or

(B) The employees are on the protective system or any other structure in the excavation.

Note: Persons considered directly involved in the excavation process include:
1. Foreman of the crew.
2. Signal person.
3. Employee hooking on pipe or other materials.
4. Grade person.
5. State, county, or city inspectors inspecting the excavation or trench.
6. An engineer or other professional conducting a quality-assurance inspection.

((~~(2)~~)) (3) Employees are exempt from WAC 296-880-30005 under the following conditions:

(a) During initial installation of the fall protection anchor prior to engaging in any work activity, or the disassembly of the fall protection anchor after all work activities have been completed;

(b) When employees are inspecting, investigating, or assessing roof level conditions or work to be performed only on low pitch roofs prior to the start of construction work or after all construction work has been completed;

This exemption does not apply on steep pitch roofs, where construction work is underway, or when fall protection systems or equipment meeting the requirements of this chapter have been installed and are available for workers to use for pre-work and post-work inspections, investigations, or assessments.

Note: Examples of activities the department recognizes as inspecting or estimating include:
- Measuring a roof to determine the amount of materials needed for a project;
- Inspecting the roof for damage without removing equipment or components; and
- Assessing the roof to determine what method of fall protection will be provided to employees.

Note: Examples the department does not recognize as inspecting or estimating under this exemption include:
- Delivering, staging, or storing materials on a roof; and
- Persons estimating or inspecting on roofs that would be considered a "hazardous slope" by definition.

(c) When employees must be located on vehicles, or rolling stock in order to perform their job duties.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-880-30005, filed 6/2/20, effective 10/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-880-30055 Ski area facilities and operations. This section applies to all persons, firms, corporations, or others engaged in the operation of organized ski areas and facilities under the scope of chapter 296-59 WAC, Safety standards for ski area facilities and operations.

(1) Personal protective equipment, general requirements.

(a) Personal fall arrest systems or personal fall restraint systems must be provided and used whenever employees are working in locations which expose them to a fall hazard of four feet or more ((~~than ten feet~~)).

(b) Employees will not be required to wear personal fall protection systems while riding on a standard lift chair while seated in the normal riding position.

(2) Ski lift facilities and structures. Personal fall arrest systems or personal fall restraint systems must be used when working at unprotected elevated locations. Exception to this requirement must only be permitted for emergency rescue or emergency inspection if a personal fall arrest system is not immediately available. Required personal protective equipment must be made available as quickly as possible.

(3) Guardrails on ski lift aerial work platforms.

(a) The platform must be equipped with standard height and strength guardrails where such guardrails will pass through the configuration of all lifts on which it is intended to be used.

(b) Where guardrails must be less than ((~~thirty-nine~~)) 39 inches high in order to clear carriages, guidage, etc., guardrails must be as high as will clear the obstructions but never less than ((~~twelve~~)) 12 inches high.

(c) If the work platform is equipped with an upper work level, the upper level platform must be equipped with a toeboard at least four inches high.

(d) Each platform must be equipped with a lanyard attachment ring for each permissible occupant to attach a personal fall arrest system or personal fall restraint system.

(e) Each lanyard attachment ring must be of such strength as to sustain ((~~five thousand four hundred~~)) 5,400 pounds of static loading for each occupant permitted to be attached to a specific ring.

(f) Attachment rings must be permanently located as close to the center balance point of the platform as is practical.

(g) The rings may be movable, for instance, up and down a central suspension rod, but must not be completely removable.

(4) Work platform use.

(a) Passengers must be provided with and must use the correct personal fall arrest system or personal fall restraint system for the intended work.

(b) Any time a passenger's position is not protected by a standard guardrail at least ((~~thirty-nine~~)) 39 inches high, the individual

must be protected by a personal fall restraint system, which will not permit free-fall over the platform edge.

(c) When personnel are passengers on a work platform and their work position requires the use of a personal fall arrest or personal fall restraint system, the lanyard must be attached to the work platform, not to the haulrope or tower.

All specifications would be in accordance with WAC 296-880-400.

Additional requirements for ski area facilities and operations can be found in chapter 296-59 WAC, Safety standard for ski area facilities and operations.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-880-30055, filed 6/2/20, effective 10/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-880-40005 Guardrail systems. Guardrail systems and their use must conform to the following provisions:

(1) A standard guardrail system must consist of top rail, intermediate rail, and posts, and must have a vertical height of ((~~thirty-nine to forty-five~~)) 39 to 45 inches from upper surface of top rail to floor, platform, runway, or ramp level. When conditions warrant, the height of the top edge may exceed the ((~~forty-five~~)) 45 inch height, provided the guardrail system meets all other criteria of this subsection. The intermediate rail must be halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails must not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(2) Minimum requirements for standard guardrail systems under various types of construction are specified in the following items:

(a) For wood guardrails, the posts must be of at least two-inch by four-inch stock spaced not to exceed eight feet. The top rail must be of at least two-inch by four-inch stock and each length of lumber must be smooth surfaced throughout the length of the guardrail. The intermediate rail must be of at least one-inch by six-inch stock. Other configurations may be used for the top rail when the configuration meets the requirements of (g) of this subsection.

(b) For pipe guardrails, posts and top and intermediate rails must be at least one and one-half inches nominal OD diameter with posts spaced not more than eight feet on centers. Other configurations may be used for the top rail when the configuration meets the requirements of (g) of this subsection.

(c) For structural steel guardrails, posts and top and intermediate rails must be of two-inch by two-inch by three-eighths inch angles or other metal shapes of equivalent bending strength, with posts spaced not more than eight feet on centers. Other configurations may be used for the top rail when the configuration meets the requirements of (g) of this subsection.

(d) For wire rope guardrails, the top and intermediate rails must meet the strength factor and deflection of ((~~(g)~~)) (h)(ii) of this subsection. The top rail must be flagged at not more than six foot intervals with high visibility material. Posts must be spaced not more than eight feet on centers. The rope must be stretched taut and must

be between ((~~thirty-nine and forty-five~~)) 39 and 45 inches in height at all points. Other configurations may be used for the top rail when the configuration meets the requirements of (h) of this subsection.

(e) Guardrail systems must be of such construction that the completed structure is capable of withstanding a load of at least ((~~two hundred~~)) 200 pounds applied within two inches of the top edge, in any outward or downward direction, at any point along the top edge.

(f) When the ((~~two hundred~~)) 200 pound test load specified in (e) of this subsection is applied in a downward direction, the top edge of the guardrail must not deflect to a height less than ((~~thirty-nine~~)) 39 inches above the walking/working surface.

(g) Guardrails receiving heavy stresses from employees trucking or handling materials must be provided additional strength by the use of heavier stock, closer spacing of posts, bracing, or by other means.

(h) Other types, sizes, and arrangements of guardrail construction are acceptable, provided they meet the following conditions:

(i) A smooth surfaced top rail at a height above floor, platform, runway, or ramp level between ((~~thirty-nine and forty-five~~)) 39 and 45 inches;

(ii) When the ((~~two hundred~~)) 200 pound (890 N) load specified in (e) of this subsection is applied in a downward direction, the top edge of the guardrail must not deflect to a height less than ((~~thirty-nine~~)) 39 inches (1.0 m) above the walking/working surface. Guardrail system components selected and constructed in accordance with this chapter will be deemed to meet this requirement;

(iii) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(iv) Elimination of overhang of rail ends unless such overhang does not constitute a hazard.

(3) Toeboard specifications.

(a) A standard toeboard must be a minimum of three and one-half inches in vertical height from the top edge to the level of the walking/working surface. Toeboards may be made of any substantial material, either solid, or with openings not over one inch in greatest dimension. Toeboards must be securely fastened in place with no more than one-quarter inch clearance above the walking/working surface.

(b) Where material is piled to such height that a standard toeboard does not provide protection, paneling, or screening from floor to intermediate rail or to top rail must be provided.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-880-40005, filed 6/2/20, effective 10/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-880-40050 Safety watch system requirements. Safety watch systems and their use must conform to the following provisions:

(1) When one employee is conducting ((~~any repair~~)) work ((~~or servicing equipment~~)), other than construction work, on a low pitch roof, not within six feet of the roof edge((~~, and where exposure to falls is infrequent (not on a predictable and regular basis)~~)) and

when the work is both infrequent and temporary, employers are allowed to use a safety watch system.

(2) The employer must ensure the safety watch system meets the following requirements:

(a) There can only be two people on the roof while the safety watch system is being used: One employee acting as the safety watch and one employee engaged in the ((~~repair work or servicing equipment~~)) work activity;

(b) The employee performing the ((~~repair~~)) work ((~~or service~~)) must comply promptly with fall hazard warnings from the safety watch;

(c) Mechanical equipment is not used; and

(d) The safety watch system is not used when weather conditions create additional hazards.

(3) The employer must ensure the employee acting as the safety watch meets all of the following:

(a) Is a competent person as defined in WAC 296-880-095;

(b) Is trained in the requirements of this section;

(c) Has full control over the work as it relates to fall protection;

(d) Has a clear, unobstructed view of the worker;

(e) Is able to maintain normal voice communication; and

(f) Performs no other duties while acting as the safety watch.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and chapter 49.17 RCW. WSR 20-12-091, § 296-880-40050, filed 6/2/20, effective 10/1/20.]

WSR 22-19-084
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed September 20, 2022, 2:08 p.m., effective October 21, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of health (department) adopted amendments to revise chapter 246-232 WAC, Radioactive material—Licensing applicability; chapter 246-235 WAC, Radioactive materials—Specific licenses; and chapter 246-240 WAC, Radiation protection—Medical use of radioactive material to be consistent with the United States Nuclear Regulatory Commission's (NRC) rule changes identified by the Regulation Amendments Tracking System (RATS) 2018-1 document and to make nonsubstantive editorial changes. This rule making was required to comply with RCW 70A.388.040 State radiation control agency, and 70A.388.110 Federal-state agreements. As stated under this 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 state rules consistent with, and at-least-as-stringent-as, NRC's rules.

Citation of Rules Affected by this Order: New WAC 246-232-004, 246-232-005 and 246-240-660; and amending WAC 246-232-006, 246-232-008, 246-232-009, 246-232-014, 246-232-040, 246-232-050, 246-232-060, 246-232-080, 246-232-130, 246-232-140, 246-235-010, 246-235-020, 246-235-075, 246-235-077, 246-235-080, 246-235-086, 246-235-090, 246-235-091, 246-235-093, 246-235-100, 246-235-103, 246-235-109, 246-240-010, 246-240-016, 246-240-019, 246-240-022, 246-240-025, 246-240-028, 246-240-051, 246-240-060, 246-240-063, 246-240-069, 246-240-072, 246-240-075, 246-240-078, 246-240-104, 246-240-107, 246-240-110, 246-240-113, 246-240-119, 246-240-122, 246-240-128, 246-240-154, 246-240-160, 246-240-163, 246-240-201, 246-240-210, 246-240-213, 246-240-216, 246-240-219, 246-240-251, 246-240-272, 246-240-278, 246-240-281, 246-240-301, 246-240-304, 246-240-351, 246-240-354, 246-240-357, 246-240-360, 246-240-363, 246-240-366, 246-240-369, 246-240-372, 246-240-375, 246-240-378, 246-240-381, 246-240-384, 246-240-390, 246-240-393, 246-240-399, 246-240-551, 246-240-578, 246-240-590, 246-240-605, 246-240-614, 246-240-632, 246-240-651 and 246-240-654.

Statutory Authority for Adoption: RCW 70A.388.040.

Other Authority: RCW 70A.388.110.

Adopted under notice filed as WSR 22-15-036 on July 14, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 3, Amended 79, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 79, Repealed 0.

Date Adopted: September 20, 2022.

Lauren Jenks

Assistant Secretary

OTS-3837.3

GENERAL PROVISIONS

NEW SECTION

WAC 246-232-004 Completeness and accuracy of information. (1) Information provided to the department by an applicant for a license or by a licensee or information required by statute or by the department's rules, orders, or license conditions to be maintained by the applicant or the licensee must be complete and accurate in all material respects.

(2) Each applicant or licensee must notify the department of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety. An applicant or licensee violates this subsection only if the applicant or licensee fails to notify the department of information that the applicant or licensee has identified as having a significant implication for public health and safety. Notification must be provided to the department within two working days of identifying the information. This requirement is not applicable to information which is already required to be provided to the department by other reporting or updating requirements.

[]

NEW SECTION

WAC 246-232-005 Deliberate misconduct. (1) Any licensee; certificate of registration holder; applicant for a license or certificate of registration; employee of a licensee or certificate of registration holder or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or certificate of registration holder or applicant for a license or certificate of registration; who knowingly provides to any licensee, applicant, certificate holder, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, certificate holder's, or applicant's activities in chapters 246-220 through 246-254 WAC, may not:

(a) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee, certificate of registration holder, or applicant to be in violation of any rule or order; or any term, condition, or limitation of any license issued by the department; or

(b) Deliberately submit to the department, a licensee, certificate of registration holder, an applicant, or a licensee's, certificate holder's, or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the department.

(2) A person who violates subsection (1)(a) or (b) of this section may be subject to enforcement action under chapter 70A.388 RCW.

(3) For the purposes of subsection (1)(a) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(a) Would cause a licensee, certificate of registration holder, or applicant to be in violation of any rule or order; or any term, condition, or limitation, of any license issued by the department; or

(b) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, certificate of registration holder, applicant, contractor, or subcontractor.

[]

EXEMPTIONS

AMENDATORY SECTION (Amending WSR 17-01-034, filed 12/12/16, effective 1/12/17)

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~~)) 50 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~~)) 20 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~~)) 10 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~~)) 10 percent by weight of thorium or uranium or, for lenses manufactured before August 27, 2013, ((~~thirty~~)) 30 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 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 un-

til 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).

[Statutory Authority: RCW 70.98.050 and 70.98.110. WSR 17-01-034, § 246-232-006, filed 12/12/16, effective 1/12/17; WSR 16-13-054, § 246-232-006, filed 6/10/16, effective 7/11/16. Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-006, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-232-006, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 01-02-068, § 246-232-006, filed 12/29/00, effective 1/29/01.]

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-008 Exemption of certain timepieces, hands or dials. 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. 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 apply radioactive material to, or incorporate radioactive material into, the following timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation((~~*~~)):

((~~*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)(a) ((~~925~~)) Nine hundred twenty-five megabecquerels (25 millicuries) of tritium per timepiece;

(b) ((~~185~~)) One hundred eighty-five megabecquerels (((~~5~~)) five millicuries) of tritium per hand;

(c) ((~~555~~)) Five hundred fifty-five megabecquerels (15 millicuries) of tritium per dial (bezels when used shall be considered as part of the dial);

(d) 3.7 megabecquerels (100 microcuries) of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) of promethium-147 per any other timepiece;

(e) ((~~740~~)) Seven hundred forty kilobecquerels (20 microcuries) of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) of promethium-147 per other timepiece hand;

(f) 2.22 megabecquerels (60 microcuries) of promethium-147 per watch dial or 4.44 megabecquerels (120 microcuries) of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial);

(2) The levels of radiation from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(a) For wrist watches, ((~~1~~)) one microgray (0.1 millirad) per hour at 10 centimeters from any surface;

(b) For pocket watches, ((~~1~~)) one microgray (0.1 millirad) per hour at ((~~1~~)) one centimeter from any surface;

(c) For any other timepiece, ((~~2~~)) two micrograys (0.2 millirad) per hour at 10 centimeters from any surface.

(3) ((~~37~~)) Thirty-seven kilobecquerels (((~~1~~)) one microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007.

[Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-008, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-232-008, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 01-02-068, § 246-232-008, filed 12/29/00, effective 1/29/01.]

AMENDATORY SECTION (Amending WSR 17-01-034, filed 12/12/16, effective 1/12/17)

WAC 246-232-009 Exemption of certain items containing radioactive material. 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. 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~~)) one millicurie) of tritium per balance or 18.5 megabecquerels (0.5 millicurie) of tritium per balance part manufactured before December 17, 2007.

(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.

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

(6) 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. 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~~)) one millirad) per hour at ((~~1~~)) one centimeter from any surface when measured through ((~~7~~)) seven 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~~)) Thirty-seven kilobecquerels (((~~1~~)) one microcurie) of cobalt-60;

(c) ((~~185~~)) One hundred eighty-five kilobecquerels (((~~5~~)) five microcuries) of nickel-63;

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

(e) ((~~185~~)) One hundred eighty-five kilobecquerels (((~~5~~)) five 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.~~))

(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.

[Statutory Authority: RCW 70.98.050 and 70.98.110. WSR 17-01-034, § 246-232-009, filed 12/12/16, effective 1/12/17. Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-009, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-232-009, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 01-02-068, § 246-232-009, filed 12/29/00, effective 1/29/01.]

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

WAC 246-232-014 Exemption of C-14 urea diagnostic capsules for human use. (1) Except as provided in subsections (2) and (3) of this section, a person is exempt from the requirements for a license and from this chapter and chapters 246-233 and 246-235 WAC if the person receives, possesses, uses, transfers, owns, or acquires, and does not apply radioactive material to, or incorporate radioactive material into, capsules containing 37 kilobecquerels (((1)) one microcurie) of carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in-vivo" diagnostic use for humans.

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

(3) A person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution these capsules must do so in accordance with a specific license issued by the NRC, Washington, D.C. 20555.

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

[Statutory Authority: RCW 70.98.050 and 70.98.110. WSR 16-13-054, § 246-232-014, filed 6/10/16, effective 7/11/16. Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-014, filed 11/22/13, effective 12/23/13; WSR 06-05-019, § 246-232-014, filed 2/6/06, effective 3/9/06; WSR 01-02-068, § 246-232-014, filed 12/29/00, effective 1/29/01.]

LICENSES

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-040 Reciprocal recognition of licenses. Before radioactive material can be used at any temporary job site, the jurisdictional status of the job site must be determined. Authorization for use of radioactive material at job sites under exclusive federal jurisdiction must be obtained from the appropriate regional office of the NRC, Washington, D.C. 20555. Before radioactive materials can be used as a temporary job site in another state, authorization must be obtained from that state if it is an agreement state, or from the NRC if it is a nonagreement state.

(1) A person authorized by a license issued by the NRC or an agreement state, may obtain authorization from the department to work in Washington state provided:

(a) The out-of-state license is issued by the NRC or agreement state with jurisdiction where the licensee maintains an office for directing the licensed work and for retaining radiation safety records;

(b) The out-of-state licensee must not possess or use radioactive materials or conduct authorized work in Washington state for more than ((~~one hundred eighty~~)) 180 days in that ((~~twelve month~~)) 12-month period which starts the date approval is granted, and the appropriate fee is received by the department, as required in chapter 246-254 WAC;

(c) The out-of-state licensing document authorizes the work conducted;

(d) The licensed work is not conducted in an area under exclusive federal jurisdiction;

(e) The appropriate fee is currently paid, as required in chapter 246-254 WAC. Licensees send fees to Washington State Department of Health, Revenue Accounting, P.O. Box 1099, Olympia, Washington 98504-1099;

(f) The out-of-state licensee notifies the department in writing at least three days before each entry into Washington state to conduct licensed work.

(i) The written notification must be sent to the Radioactive Materials Section, Department of Health, P.O. Box 47827, Olympia, Washington 98504-7827. Fax, email, or other notifications may be approved by the department.

(ii) The written notification must include use and storage location(s), start and end dates of licensed work, and type of proposed possession and use in Washington state, and must include licensing documents authorizing the licensed work.

(iii) If an unexpected need or emergency means the three-day notice is impossible or would impose an undue hardship on the out-of-state licensee, the out-of-state licensee may telephone the department (360-236-3221), for permission to proceed immediately.

(iv) The department may waive the requirement for filing additional written notifications during the remainder of the ((~~twelve~~)) 12 months following the receipt of the initial notification.

(g) The out-of-state licensee must:

(i) Comply with all terms and conditions of the licensing document issued by the licensing authority except such terms or conditions contrary to the requirements or rules of the department or this section;

(ii) Comply with all applicable rules, terms and conditions of the department; and

(iii) Promptly provide other information the department may request.

(h) The out-of-state licensee must request approval for changes in work locations, radioactive material, or work conducted if different from the most recent information provided to the department.

(i) The out-of-state licensee may not transfer or dispose of radioactive material except by transfer to a person specifically licensed by the department or by the NRC or an agreement state to receive such material.

(j) The out-of-state specific licensee may possess or use radioactive material or conduct authorized work in offshore waters for more than ((~~one hundred eighty~~)) 180 days in any calendar year, if the specific license issued by an agreement state or the NRC authorizes the specific licensee to possess or use radioactive material or conduct authorized work in offshore waters for an unlimited period of time.

(2) A person who holds a specific license issued by the NRC or an agreement state authorizing the holder to manufacture, install, or service a device described in WAC 246-233-020 within the areas subject to the jurisdiction of the licensing body is hereby granted a general license to install and service such device in this state in areas not under exclusive federal jurisdiction provided:

(a) Such person must file a report with the department within ((~~thirty~~)) 30 days after the end of each calendar quarter in which any device is transferred to or from, or installed in this state. Each report must identify each general licensee to or from whom such device is transferred by name and address, the device manufacturer (or initial transferor), model number and serial number, and the quantity and type of radioactive material contained in the device;

(b) The device has been, and is, manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to a person by the NRC or an agreement state;

(c) Such person must ensure that any labels required to be affixed to the device under rules of the authority which licensed the manufacture of the device bear a statement that removal of the label is prohibited; and

(d) The specific licensee must provide each general licensee to and from whom such device is transferred, or on whose premises such device is installed, a copy of the general license in WAC 246-233-020.

(3) The department may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed pursuant to such licensing document, upon determining that such action is necessary to prevent undue hazard to public health and safety, or to the environment, or to property.

[Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-040, filed 11/22/13, effective 12/23/13; WSR 04-04-055, § 246-232-040, filed 1/30/04, effective 3/1/04; WSR 01-02-068, § 246-232-040, filed 12/29/00, effective 1/29/01; WSR 99-15-105, § 246-232-040, filed 7/21/99, effective 8/21/99; WSR 98-13-037, § 246-232-040, filed 6/8/98, effective 7/9/98. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 91-15-112 (Order 184), § 246-232-040, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-232-040, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-19-250, filed 12/11/86; WSR 83-19-050 (Order 2026), § 402-19-250, filed 9/16/83. Statutory Authority: RCW 70.98.050. WSR 81-01-011 (Order 1570), § 402-19-250, filed 12/8/80. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-19-250, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-210.]

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-050 Terms and conditions of licenses. (1) Each license issued pursuant to ((~~this part shall be~~)) the rules in chapters 246-220 through 246-254 WAC is subject to all the provisions of ((~~the act, as now or hereafter in effect~~)) chapter 70A.388 RCW, and to all applicable rules((~~, regulations,~~)) and orders of the department.

(2)(a) No license issued or granted under chapters ((~~246-232, 246-233, or 246-235 WAC and no right to possess or use radioactive material granted by any license issued pursuant to chapters 246-233 and 246-235 WAC shall~~)) 246-220 through 246-254 WAC nor any right under a license may be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the department ((~~shall~~)) finds, after securing full information, ((~~find~~)) that the transfer is in accordance with the provisions of ((~~the act~~)) chapter 70A.388 RCW, and gives its consent in writing.

(b) An application for transfer of license must include:

(i) The identity, technical and financial qualifications of the proposed transferee; and

(ii) Financial assurance for decommissioning information required by WAC 246-235-075.

(3) Each person licensed by the department pursuant to chapters ((~~246-233 and 246-235~~)) 246-220 through 246-254 WAC shall confine use and possession of the radioactive material ((~~licensed~~)) to the locations and purposes authorized by the license. Except as otherwise provided in the license, a license issued pursuant to the rules in chapters 246-220 through 246-254 WAC carries with it the right to receive, acquire, own, and possess radioactive material. Preparation for shipment and transport of radioactive material must be in accordance with the provisions of chapter 246-231 WAC.

(4) Approval of licensee's procedures by the department does not release the licensee from responsibility if adherence to these procedures results in undue exposure to individuals or loss of control of radioactive material.

(5) The department may incorporate, in any license issued pursuant to the rules in chapters 246-220 through 246-254 WAC, at the time of issuance, or thereafter by appropriate rule or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material as it deems appropriate or necessary in order to:

(a) Protect health or to minimize danger to life or property;

(b) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of chapters 70A.388 RCW and 246-220 through 246-254 WAC.

(6) Licensees required to submit emergency plans by WAC 246-235-077 must follow the emergency plan approved by the department. The licensee may change the approved emergency plan without department approval only if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the department and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the department.

(7) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators must test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with WAC 246-240-160. The licensee must record the results of each test and retain each record for three years after the record is made. The licensee must report the results of any test that exceeds the permissible concentration listed in

WAC 246-240-160(1) at the time of generator elution, in accordance with WAC 246-240-660.

(8) Each specific licensee must notify the department of health, office of radiation protection, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(a) The licensee;

(b) An entity (as the term is defined in 11 U.S.C. 101(15)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as the term is defined in 11 U.S.C. 101(2)) of the licensee.

((~~(6)~~)) (9) The specific licensee's bankruptcy notification must include:

(a) The bankruptcy court in which the petition for bankruptcy was filed;

(b) The date of the filing of the petition;

(c) A complete and detailed inventory of all radioactive material possessed under the license including nuclide, form, activity and planned disposition;

(d) An estimation of the type and quantities of radioactive material the licensee plans to continue to receive or use on a routine basis;

(e) A description of security and storage for the radioactive material currently possessed;

(f) A plan for radioactive waste disposal, the estimated completion date(s), and the cost;

(g) An evaluation of facility and equipment contamination, estimate of clean-up costs, and a decontamination plan which includes a thorough description of how the cleanup will be funded and how it will be accomplished;

(h) An organizational chart specifying sole owners, partnerships, or officers in the corporation who have legal and fiscal responsibilities for the licensee;

(i) A description of any other changes affecting the terms and conditions of the radioactive materials license.

((~~(7)~~)) (10) Each specific licensee must notify the department within five working days if any items in subsection ((~~(6)~~)) (9) of this section change during bankruptcy proceedings.

((~~(8)~~)) (11) The department will consider clean-up costs as part of the licensee's administrative costs if decontamination is necessary to comply with ((~~these regulations;~~)) chapters 246-220 through 246-254 WAC.

((~~(9)~~)) (12) Each general licensee required to register by WAC 246-233-020 (3)(k) must notify the department of health, radiation protection, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(a) The licensee;

(b) An entity (as that term is defined in 11 U.S.C. 101(15)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

((~~(10)~~)) (13) The general licensee's bankruptcy notification must include:

(a) The bankruptcy court in which the petition for bankruptcy was filed; and

(b) The date of the filing of the petition.

((~~(11) For the purposes of this section, "affiliate" means:~~

~~(a) A person as defined in WAC 246-220-010 that directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the licensee (unless that person holds such securities (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities, or (ii) solely to secure a debt, if such person has not in fact exercised such power to vote);~~

~~(b) A corporation, twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the licensee;~~

~~(c) A person whose business is operated under a lease or operating agreement by a licensee, or person substantially all of whose property is operated under an operating agreement with the licensee; or~~

~~(d) A person that operates the business or substantially all of the property of the licensee under a lease or operating agreement.~~))

(14) Security requirements for portable gauges. Each portable gauge licensee must use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

(15)(a) Authorization under WAC 246-235-010 to produce positron emission tomography radioactive drugs for noncommercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable United States Food and Drug Administration, other federal, and state requirements governing radioactive drugs.

(b) Each licensee authorized under WAC 246-235-010 to produce positron emission tomography radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

(i) Satisfy the labeling requirements in WAC 246-235-100 for each positron emission tomography radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a positron emission tomography radioactive drug intended for noncommercial distribution to members of its consortium.

(ii) Possess and use instrumentation to measure the radioactivity of the positron emission tomography radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in WAC 246-235-100.

(c) A licensee that is a pharmacy authorized under WAC 246-235-010 to produce positron emission tomography radioactive drugs for noncommercial transfer to medical use licensees in its consortium must require that any individual that prepares positron emission tomography radioactive drugs must be:

(i) An authorized nuclear pharmacist that meets the requirements in WAC 246-235-100; or

(ii) An individual under the supervision of an authorized nuclear pharmacist as specified in WAC 246-240-057.

(d) A pharmacy, authorized under WAC 246-235-010 to produce positron emission tomography radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual

to work as an authorized nuclear pharmacist, must meet the requirements of WAC 246-235-100.

[Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-050, filed 11/22/13, effective 12/23/13; WSR 04-04-055, § 246-232-050, filed 1/30/04, effective 3/1/04. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 92-06-008 (Order 245), § 246-232-050, filed 2/21/92, effective 3/23/92. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-232-050, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-19-300, filed 12/11/86; WSR 83-19-050 (Order 2026), § 402-19-300, filed 9/16/83. Statutory Authority: RCW 70.98.050. WSR 81-01-011 (Order 1570), § 402-19-300, filed 12/8/80. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-19-300, filed 11/30/79, effective 1/1/80.]

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-060 Termination of licenses and decommissioning of sites and separate buildings or outdoor areas. (1) Each specific licensee shall immediately notify the department in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license and request termination of the license. This notification and request for termination of the license must include the reports and information specified in subsection (3)(c) and (d) of this section. The licensee is subject to the provisions of subsections (3) and (4) of this section, as applicable.

(2) No less than ((~~thirty~~)) 30 days before the expiration date specified in a specific license, the licensee shall either:

(a) Submit an application for license renewal under WAC 246-235-050; or

(b) Notify the department in writing if the licensee decides not to renew the license.

(3) If a specific licensee does not submit an application for license renewal under WAC 246-235-050, the licensee shall on or before the expiration date specified in the license:

(a) Terminate use of radioactive material;

(b) Properly dispose of radioactive material;

(c) Submit a completed departmental form "Certificate of disposition of radioactive material" or equivalent; and

(d) Submit a radiation survey report to confirm the absence of radioactive materials or establish the levels of radioactive contamination, unless the department determines a radiation survey report is not necessary.

(i) If no radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and subsection (3)(c) and (d) of this section is adequate, the department will notify the licensee in writing that the license is terminated.

(ii) If detectable levels of radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as con-

tamination until the licensee meets the criteria established in chapter 246-246 WAC and the department notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of subsection (4) of this section. In addition to the information submitted under subsection (3)(c) and (d) of this section, the licensee shall submit a plan for decontamination, if necessary.

(4) Each specific licensee who possesses residual radioactive material under subsection (3)(d)(ii) of this section, following the expiration of the license, shall:

(a) Be limited to actions, involving radioactive material related to decontamination and preparation for release in accordance with chapter 246-246 WAC; and

(b) Continue to control entry to restricted areas until:

(i) Such areas are suitable for release in accordance with chapter 246-246 WAC;

(ii) Contaminated equipment complies with guidance contained in WAC 246-232-140, Schedule D; and

(iii) The department notifies the licensee in writing that the license is terminated.

(5) Each general licensee licensed under the provisions of WAC 246-233-040, shall immediately notify the department in writing when the licensee decides to discontinue all activities involving radioactive materials authorized under the general license. Such notification shall include a description of how the generally licensed material was disposed and the results of facility surveys, if applicable, to confirm the absence of radioactive materials.

(6) Within ((~~sixty~~)) 60 days of the occurrence of any of the following, each specific licensee shall provide notification to the department in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the site, building, or outdoor area is suitable for release in accordance with chapter 246-246 WAC, or submit within ((~~twelve~~)) 12 months of notification a decommissioning plan, if required by subsection (10)(a) of this section, and begin decommissioning upon approval of that plan if:

(a) The license has expired or has been revoked by the department; or

(b) The licensee has decided to permanently cease principal activities, as defined in this section, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the site, building, or outdoor area is unsuitable for release in accordance with chapter 246-246 WAC; or

(c) No principal activities under the license have been conducted for a period of ((~~twenty-four~~)) 24 months; or

(d) No principal activities have been conducted for a period of ((~~twenty-four~~)) 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with chapter 246-246 WAC.

(7) As used in this section, principal activities means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(8) Coincident with the notification required by subsection (6) of this section, the licensee shall maintain in effect all decommis-

sioning financial assurances established by the licensee pursuant to WAC 246-235-075 or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to subsection (10)(d)(v) of this section. Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the department.

(9) The department may grant a request to extend the time periods established in subsection (6) of this section if the department determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than ((~~thirty~~)) 30 days before notification pursuant to subsection (6) of this section. The schedule for decommissioning set forth in subsection (6) of this section may not commence until the department has made a determination on the request.

(10)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the department and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The department may approve an alternate schedule for submittal of a decommissioning plan required pursuant to subsection (6) of this section if the department determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in (a) of this subsection with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey;

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning;

(vi) A description of the physical security plan and material control and accounting plan provisions in place during decommissioning;

(vii) For decommissioning plans calling for completion of decommissioning later than ((~~twenty-four~~)) 24 months after plan approval, the plan shall include a justification for the delay based on the criteria in subsection (12) of this section.

(e) The proposed decommissioning plan will be approved by the department if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(11)(a) Except as provided in subsection (12) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than ((~~twenty-four~~)) 24 months following the initiation of decommissioning.

(b) Except as provided in subsection (12) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than ((~~twenty-four~~)) 24 months following the initiation of decommissioning.

(12) The department may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the department determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted ((~~twenty-four-month~~)) 24-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted ((~~twenty-four-month~~)) 24-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the department may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(13) As the final step in decommissioning, the licensee shall:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed certificate of disposition of radioactive material or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC. The licensee shall, as appropriate:

(i) Report levels of gamma radiation in units of millisieverts (microroentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per ((~~one hundred~~)) 100 square centimeters—removable and fixed—for surfaces, megabecquerels

(microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(14) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the department determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC; and

(d) Records required by subsections (16) and (18) of this section have been received.

(15) Specific licenses for uranium and thorium milling are exempt from subsections (6)(d), (9) and (10) of this section with respect to reclamation of tailings impoundments or waste disposal areas.

(16) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than ((~~one hundred twenty~~)) 120 days, in an unsealed form, shall forward the following records to the department:

(a) Records of disposal required by WAC 246-221-230 (8)(a); and

(b) Records of results required by WAC 246-221-230 (7)(h).

(17) If licensed activities are transferred or assigned in accordance with WAC 246-232-050(2), each licensee authorized to possess radioactive material, with a half-life greater than ((~~one hundred twenty~~)) 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal required by WAC 246-221-230 (8)(a); and

(b) Records of results required by WAC 246-221-230 (7)(h).

(18) Prior to license termination, each licensee shall forward the records required by WAC 246-235-075(6) to the department.

[Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-060, filed 11/22/13, effective 12/23/13; WSR 04-04-055, § 246-232-060, filed 1/30/04, effective 3/1/04; WSR 00-07-085, § 246-232-060, filed 3/15/00, effective 4/15/00; WSR 99-15-105, § 246-232-060, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 97-08-095, § 246-232-060, filed 4/2/97, effective 5/3/97; WSR 91-15-112 (Order 184), § 246-232-060, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-232-060, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 83-19-050 (Order 2026), § 402-19-330, filed 9/16/83.]

AMENDATORY SECTION (Amending WSR 13-24-025, filed 11/22/13, effective 12/23/13)

WAC 246-232-080 Transfer of material. (1) No licensee shall transfer radioactive material except as authorized pursuant to this section.

(2) Except as otherwise provided in the license and subject to the provisions of this section, a licensee may transfer radioactive material:

(a) To the department. A licensee may transfer material to the department only after receiving prior approval from the department;

(b) To the United States Department of Energy;

(c) To a person exempt from the rules in this part to the extent permitted under such exemption;

(d) To a person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the department, the NRC or an agreement state, or to a person otherwise authorized to receive such material by the federal government or an agency thereof, the department, or an agreement state; or

(e) As otherwise authorized by the department in writing.

(3) Before transferring radioactive material to a specific licensee of the department, the NRC or an agreement state, or to a general licensee who is required to register with the department, the NRC or an agreement state prior to receipt of the radioactive material, the licensee transferring the material must verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

(4) The following methods for the verification required by subsection (3) of this section are acceptable:

(a) The transferor may obtain for possession, and read, a current copy of the transferee's specific license or registration certificate;

(b) The transferor may obtain for possession a written certification from the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;

(c) For emergency shipments the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date: Provided, That the oral certification is confirmed in writing within ((~~ten~~)) 10 days;

(d) The transferor may obtain other sources of information compiled by a reporting service from official records of the department, the NRC or the licensing agency of an agreement state as to the identity of licensees and the scope and expiration dates of licenses and registration; or

(e) When none of the methods of verification described in subsection (4) of this section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the department, the NRC or the licensing agency of an agreement state that the transferee is licensed to receive the radioactive material.

(5) Preparation for shipment and transport of radioactive material must be in accordance with the provisions of WAC 246-232-090.

(6) The requirements of subsection (4) of this section notwithstanding, no verification is required when returning used, unused or decayed sources of radiation to the original manufacturer, (e.g., industrial radiography sources, high dose-rate afterloader sources, teletherapy sources, portable moisture/density gauge sources, fixed gauge sources, and Mo-99/Tc-99m or Rb-82/Sr-82 generators).

[Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-080, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 91-15-112 (Order 184), § 246-232-080, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-232-080, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-19-400, filed 12/11/86. Statutory Authority: RCW 70.98.050. WSR 81-01-011 (Order 1570), § 402-19-400, filed 12/8/80. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-19-400, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-170.]

SCHEDULES

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

WAC 246-232-130 Schedule C, exempt concentrations. (See WAC 246-232-010(1).)

Element (atomic number)	Radionuclide	Column I Gas concentration µCi/ml[1]	Column II Liquid and solid concentration µCi/ml[2]
Antimony (51)	Sb-122		$3x10^{-4}$
	Sb-124		$2x10^{-4}$
	Sb-125		$1x10^{-3}$
Argon (18)	Ar-37	$1x10^{-3}$	
	Ar-41	$4x10^{-7}$	
Arsenic (33)	As-73		$5x10^{-3}$
	As-74		$5x10^{-4}$
	As-76		$2x10^{-4}$
	As-77		$8x10^{-4}$
Barium (56)	Ba-131		$2x10^{-3}$
	Ba-140		$3x10^{-4}$
Beryllium (4)	Be-7		$2x10^{-2}$
Bismuth (83)	Bi-206		$4x10^{-4}$
Bromine (35)	Br-82	$4x10^{-7}$	$3x10^{-3}$

Element (atomic number)	Radionuclide	Column I Gas concentration μCi/ml[1]	Column II Liquid and solid concentration μCi/ml[2]
Cadmium (48)	Cd-109		$2x10^{-3}$
	Cd-115m		$3x10^{-4}$
	Cd-115		$3x10^{-4}$
Calcium (20)	Ca-45		$9x10^{-5}$
	Ca-47		$5x10^{-4}$
Carbon (6)	C-14	$1x10^{-6}$	$8x10^{-3}$
Cerium (58)	Ce-141		$9x10^{-4}$
	Ce-143		$4x10^{-4}$
	Ce-144		$1x10^{-4}$
Cesium (55)	Cs-131		$2x10^{-2}$
	Cs-134m		$6x10^{-2}$
	Cs-134		$9x10^{-5}$
Chlorine (17)	Cl-38	$9x10^{-7}$	$4x10^{-3}$
Chromium (24)	Cr-51		$2x10^{-2}$
Cobalt (27)	Co-57		$5x10^{-3}$
	Co-58		$1x10^{-3}$
	Co-60		$5x10^{-4}$
Copper (29)	Cu-64		$3x10^{-3}$
Dysprosium (66)	Dy-165		$4x10^{-3}$
	Dy-166		$4x10^{-4}$
Erbium (68)	Er-169		$9x10^{-4}$
	Er-171		$1x10^{-3}$
Europium (63)	Eu-152 (9.2 h)		$6x10^{-4}$
	Eu-155		$2x10^{-3}$
Fluorine (9)	F-18	$2x10^{-6}$	$8x10^{-3}$
Gadolinium (64)	Gd-153		$2x10^{-3}$
	Gd-159		$8x10^{-4}$
Gallium (31)	Ga-72		$4x10^{-4}$
Germanium (32)	Ge-71		$2x10^{-2}$
Gold (79)	Au-196		$2x10^{-3}$
	Au-198		$5x10^{-4}$
	Au-199		$2x10^{-3}$
Hafnium (72)	Hf-181		$7x10^{-4}$
Hydrogen (1)	H-3	$5x10^{-6}$	$3x10^{-2}$
Indium (49)	In-113m		$1x10^{-2}$
	In-114m		$2x10^{-4}$
Iodine (53)	I-125	$3x10^{-9}$	$2x10^{-5}$
	I-126	$3x10^{-9}$	$2x10^{-5}$
	I-131	$3x10^{-9}$	$2x10^{-5}$
	I-132	$8x10^{-8}$	$6x10^{-4}$
	I-133	$1x10^{-8}$	$7x10^{-5}$
	I-134	$2x10^{-7}$	$1x10^{-3}$
Iridium (77)	Ir-190		$2x10^{-3}$
	Ir-192		$4x10^{-4}$
	Ir-194		$3x10^{-4}$

Element (atomic number)	Radionuclide	Column I Gas concentration µCi/ml[1]	Column II Liquid and solid concentration µCi/ml[2]
Iron (26)	Fe-55		$8x10^{-3}$
	Fe-59		$6x10^{-4}$
Krypton (36)	Kr-85m	$1x10^{-6}$	
	Kr-85		$3x10^{-6}$
Lanthanum (57)	La-140		$2x10^{-4}$
Lead (82)	Pb-203		$4x10^{-3}$
Lutetium (71)	Lu-177		$1x10^{-3}$
Manganese (25)	Mn-52		$3x10^{-4}$
	Mn-54		$1x10^{-3}$
	Mn-56		$1x10^{-3}$
Mercury (80)	Hg-197m		$2x10^{-3}$
	Hg-197		$3x10^{-3}$
	Hg-203		$2x10^{-4}$
Molybdenum (42)	Mo-99		$2x10^{-3}$
Neodymium (60)	Nd-147		$6x10^{-4}$
	Nd-149		$3x10^{-3}$
Nickel (28)	Ni-65		$1x10^{-3}$
Niobium (41)	Nb-95		$1x10^{-3}$
	Nb-97		$9x10^{-3}$
Osmium (76)	Os-185		$7x10^{-4}$
	Os-191m		$3x10^{-2}$
	Os-191		$2x10^{-3}$
	Os-193		$6x10^{-4}$
Palladium (46)	Pd-103		$3x10^{-3}$
	Pd-109		$9x10^{-4}$
Phosphorus (15)	P-32		$2x10^{-4}$
Platinum (78)	Pt-191		$1x10^{-3}$
	Pt-193m		$1x10^{-2}$
	Pt-197m		$1x10^{-2}$
	Pt-197		$1x10^{-3}$
Potassium (19)	K-42		$3x10^{-3}$
Praseodymium (59)	Pr-142		$3x10^{-4}$
	Pr-143		$5x10^{-4}$
Promethium (61)	Pm-147		$2x10^{-3}$
	Pm-149		$4x10^{-4}$
Radium (88)	Ra-226		$1x10^{-7}$
	Ra-228		$3x10^{-7}$
Rhenium (75)	Re-183		$6x10^{-3}$
	Re-186		$9x10^{-4}$
	Re-188		$6x10^{-4}$
Rhodium (45)	Rh-103m		$1x10^{-1}$
	Rh-105		$1x10^{-3}$
Rubidium (37)	Rb-86		$7x10^{-4}$

Element (atomic number)	Radionuclide	Column I Gas concentration µCi/ml[1]	Column II Liquid and solid concentration µCi/ml[2]
Ruthenium (44)	Ru-97		$4x10^{-3}$
	Ru-103		$8x10^{-4}$
	Ru-105		$1x10^{-3}$
	Ru-106		$1x10^{-4}$
Samarium (62)	Sm-153		$8x10^{-4}$
Scandium (21)	Sc-46		$4x10^{-4}$
	Sc-47		$9x10^{-4}$
	Sc-48		$3x10^{-4}$
Selenium (34)	Se-75		$3x10^{-3}$
Silicon (14)	Si-31		$9x10^{-3}$
Silver (47)	Ag-105		$1x10^{-3}$
	Ag-110m		$3x10^{-4}$
	Ag-111		$4x10^{-4}$
Sodium (11)	Na-24		$2x10^{-3}$
Strontium (38)	Sr-85		$1x10^{-3}$
	Sr-89		$1x10^{-4}$
	Sr-91		$7x10^{-4}$
	Sr-92		$7x10^{-4}$
Sulfur (16)	S-35	$9x10^{-8}$	$6x10^{-4}$
Tantalum (73)	Ta-182		$4x10^{-4}$
Technetium (43)	Tc-96m		$1x10^{-1}$
	Tc-96		$1x10^{-3}$
Tellurium (52)	Te-125m		$2x10^{-3}$
	Te-127m		$6x10^{-4}$
	Te-127		$3x10^{-3}$
	Te-129m		$3x10^{-4}$
	Te-131m		$6x10^{-4}$
	Te-132		$3x10^{-4}$
Terbium (65)	Tb-160		$4x10^{-4}$
Thallium (81)	Tl-200		$4x10^{-3}$
	Tl-201		$3x10^{-3}$
	Tl-202		$1x10^{-3}$
	Tl-204		$1x10^{-3}$
Thulium (69)	Tm-170		$5x10^{-4}$
	Tm-171		$5x10^{-3}$
Tin (50)	Sn-113		$9x10^{-4}$
	Sn-125		$2x10^{-4}$
Tungsten (Wolfram) (74)	W-181		$4x10^{-3}$
	W-187		$7x10^{-4}$
Vanadium (23)	V-48		$3x10^{-4}$
Xenon (54)	Xe-131m	$4x10^{-6}$	
	Xe-133	$3x10^{-6}$	
	Xe-135	$1x10^{-6}$	
Ytterbium (70)	Yb-175		$1x10^{-3}$

Element (atomic number)	Radionuclide	Column I Gas concentration μCi/ml[1]	Column II Liquid and solid concentration μCi/ml[2]
Yttrium (39)	Y-90		$2x10^{-4}$
	Y-91m		$3x10^{-2}$
	Y-91		$3x10^{-4}$
	Y-92		$6x10^{-4}$
	Y-93		$3x10^{-4}$
Zinc (30)	Zn-65		$1x10^{-3}$
	Zn-69m		$7x10^{-4}$
	Zn-69		$2x10^{-2}$
Zirconium (40)	Zr-95		$6x10^{-4}$
	Zr-97		$2x10^{-4}$
Beta or gamma emitting radioactive material not listed above with half-life less than ((3)) three years		$1x10^{-10}$	$1x10^{-6}$

Notes: [1] Values are given in Column I only for those materials normally used as gases

[2] μCi/gm for solids

Note 1: Many radionuclides decay into nuclides which are also radioactive. In expressing the concentrations in Schedule C the activity stated is that of the parent nuclide and takes into account the daughters.

Note 2: For purposes of WAC 246-232-010(1) where there is involved a combination of nuclides, the limit for the combination should be derived as follows: Determine for each nuclide in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule C for the specific nuclide when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

Example:

$$\frac{\text{Concentration of Nuclide A in Product}}{\text{Exempt concentration of Nuclide A}} + \frac{\text{Concentration of Nuclide B in Product}}{\text{Exempt concentration of Nuclide B}} \leq 1$$

Note 3: For the purpose of determining concentration in a product or device, the total quantity of radioactive material present is divided by only that weight or volume of the discrete part or component throughout which the radioactive material is relatively uniformly distributed. If the weight or volume of this part or component cannot be determined then the product or device should be evaluated on the basis of the total quantity of radioactive material present.

[Statutory Authority: RCW 70.98.050 and 70.98.110. WSR 16-13-054, § 246-232-130, filed 6/10/16, effective 7/11/16. Statutory Authority: RCW 70.98.050. WSR 13-24-025, § 246-232-130, filed 11/22/13, effective 12/23/13; WSR 01-02-068, § 246-232-130, filed 12/29/00, effective 1/29/01. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 91-15-112 (Order 184), § 246-232-130, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-232-130, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-19-580, filed 12/11/86; WSR 83-19-050 (Order 2026), § 402-19-580,

filed 9/16/83; WSR 79-12-073 (Order 1459), § 402-19-580, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-250.]

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-232-140 Schedule D.

ACCEPTABLE SURFACE CONTAMINATION LEVELS

NUCLIDES A	AVERAGE B C F	MAXIMUM B D F	REMOVABLE B E F WIPE LIMITS
U-nat, U-235, U-238, and associated decay products	5,000 dpm/100 cm^2	15,000 dpm/100 cm^2	1,000 dpm α/100 cm^2
Transuranics, Ra-226, Ra-228, Th-230, Th-228, Pa-231, Ac-227, I-125, I-129	100 dpm/100 cm^2	300 dpm/100 cm^2	20 dpm/100 cm^2
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	1000 dpm/100 cm^2	3000 dpm/100 cm^2	200 dpm/100 cm^2
Beta-gamma emitters (nuclides with decay modes other than alpha emission or spontaneous fission) except SR-90 and others noted above	5000 dpm/100 cm^2	15,000 dpm/100 cm^2	1000 dpm $\beta\gamma$/100 cm^2

A Where surface contamination by both alpha- and beta-gamma-emitting nuclides exists, the limits established for alpha-and beta-gamma-emitting nuclides should apply independently.

B As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.

C Measurements of average contaminant should not be averaged over more than ((1)) one square meter. For objects of less surface area, the average should be derived for each such object.

D The maximum contamination level applies to an area of not more than 100 cm^2.

E The amount of removable radioactive material per 100 cm^2 of surface area should be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an appropriate instrument of known efficiency. When removable contamination on objects of less surface area is determined, the pertinent levels should be reduced proportionally and the entire surface should be wiped.

F The average and maximum radiation levels associated with surface contamination resulting from beta-gamma emitters should not exceed 0.2 mrad/hr at ((1)) one cm and 1.0 mrad/hr at ((1)) one cm, respectively, measured through not more than ((7)) seven milligrams per square centimeter of total absorber.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-232-140, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-232-140, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-19-590, filed 12/11/86; WSR 83-19-050 (Order 2026), § 402-19-590, filed 9/16/83.]

FEES

OTS-3843.3

AMENDATORY SECTION (Amending WSR 17-01-034, filed 12/12/16, effective 1/12/17)

WAC 246-235-010 Filing application for specific licenses. (1) ((~~Applications for~~)) An applicant applying for a specific license((~~s must be filed on~~)) shall submit an application on a department approved 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.~~)) An applicant may apply on one application for multiple licenses authorizing other activities under chapters 246-220 through 246-254 WAC and under chapter 70A.388 RCW, provided that the application specifies the activities for which licenses are requested.

(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)(a) Except as provided in ((~~(c), (d), and (e)~~)) (b), (c), and (d) 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)~~)) (i) 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)~~)) (ii) Contain the information identified in WAC 246-235-108(3)((~~; or~~)).

((~~(c)~~)) (b) For sources or devices manufactured before October 23, 2012, that are not registered with the NRC under 10 C.F.R. 32.210 or with 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; and

(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~~)) a recent leak test.

((~~(d)~~)) (c) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with WAC 246-235-108 (7)(a), the applicant may supply only the manufacturer, model number, and radionuclide and quantity.

((~~(c)~~)) (d) 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.

(8) As provided by WAC 246-235-075, certain applications for specific licenses filed under chapters 246-220 through 246-254 WAC must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning.

(9) An application from a medical facility, educational institution, or federal facility to produce positron emission tomography radioactive drugs for noncommercial transfer to licensees in its consortium authorized for medical use under chapter 246-240 WAC must include:

(a) A request for authorization for the production of positron emission tomography radionuclides or evidence of an existing license issued under chapters 246-220 through 246-254 WAC for a positron emission tomography radionuclide production facility within its consortium from which it receives positron emission tomography radionuclides.

(b) Evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in WAC 246-235-100 (1)(b).

(c) Identification of individuals authorized to prepare the positron emission tomography radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in WAC 246-235-100 (2)(b).

(d) Information identified in WAC 246-235-100 (1)(c) on the positron emission tomography drugs to be noncommercially transferred to members of its consortium.

(10) An application for a license to receive and possess radioactive material for the conduct of any activity which the department has determined will significantly affect the quality of the environment must be filed at least nine months prior to commencement of construction of the plant or facility in which the activity will be conducted and must be accompanied by any environmental report required under WAC 246-235-086, chapter 197-11, or 246-03 WAC.

[Statutory Authority: RCW 70.98.050 and 70.98.110. WSR 17-01-034, § 246-235-010, filed 12/12/16, effective 1/12/17; WSR 16-13-054, § 246-235-010, filed 6/10/16, effective 7/11/16. Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-010, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-010, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-235-010, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-235-010, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-22-020, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-050.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-020 General requirements for the issuance of specific licenses. ((~~A license application will be approved if the department determines that:~~)) Upon a determination that an application meets the requirements of this section, chapters 70A.388 RCW and 246-220 through 246-254 WAC, the department will issue a specific license authorizing the possession and use of radioactive material.

(1) The application is for a purpose authorized by chapter 70A.388 RCW;

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

((~~(2)~~)) (3) The applicant's proposed equipment, facilities, and procedures are adequate to ((~~minimize danger to public~~)) protect health and safety and minimize danger to life or property;

((~~(3)~~)) (4) The issuance of the license will not harm the health and safety of the public; ((~~and~~

~~(4)~~)) (5) The applicant satisfies any applicable special requirements in ((~~WAC 246-235-075 through 246-235-110, and chapters 246-240 through 246-252 WAC.~~

~~(5) When~~)) chapters 246-220 through 246-254 WAC; and

(6) In the case of an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, source material milling, uranium enrichment facility construction and operation, production of uranium hexafluoride, or for the conduct of any other activity which the department determines will significantly affect the quality of the environment, the applicant may not begin construction until the department has weighed the environmental, economic, technical, and other benefits against the environmental costs, and, considering available alternatives, has concluded that the issuance of the license is appropriate, with any appropriate conditions to protect environmental values. Commencement of construction prior to approval by the department shall be grounds for denial of a license to receive and possess radioactive material in the plant or facility. Commencement of construction as defined in chapter 246-220 WAC may include nonconstruction activities if the activity has a reasonable nexus to radiological safety and security.

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-020, filed 2/23/15, effective 3/26/15; WSR 06-05-019, § 246-235-020, filed 2/6/06, effective 3/9/06; WSR 98-13-037, § 246-235-020, filed 6/8/98, effective 7/9/98. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 91-15-112 (Order 184), § 246-235-020, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-235-020, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-22-040, filed 12/11/86. Statutory Authority: Chapter 70.121 RCW. WSR 81-16-031 (Order 1683), § 402-22-040, filed 7/28/81. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-22-040, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-060.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-075 Financial assurance and recordkeeping for decommissioning. (1) Each applicant for one of the following licenses shall submit a decommissioning funding plan as described in this section:

(a) A specific license authorizing receipt of radioactive waste for the purpose of volume reduction, repackaging or interim storage.

(b) Receipt of contaminated articles, scrap material, equipment, or clothing to be decontaminated at the licensee's facility.

(c) A specific license authorizing the possession and use of radioactive material of half-life greater than ((~~one hundred twenty~~)) 120 days and in quantities for unsealed material exceeding 10^3 times and for sealed forms exceeding 10^{10} times the applicable quantities set forth in WAC 246-221-300 Appendix B (for a combination of nuclides the unity rule applies. A decommissioning funding plan will be required if R is greater than 1, where R is defined as the sum of the ratios of the quantity for sealed and unsealed forms of each nuclide compared to the applicable value derived from WAC 246-221-300).

(d) A specific license authorizing possession and use of source material in readily dispersible form and in quantities greater than 370 megabecquerels (10 millicuries).

(2) Each decommissioning funding plan must be submitted for review and approval and must contain the following:

(a) A description of the facility and areas within the facility likely to require decommissioning as a result of routine operation.

(b) A description of methods and general procedures for performing facility decontamination, maintaining security, and performing a final radiation survey.

(c) A detailed cost estimate for decommissioning facilities impacted by the activities authorized in the specific license reflecting:

(i) The cost of an independent contractor to perform all decommissioning activities;

(ii) The cost of meeting WAC 246-246-020, Radiological criteria for unrestricted use, or the cost of meeting WAC 246-246-030, Criteria for license termination under restricted conditions, and WAC 246-246-040, Alternate criteria for license termination;

(iii) Any previous spills of radioactive material;

(iv) An adequate contingency factor;

(v) A means for adjusting cost estimates and associated funding levels periodically over the life of the facility or facilities;

(vi) Anticipated labor, equipment, and material costs;

(vii) Anticipated waste volume;

(viii) Anticipated volume of on-site subsurface material containing residual radioactivity requiring remediation or disposal;

(ix) Anticipated packaging, transportation, and waste disposal cost of decommissioning;

(x) Routine costs for packaging, transportation, and waste disposal;

(xi) On-site disposal; and

(xii) Use of settling or evaporation ponds.

(d) A description of the method of assuring funds for decommissioning, pursuant to subsection (4) of this section, including means

for adjusting levels periodically over the life of the facility or facilities.

(e) Identification of and justification for the key assumptions used and applied in the decommissioning cost estimate.

(f) A commitment to clean up accidental spills promptly and to begin decommissioning of the facility or facilities within ((~~twelve~~)) 12 months of ceasing operation involving radioactive material.

(3) Each cost estimate for decommissioning must include identification and justification of all key assumptions used in the plan and cost estimate.

(4) Each applicant shall submit a certification that financial assurance for decommissioning meets the amount of the approved decommissioning cost estimate prior to commencement of the use of any radioactive materials. The applicant or licensee shall provide a signed original of the financial instrument obtained to satisfy the financial surety requirement unless a previously submitted and accepted financial instrument continues to cover the plan and cost estimate for decommissioning. That financial instrument must be one or more of the following approved methods:

(a) Prepayment. Prepayment is the deposit of sufficient funds to pay decommissioning costs. Funds must be deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The funding must be stipulated specifically for the purpose of decommissioning.

(b) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(i) The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless ((~~ninety~~)) 90 days or more prior to the renewal date, the issuer notifies the department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also require that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within ((~~thirty~~)) 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance must be payable to a trust established for decommissioning costs. Funds must be placed into a trust segregated from the licensee's assets, outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual one percent real rate of return on investment. The trustee and trust must be acceptable to the department. Acceptable trustees include an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(iii) The surety method or insurance must remain in effect until the department has terminated the license.

(c) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking

fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control. The total amount of funds in the external sinking fund must be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be as stated in subsection (4)(b) of this section.

(d) Statement of intent. In the case of state or local government licensees, a statement of intent containing a cost estimate for decommissioning and indicating that funds for decommissioning will be obtained when necessary.

(e) Other methods of financial assurance as approved by the department. The department may approve other financial mechanisms submitted by the applicant or licensee if the alternate method meets, at a minimum, the requirements of 10 C.F.R. 30.35 and associated NRC guidance.

(5)(a) The applicant or licensee shall submit to the department for approval, an initial or updated decommissioning funding plan with a detailed cost estimate prior to license issuance and shall submit an updated plan at intervals not to exceed three years.

(b) The decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. The amount of the financial assurance may not be adjusted downward until the updated decommissioning funding plan is approved. The information submitted with the original or prior approved decommissioning funding plan must be updated and submitted with the adjusted decommissioning funding plan. It must specifically address the effect of the following events on decommissioning costs:

(i) Facility modifications;

(ii) Changes in authorized possession limits;

(iii) Changes in process;

(iv) Spills of radioactive material and actual remediation costs that exceed the previous cost estimate;

(v) Spills of radioactive material producing additional residual radioactivity in on-site subsurface material;

(vi) Waste inventory increase above the amount previously estimated;

(vii) Waste disposal costs increase above the amount previously estimated;

(viii) On-site disposal;

(ix) Use of settling or evaporation ponds; and

(x) Any alteration which might affect the overall cost of decommissioning.

(c) The applicant or licensee shall incorporate department comments into the decommissioning funding plan including its cost estimate and shall revise its financial surety accordingly.

(d) Applicants shall obtain the appropriate financial assurance as approved by the department prior to receipt of licensed material. The department may issue a new license if the applicant agrees to comply with the decommissioning funding plan as approved. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of this section must be submitted to the department before receipt of licensed material.

(e) Licensees shall implement the financial assurance requirements within ((~~thirty~~)) 30 days of receiving department approval of the initial or updated decommissioning funding plan. Licensees shall submit copies of the financial surety within ((~~thirty~~)) 30 days of securing the surety and annually thereafter.

(6) Each person licensed under this chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with WAC 246-232-050(2), licensees shall transfer all records described in this subsection to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated by the department. If records of relevant information are kept for other purposes, reference to these records and their locations may be used.

(a) An application for transfer of license must include:

(i) The identity, technical, and financial qualifications of the proposed transferee; and

(ii) Financial assurance for decommissioning information required by WAC 246-235-075.

(b) Information the department considers important to decommissioning consists of:

(i) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site, including subsurface residual radioactivity. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(ii) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(iii) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or depleted uranium used only for shielding or as penetrators in unused munitions, or radioactive materials having only half-lives of less than ((~~sixty-five~~)) 65 days, a list contained in a single document and updated every two years, of the following:

(A) All areas designated and formerly designated as restricted areas as defined under WAC 246-220-010;

(B) All areas outside of restricted areas that require documentation under (b)(i) of this subsection;

(C) All areas outside of restricted areas where current and previous wastes have been buried as documented under WAC 246-221-230 (8)(a); and

(D) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in chapter 246-246 WAC or apply for approval for disposal under WAC 246-221-180. Records of the cost estimate performed for the decommis-

sioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-075, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-075, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.095 and 70.98.050. WSR 07-03-049, § 246-235-075, filed 1/12/07, effective 2/12/07. Statutory Authority: RCW 70.98.050. WSR 00-07-085, § 246-235-075, filed 3/15/00, effective 4/15/00; WSR 99-15-105, § 246-235-075, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 97-08-095, § 246-235-075, filed 4/2/97, effective 5/3/97; WSR 92-06-008 (Order 245), § 246-235-075, filed 2/21/92, effective 3/23/92.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-077 Special requirements for emergency planning. (1) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in WAC 246-235-150, "Schedule C—Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release," must contain either:

(a) An evaluation showing that the maximum dose to a ((~~member of the public~~)) person off-site due to a release of radioactive materials would not exceed ((~~1~~)) one rem effective dose equivalent or ((~~5~~)) five rems to the thyroid ((~~or an intake of 2 milligrams of soluble uranium~~)); or

(b) An emergency plan for responding to ((~~the radiological hazards of an accidental~~)) a release of radioactive material ((~~and to the chemical hazards associated with uranium hexafluoride, when present~~)).

(2) One or more of the following factors may be used to support an evaluation submitted under subsection (1)(a) of this section:

(a) The radioactive material is physically separated so that only a portion could be involved in an accident;

(b) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(c) The release fraction in the respirable size range would be lower than the release fraction listed in WAC 246-235-150 Schedule C due to the chemical or physical form of the material;

(d) The solubility of the radioactive material would reduce the dose received;

(e) Facility design or engineered safety features in the facility would cause the release fraction to be lower than listed in WAC 246-235-150 Schedule C;

(f) Operating restrictions or procedures would prevent a release fraction as large as that listed in WAC 246-235-150 Schedule C; or

(g) Other factors appropriate for the specific facility.

(3) An emergency plan for responding to a release of radioactive material submitted under subsection (1)(b) of this section must include the following information:

(a) Facility description. A brief description of the licensee's facility and area near the site.

(b) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(c) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(d) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(e) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on-site, and a description of the program for maintaining the equipment.

(f) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(g) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying off-site response organizations and the department; also responsibilities for developing, maintaining, and updating the plan.

(h) Notification and coordination. A commitment((~~,~~)) to and a brief description of the means ((~~available,~~)) to promptly ((~~to~~)) notify off-site response organizations and request off-site assistance, including medical assistance for the treatment of contaminated injured on-site workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee must also commit to notify the department immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency. These reporting requirements do not supersede or release licensees from complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(i) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the department.

(j) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training must familiarize personnel with site-specific emergency procedures. Also, the training must thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(k) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(l) Exercises. Provisions for conducting quarterly communications checks with off-site response organizations and biennial on-site exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Participation of off-site response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the spe-

cific site, and the scenarios must not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(m) Hazardous chemicals. A certification that the licensee or applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499, if applicable to the licensee's or applicant's activities at the proposed place of use of the radioactive material.

(4) The licensee shall allow the off-site response organizations expected to respond in case of an accident ((~~sixty~~)) 60 days to comment on the licensee's emergency plan before submitting it to the department. The licensee shall provide any comments received within the ((~~sixty~~)) 60 days to the department with the emergency plan.

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-077, filed 2/23/15, effective 3/26/15; WSR 95-01-108, § 246-235-077, filed 12/21/94, effective 1/21/95.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-080 Special requirements for possession and use of medical calibration and reference sources. (1) Leak tests.

(a) Any licensee or registrant who possesses sealed sources as calibration or reference sources must test for leakage or contamination each sealed source containing radioactive material, other than Hydrogen-3, with a half-life greater than ((~~thirty~~)) 30 days in any form other than gas at least every six months. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, the sealed sources must not be used until tested. However, leak tests are not required when: The source contains 3.7 megabecquerels (100 microcuries) or less of beta or gamma emitting material or 370 kilobecquerels (10 microcuries) or less of alpha emitting material or the sealed source is stored and is not being used: Provided, a physical inventory of the source and wipe surveys of the storage area or storage container are conducted as required by these rules or license condition.

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

(c) If the leak test reveals the presence of 185 becquerels (0.005 microcurie) or more of removable contamination, the licensee or registrant must immediately withdraw the sealed source from use and must cause it to be decontaminated and repaired or to be disposed of in accordance with chapters 246-235 and 246-221 WAC. The licensee must file a report within five days of the test with the department de-

scribing the equipment involved, the test results, and the corrective action taken.

(2) Any licensee or registrant who possesses and uses calibration and reference sources must:

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

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

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-080, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-080, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-235-080, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-235-080, filed 2/6/06, effective 3/9/06; WSR 00-08-013, § 246-235-080, filed 3/24/00, effective 4/24/00; WSR 98-13-037, § 246-235-080, filed 6/8/98, effective 7/9/98. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 91-15-112 (Order 184), § 246-235-080, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-235-080, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-22-070, filed 12/11/86; WSR 83-19-050 (Order 2026), § 402-22-070, filed 9/16/83. Statutory Authority: RCW 70.98.050. WSR 81-01-011 (Order 1570), § 402-22-070, filed 12/8/80. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-22-070, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-070.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-086 Special requirements for environmentally significant licensing actions. In addition to the requirements set forth in WAC 246-235-020, a specific license for any activity within the licensing authority of the department which the department determines will significantly affect the radiological quality of the human environment, including those specified in WAC 197-11-845(1) and 246-03-030 (1)(a)(ii) (i.e., licenses to operate low level waste burial facilities or licenses to operate or expand beyond the design capacity, mineral processing facilities or their tailings areas, whose products, or by-products, have concentrations of naturally occurring radioactive material in excess of exempt concentrations as specified in WAC 246-232-130, Schedule C), will be issued if the following conditions are met:

(1) Environmental impact statement.

(a) The application for a license or license amendment (other than administrative amendments) is accompanied or preceded by a final

environmental impact statement or final declaration of nonsignificance completed in accordance with the SEPA procedures and guidelines specified in chapters 197-11 and 246-03 WAC. For any uranium or thorium mill in operation on or before the effective date of this regulation for which an environmental impact statement has not been prepared previously, an application for license renewal must be accompanied or preceded by a final environmental impact statement or final declaration of nonsignificance completed in accordance with SEPA guidelines. No construction shall be commenced until the license has been issued or unless an emergency exemption from SEPA requirements is granted in accordance with WAC 197-11-880. For the purposes of this subsection, the terms "commencement of construction" and "construction" have the same meaning as that defined in WAC 246-220-010. In the case where an exemption is granted, the applicant shall assume all financial risk for construction activity; waive any claim of entitlement to the issuance of a license based solely upon the grant of the exemption or the commencement of construction pursuant thereto; and furnish, if the circumstances warrant and the department so requires, a financial surety arrangement to ensure the protection of the public health, safety, and the environment in the event of abandonment, default, or inability of the licensed applicant to meet the requirements of the act or these regulations.

((~~Note: No construction shall be commenced until the license has been issued or unless an emergency exemption from SEPA requirements is granted in accordance with WAC 197-11-880. For the purposes of this subsection, the terms "commencement of construction" and "construction" have the same meaning as that defined in WAC 246-220-010. In the case where an exemption is granted, the applicant shall assume all financial risk for construction activity; waive any claim of entitlement to the issuance of a license based solely upon the grant of the exemption or the commencement of construction pursuant thereto; and furnish, if the circumstances warrant and the department so requires, a financial surety arrangement to insure the protection of the public health, safety and the environment in the event of abandonment, default, or inability of the license applicant to meet the requirements of the act or these regulations.~~))

(b) In addition to the information required in chapter 197-11 WAC, the following additional areas must be addressed in the final environmental impact statement:

(i) Alternative sites to those chosen by the applicant must include all alternative sites, whether or not those sites are under the control or ownership of the applicant.

(ii) Long-term impacts must include, but not be limited to, decommissioning, decontamination, reclamation impacts and material management associated with the proposed activities.

(iii) Environmental reviews, dose assessments, ecology, construction effects on biota, impact on the environment from the use of chemicals, and socioeconomic effects must be addressed.

(iv) Alternative disposal sites and techniques for disposal must be evaluated to determine if a site or technique is clearly superior.

(2) For uranium or thorium milling operations, a bond made payable to the department of health or other acceptable government agency, and in an amount specified by the department, must be posted to ensure the protection of the public health and safety in the event of abandonment, default or other inability of the licensee to meet the requirements for reclamation and disposal of tailings and for decommissioning the site. The bond, or a copy thereof when the bond is made payable to another government agency, must be received by the department prior to issuance of the license, or prior to license renewal for mills in operation on or before the effective date of this regulation. Other acceptable surety arrangements in addition to surety bonding include cash deposits, certificates of deposit, deposits of government securities, letters or lines of credit or combinations of the foregoing. The amount and mechanism of the surety arrangement may be re-

viewed by the department preceding each license renewal and adjustments may be required of the licensee prior to such renewal.

(3) The owner of the proposed uranium or thorium mill and tailings site(s) agrees to transfer or revert to the appropriate state or federal agency upon termination of the license, all lands, buildings and grounds, and any interest therein, necessary to fulfill the purposes of this subsection, except where the lands are held in trust for, or are owned by, any Indian tribe. For any uranium or thorium mill in operation on or before the effective date of this regulation, such an agreement will be required prior to license renewal.

(4) For all uranium and thorium milling operations, the owner or operator shall arrange to pay to the department or its designee a fee in accordance with WAC 246-254-150 for a special security fund for the further maintenance, surveillance or care which may be required after a licensee has ceased to operate.

A minimum fund of ((~~two hundred fifty thousand dollars~~)) $250,000 must be provided by the licensee payable to the state. If a shortfall exists between the amount of money in the special security fund and the ((~~two hundred fifty thousand dollars~~)) $250,000 minimum amount, a surety bond, or other acceptable surety instrument as defined ((~~above~~)) in this chapter must be arranged.

(5) The application for a license includes a description of an appropriate program for effluent monitoring, environmental monitoring and data reporting. The description must encompass locations, frequency, and types of sampling, analytical plans and procedures, minimum detection levels, sampling equipment and quality assurance programs.

(6) All licensees or registrants required to meet the additional requirements set forth in this subsection shall establish environmental monitoring programs adequate to determine the impact of their activity on the natural environment around the site of their environmentally significant activity. The established environmental and effluent monitoring program must address all environmentally significant radionuclide releases and external radiation sources caused or threatened to be caused by the licensee's activities.

(a) Effluent and environmental monitoring results must include the following minimum information as pertinent:

(i) Information as to flow rates, total volume of effluent, peak concentration, concentration of each radionuclide in the effluent averaged over a period of one year at the point where the effluent leaves a stack, tube, pipe, or similar conduit;

(ii) A description of the properties of the effluents, including:

(A) Chemical composition;

(B) Physical characteristics, including suspended solids content in liquid effluents, and nature of gas aerosol for air effluents;

(C) The hydrogen ion concentrations (pH) of liquid effluents; and

(D) The size range of particulates in effluent released into air;

(iii) A description of the anticipated human occupancy in the unrestricted area where the highest concentration of radioactive material from the effluent is expected, and, in the case of a river or stream, a description of water uses downstream from the point of release of the effluent.

(iv) Information as to the highest concentration of each radionuclide in an unrestricted area, including anticipated concentrations averaged over a period of one year:

(A) In air at any point of human occupancy; or

(B) In water at points of use downstream from the point of release of the effluent;

(v) The background concentration of radionuclides in the receiving river or stream prior to the release of liquid effluent;

(vi) A description of the waste treatment facilities and procedures used to reduce the concentration of radionuclides in effluents prior to their release;

(vii) A written description of sampling techniques and sample analysis methods;

(viii) A written description of how all calculated results were obtained from sample analysis data. This explanation must include example calculations and estimates of the precision and sensitivity of monitoring results;

(ix) A written description of the licensee's quality control program including specification of control samples and standard samples used.

(b) The licensee shall submit in writing to the department within ((~~sixty~~)) 60 days after January 1st and July 1st of each year, reports specifying the quantities of each of the principle radionuclides released to unrestricted areas in liquid and in gaseous effluent during the previous six months of operations. This data must be reported in a manner that will permit the department to confirm the potential annual radiation doses to the public. All data from the radiological and nonradiological environmental monitoring program will also be submitted for the same time period and frequency as specified above. The data must be reported in a manner which will allow the department to confirm the potential annual radiation doses to the public.

(7) For land disposal of radioactive material, the provisions of chapter 246-250 WAC must also be met.

(8) For operation of mineral processing facilities, the provisions of chapter 246-252 WAC must also be met.

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-086, filed 2/23/15, effective 3/26/15; WSR 00-08-013, § 246-235-086, filed 3/24/00, effective 4/24/00.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-090 Special requirements for specific licenses of broad scope. This section prescribes requirements for the issuance of specific licenses of broad scope for radioactive material ("broad licenses") and certain regulations governing holders of these licenses. ((~~*~~)) A person may not introduce radioactive material into a product or material, knowing or having reasons 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. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity or other product containing source material, by-product material or radioactive material, whose subsequent possession, use, transfer and disposal by all other persons exempted from regulatory requirements may be obtained only from the NRC, Washington, D.C. 20555.

((~~*Note: A person may not introduce radioactive material into a product or material, knowing or having reasons 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 NRC, Washington, D.C. 20555. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity or other product containing source material, by-product material or radioactive material, whose subsequent possession, use, transfer and disposal by all other persons exempted from regulatory requirements may be obtained only from the NRC, Washington, D.C. 20555.~~))

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

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

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

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

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

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

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

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

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

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

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

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

(B) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the ade-

quacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) At least ((~~forty~~)) 40 hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and

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

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

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

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

(ii) Receive, acquire, own, possess, use or transfer devices containing 3700 terabecquerels (100,000 curies) or more of radioactive material in sealed sources used for irradiation of materials;

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

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

(b) For each Type A specific license of broad scope radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.

(c) For each Type B specific license of broad scope radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.

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

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-090, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-090, filed 11/22/13, effective 12/23/13; WSR 06-05-019, § 246-235-090, filed 2/6/06, effective 3/9/06; WSR 00-08-013, § 246-235-090, filed 3/24/00, effective 4/24/00; WSR 98-13-037, § 246-235-090, filed 6/8/98, effective 7/9/98. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 91-15-112 (Order 184), § 246-235-090, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-235-090, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-22-090, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-073.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-091 Manufacture and distribution of industrial products containing depleted uranium under general license. (1) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to WAC 246-233-010(4) or equivalent regulations of the NRC or an agreement state will be approved if:

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

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in one year a radiation dose in excess of ((~~ten~~)) 10 percent of the limits specified in WAC 246-221-010(1); and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasona-

ble assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the department will approve an application for a specific license under this section only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The department may deny any application for a specific license under this section if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to subsection (1) of this section shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

(i) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and

(ii) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the NRC or of an agreement state;

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: "Depleted uranium";

(d) Furnish to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license contained in WAC 246-233-010(4) or its equivalent:

(i) A copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20; or

(ii) A copy of the general license contained in the NRC's or agreement state's regulation equivalent to WAC 246-233-010(4) and a copy of the NRC's or agreement state's certificate, or alternatively, furnish a copy of the general license contained in WAC 246-233-010(4) and a copy of department Form RHF-20 with a note explaining that use of the product or device is regulated by the NRC or an agreement state under requirements substantially the same as those in WAC 246-233-010(4).

(e) Report to the department all transfers of industrial products or devices to persons for use under the general license in WAC 246-233-010(4). Such report must identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report must be submitted within ((~~thirty~~)) 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under chapter 246-233 WAC during the reporting period, the report must so indicate;

(f) Provide certain other reports as follows:

(i) Report to the NRC all transfers of industrial products or devices to persons for use under the NRC general license in Section 40.25 of 10 C.F.R. Part 40;

(ii) Report to the responsible department all transfers of devices manufactured and distributed pursuant to this section for use under a general license in that state's regulations equivalent to WAC 246-233-010(4);

(iii) Such report must identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the department and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report must be submitted within ((~~thirty~~)) 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person;

(iv) If no transfers have been made to NRC licensees during the reporting period, this information must be reported to the NRC;

(v) If no transfers have been made to general licensees within a particular agreement state during the reporting period, this information must be reported to the responsible department; and

(g) Keep records showing the name, address and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in WAC 246-233-010(4) or equivalent regulations of the NRC or of an agreement state. The records must be maintained for a period of two years and must show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-091, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-091, filed 11/22/13, effective 12/23/13; WSR 98-13-037, § 246-235-091, filed 6/8/98, effective 7/9/98.]

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

WAC 246-235-093 Manufacture, assembly or distribution of devices under general license. (1) An application for a specific license to manufacture or initially transfer or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under WAC 246-233-020 or equivalent regulations of the NRC or an agreement state will be approved if:

(a) The applicant satisfies the general requirements of WAC 246-235-020;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(i) The device can be safely operated by persons not having training in radiological protection;

(ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in one year a dose in excess of ((~~ten~~)) 10 percent of the limits specified in the table in WAC 246-221-010(1); and

(iii) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye	15 centigray (15 rem)
Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter	200 centigray (200 rem)
Other organs	50 centigray (50 rem)

(c) Each device bears a durable, legible, clearly visible label or labels approved by the department, which contain in a clearly identified and separate statement:

(i) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(ii) The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by nuclide, quantity of radioactivity, and date of determination of the quantity; and

(iii) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(A) The receipt, possession, use and transfer of this device, Model . . . . . , Serial No. . . . . ((~~Note*~~)) Name of manufacturer or distributor, are subject to a general license or the equivalent, and the regulations of the NRC or a state with which the NRC has entered into an agreement for the exercise of regulatory authority. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

. . . . . .

((~~(~~))Name of manufacturer or distributor((~~)~~*))

(B) The receipt, possession, use and transfer of this device, Model . . . . . , Serial No. . . . . ((~~Note*~~)) Name of manufacturer or distributor, are subject to a general license or the equivalent, and the rules of an agreement state. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

. . . . . .

((~~(~~))Name of manufacturer or distributor((~~)~~*))

((~~*Note: The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.~~))

(C) The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(d) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the nuclide and quantity, the words, "CAUTION - RADIOACTIVE MATERIAL," the radiation symbol described in WAC 246-221-120, and the name of the manufacturer or initial distributor;

(e) Each device meeting the criteria of WAC 246-233-020 (3)(k), bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "CAUTION - RADIOACTIVE MATERIAL," and, if practicable, the radiation symbol described in WAC 246-221-120;

(f) The device has been registered in the sealed source and device registry.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information which includes, but is not limited to:

(a) Primary containment (source capsule);

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

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

(3) In the event the applicant desires that the general licensee under WAC 246-233-020, or under equivalent regulations of the NRC or an agreement state be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant must include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information must demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive in one year a radiation dose in excess of ((~~ten~~)) 10 percent of the limits specified in the table in WAC 246-221-010(1).

(4) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to generally licensed persons must provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. If transfer is through an intermediate person, the information much also be provided to the intended user before initial transfer to the intermediate person.

(a) If a device containing radioactive material is to be transferred for use under the general license contained in WAC 246-233-020, the required information must include:

(i) A copy of the general license contained in WAC 246-233-020. If WAC 246-233-020 (3)(b), (c), and (d) or (k) do not apply, those subsections may be omitted;

(ii) A copy of WAC 246-232-050, 246-221-230, 246-221-240, and 246-221-250;

(iii) A list of the services that can only be performed by a specific licensee; and

(iv) Information on acceptable disposal options including estimated costs of disposal; and

(v) An indication that the NRC's policy is to issue high civil penalties for improper disposal.

(b) If a device containing radioactive material is to be transferred for use in another jurisdiction under a general license equivalent to WAC 246-233-020, the required information must include:

(i) A copy of the appropriate NRC or an agreement state's regulations, equivalent to WAC 246-233-020, 246-232-050, 246-221-230, 246-221-240, and 246-221-250. If a copy of WAC 246-233-020, 246-232-050, 246-221-230, 246-221-240, and 246-221-250 is provided to a prospective general licensee in lieu of the NRC's or the agreement state's regulations, it must be accompanied by a note explaining that the use of the device is regulated by the NRC or the agreement state. If certain subsections do not apply to the particular device, those subsections may be omitted;

(ii) A list of the services that can only be performed by a specific licensee;

(iii) Information on acceptable disposal options including estimated cost of disposal;

(iv) The name or title, address, and phone number of the contact at the appropriate NRC or an agreement state regulatory agency from which additional information may be obtained; and

(v) An indication that NRC policy is to issue high civil penalties for improper disposal;

(c) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under WAC 246-233-020 must report to the department all transfers of devices to persons for use under the general license in WAC 246-233-020 and all receipts of devices from persons licensed under WAC 246-233-020.

(i) Each report must be clear and legible and contain all of the data required. The required information for transfers to general licensees includes:

(A) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee must be included with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The manufacturer or initial transferor, the type, model number and serial number of the device transferred; and

(E) The source serial(s), nuclide(s), activity, and date(s) of original activity of radioactive material contained in the device.

(ii) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the inten-

ded user and each intermediate person, clearly identify and designate each intermediate person by name, address, contact, and relationship to the intended user.

(iii) For devices received from a general licensee under WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received; and the source serial(s), nuclide(s), activity, and date(s) of original activity of radioactive material contained in the device;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(iv) If the licensee makes changes to a device possessed by a person generally licensed under WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(v) If no transfers have been made to or from persons generally licensed under WAC 246-233-020 during the reporting period, the report must so indicate.

(vi) The report must cover each calendar quarter, must clearly indicate the period covered by the report, and must be filed within ((~~thirty~~)) 30 days of the end of the calendar quarter.

(vii) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(d) Reports to NRC or an agreement state regulatory agency.

(i) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under the NRC's regulations equivalent to WAC 246-233-020 must report to the NRC all transfers of devices to persons for use under a general license equivalent to WAC 246-233-020 and all receipts of devices from persons licensed under regulations equivalent to WAC 246-233-020.

(ii) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to persons generally licensed under an agreement state's regulations equivalent to WAC 246-233-020 must report to the agreement state's regulatory authority all transfers of devices to persons for use under a general license equivalent to WAC 246-233-020 and all receipts of devices from persons licensed under regulations equivalent to WAC 243-233-020.

(iii) Such report must be clear and legible and contain all of the data required. The required information for transfers to general licenses must include:

(A) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee must be submitted along with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type, model number and serial number of the device transferred; and

(E) The quantity and type of radioactive material contained in the device.

(iv) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(v) For devices received from persons generally licensed under NRC's or an agreement state's regulations equivalent to WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(vi) If the licensee makes changes to a device possessed by a person generally licensed under NRC's or an agreement state's regulations equivalent to WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(vii) The report must cover each calendar quarter, must be filed within ((~~thirty~~)) 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(viii) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(ix) If no transfers have been made to or from NRC licensees during the reporting period, this information must be reported to the NRC.

(x) If no transfers have been made to or from general licensees within an agreement state during the reporting period, this information must be reported to the responsible agreement state agency upon request of the agency.

(e) The person shall maintain all information and keep records concerning transfers and receipts of devices that support the reports required by this section. Records required by this section must be maintained for a period of three years following the date of the recorded event.

(f) If a notification of bankruptcy has been made under WAC 246-233-050 or the license is to be terminated, each person licensed under this section shall provide, upon request, to the department, the NRC or an agreement state, records of final disposition required under (e) of this subsection.

[Statutory Authority: RCW 70.98.050 and 70.98.110. WSR 16-13-054, § 246-235-093, filed 6/10/16, effective 7/11/16. Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-093, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-093, filed 11/22/13, effective 12/23/13; WSR 04-04-055, § 246-235-093, filed 1/30/04, effective 3/1/04; WSR 98-13-037, § 246-235-093, filed 6/8/98, effective 7/9/98.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-100 Manufacture, ((~~production,~~)) preparation, or transfer for commercial distribution of ((~~radiopharmaceuticals~~)) radioactive drugs containing radioactive material for medical use under chapter 246-240 WAC. (1) An application for a specific license to manufacture, ((~~produce,~~)) prepare, or transfer for commercial distribution ((~~radiopharmaceuticals~~)) radioactive drugs containing radioactive material for use by persons ((~~licensed under~~)) authorized pursuant to chapter 246-240 WAC ((~~for medical use in humans~~)) will be approved if:

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

(b) The applicant submits evidence ((~~that the applicant is~~)) of at least one of the following:

(i) Is registered ((~~or licensed~~)) with the United States Food and Drug Administration ((~~(FDA) as a drug manufacturer, preparer, propagator, compounder or processor~~)) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under ((~~21 C.F.R. 207.20(a); or~~

~~(ii) Licensed as a nuclear pharmacy by the Pharmacy Quality Assurance Commission;~~

~~(iii) Registered or licensed as a radiopharmaceutical production facility or nuclear pharmacy with the NRC or a state agency~~)) 21 C.F.R. Part 207, Subpart B;

(ii) Is registered or licensed with the pharmacy quality assurance commission as a drug manufacturer;

(iii) Is licensed as a pharmacy by the pharmacy quality assurance commission;

(iv) Is operating as a nuclear pharmacy within a federal medical institution; or

(v) Is a positron emission tomography drug production facility registered with ((~~a state agency~~)) the Washington state pharmacy quality assurance commission.

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

(d) The applicant ((~~satisfies~~)) commits to the following labeling requirements:

(i) ((~~Those specified by the Pharmacy Quality Assurance Commission in WAC 246-903-020 for both commercial and noncommercial distribution;~~

~~(ii)~~)) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol, the words "caution-radioactive material" or "danger-radioactive material," the name of the radioactive drug or its abbreviation, and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half-life greater than ((~~one hundred~~)) 100 days, the time may be omitted((~~,~~)).

((~~(iii)~~)) (ii) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for com-

mercial distribution. The label must include the radiation symbol, the words "caution-radioactive material" or "danger-radioactive material" and an identifier that ((~~allows~~)) ensures that the syringe, vial, or other container ((~~to~~)) can be correlated with the information on the transport radiation shield label((~~; and~~)).

((~~(iv) For a drug manufacturer, the labels required by this subsection are in addition to the labeling required by the Food and Drug Administration (FDA) and may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.~~

~~(2) A medical facility or an educational institution, may produce positron emission tomography or other approved accelerator-produced radioactive drugs, for noncommercial transfer to licensees within their consortium, as defined in WAC 246-220-010 and 246-235-010, if they have a valid Washington radioactive materials license and are authorized for medical use under chapter 246-240 WAC or an equivalent agreement state or NRC license; and~~

~~(a) Request authorization to produce accelerator-produced radionuclides at a radionuclide production facility within their consortium to prepare approved radioactive drugs for use only by licensees within that consortium. The applicant must have a current state radioactive materials license or evidence of an existing license issued by an agreement state.~~

~~(b) The applicant must be qualified to produce radioactive drugs for medical use by meeting the criteria in subsections (1) and (3) of this section.~~

~~(c) Identification of individual(s) authorized to prepare radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in subsection (3) of this section.~~

~~(d) Labeling information identified in subsection (1)(d) of this section is applied to any radiopharmaceuticals or radioactive materials to be noncommercially transferred to members of its consortium.~~

~~(3) A nuclear pharmacy~~)) (2) A licensee who is licensed as a pharmacy by the Washington state pharmacy quality assurance commission, or who is operating as a nuclear pharmacy within a federal medical institution:

(a) May prepare ((~~radiopharmaceuticals~~)) radioactive drugs for medical use, as defined in WAC 246-240-010, provided that the ((~~radiopharmaceutical~~)) radioactive drug is prepared by ((~~or under the supervision of~~)) either an authorized nuclear pharmacist, as specified in (b) and (d) of this subsection, or an individual under the supervision of an authorized nuclear pharmacist as specified in WAC 246-240-057.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(i) This individual qualifies as an authorized nuclear pharmacist as defined in WAC 246-240-010;

(ii) This individual meets ((~~the Pharmacy Quality Assurance Commission requirements in WAC 246-903-030, Nuclear pharmacists, and~~)) the requirements of WAC 246-240-081 and 246-240-075(2); and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(iii) This individual is designated as an authorized nuclear pharmacist in accordance with (d) of this subsection.

(c) The actions authorized in (a) and (b) of this subsection are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist, as defined in WAC 246-240-010, as an authorized nuclear pharmacist if:

(i) ((~~The individual was identified as of December 2, 1994, as an "authorized user" on a nuclear pharmacy license issued by the department, the NRC, or an agreement state; or~~

~~(ii)~~)) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material((~~,~~)); and

(ii) The individual practiced at a pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at any other pharmacies ((~~as of December 1, 2008~~)) before August 8, 2009.

(e) ((~~Shall provide to the department a copy of each individual's letter of notification from the Pharmacy Quality Assurance Commission recognizing the individual as a nuclear pharmacist, within thirty days of the date the licensee allows the individual to work as an authorized nuclear pharmacist under (b), (c) or (d) of this subsection.~~

~~(4) A manufacturer or nuclear pharmacy~~)) Must provide to the department:

(i) A copy of each individual's certification by a specialty board whose certification process has been recognized by the NRC or an agreement state as specified in WAC 246-240-075(1); or

(ii) The NRC or agreement state license; or

(iii) The NRC master materials licensee permit; or

(iv) The permit issued by a licensee or NRC master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

(v) Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009; and

(vi) A copy of the Washington state pharmacy license or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist under (b)(i) or (iii) of this subsection.

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

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

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

((~~(5) A licensee preparing radiopharmaceuticals from generators; (e.g., molybdenum-99/technetium-99m or rubidium-82 from strontium-82/rubidium-82) shall test generator eluates for breakthrough or contamination of the parent nuclide, in accordance with WAC 246-240-160. The licensee shall record the results of each test and retain each record for three years after the record is made.~~

~~(6)~~)) (4) A licensee must satisfy the labeling requirements in subsection (1)(d) of this section.

(5) Nothing in this section relieves the licensee from complying with applicable ((~~FDA,~~)) United States Food and Drug Administration requirements, other federal requirements, and state requirements governing ((~~radiopharmaceuticals~~)) radioactive drugs.

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-100, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-100, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-235-100, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 07-14-131, § 246-235-100, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-235-100, filed 2/6/06, effective 3/9/06; WSR 98-13-037, § 246-235-100, filed 6/8/98, effective 7/9/98. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 91-15-112 (Order 184), § 246-235-100, filed 7/24/91, effective 8/24/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-235-100, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.050. WSR 81-01-011 (Order 1570), § 402-22-110, filed 12/8/80. Statutory Authority: RCW 70.98.080. WSR 79-12-073 (Order 1459), § 402-22-110, filed 11/30/79, effective 1/1/80. Formerly WAC 402-20-076.]

AMENDATORY SECTION (Amending WSR 15-06-015, filed 2/23/15, effective 3/26/15)

WAC 246-235-103 Prototype tests for manufacture of calibration or reference sources containing americium-241 or radium-226. An applicant for a license under this chapter shall, for any type of source which is designed to contain more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226, conduct prototype tests, in the order listed, on each of no less than five prototypes of the source, which contains more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226, as follows:

(1) *Initial measurement*. The quantity of radioactive material deposited on the source must be measured by direct counting of the source.

(2) *Dry wipe test*. The entire radioactive surface of the source must be wiped with filter paper with the application of moderate finger pressure. Removal of radioactive material from the source must be determined by measuring the radioactivity on the filter paper or by direct measurement of the radioactivity on the source following the dry wipe.

(3) *Wet wipe test*. The entire radioactive surface of the source must be wiped with filter paper, moistened with water, with the application of moderate finger pressure. Removal of radioactive material from the source must be determined by measuring the radioactivity on the filter paper after it has dried or by direct measurement of the radioactivity remaining on the source following the wet wipe.

(4) *Water soak test*. The source must be immersed in water at room temperature for a period of ((~~twenty-four~~)) 24 consecutive hours. The source must then be removed from the water. Removal of radioactive material from the source must be determined by direct measurement of the radioactivity on the source after it has dried or by measuring the radioactivity in the residue obtained by evaporation of the water in which the source was immersed.

(5) *Dry wipe test*. On completion of the preceding test in this section, the dry wipe test described in subsection (2) of this section must be repeated.

(6) *Observations*. Removal of more than 0.005 microcurie (185 becquerels) of radioactivity in any test prescribed by this section must be cause for rejection of the source design. Results of prototype tests submitted to the department or the NRC must be given in terms of radioactivity in microcuries (or becquerels) and percent of removal from the total amount of radioactive material deposited on the source.

[Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-103, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-103, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-235-103, filed 2/18/09, effective 3/21/09.]

AMENDATORY SECTION (Amending WSR 17-01-034, filed 12/12/16, effective 1/12/17)

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 for evaluation of radiation safety information about its product and for its registration.

(2) Request for review must be sent to the department by an appropriate method, 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~~)) Thirty-seven 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 shall request inactivation of the registration certificate from the department. Such a request must be made to the department by an appropriate method 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~~)) 90 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.

[Statutory Authority: RCW 70.98.050 and 70.98.110. WSR 17-01-034, § 246-235-108, filed 12/12/16, effective 1/12/17; WSR 16-13-054, § 246-235-108, filed 6/10/16, effective 7/11/16.]

OTS-3881.2

GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section and in WAC 246-220-010 apply throughout this chapter unless the context clearly indicates otherwise.

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

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

(3) "Associate radiation safety officer" means an individual who:

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

(b) Is currently identified as an associate radiation safety officer for the types of use of radioactive material for which the individual has been assigned duties and tasks by the radiation safety officer on:

(i) A specific medical use license issued by the department, NRC, or an agreement state; or

(ii) A medical use permit issued by an NRC master material licensee.

(4) "Attestation" means written certification under oath.

((~~(4)~~)) (5) "Authorized medical physicist" means an individual who:

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

(b) Is identified as an authorized medical physicist or teletherapy physicist on:

(i) A specific medical use license issued by the department, NRC, or an agreement state;

(ii) A medical use permit issued by ((~~a~~)) an NRC master material licensee;

(iii) A permit issued by ((~~a~~)) an NRC or agreement state broad scope medical use licensee; or

(iv) A permit issued by ((~~a~~)) an NRC master material license broad scope medical use permittee.

((~~(5)~~)) (6) "Authorized nuclear pharmacist" means a pharmacist who:

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

(b) Is identified as an authorized nuclear pharmacist on:

(i) A specific license issued by the department, NRC, or an agreement state, that authorizes medical use or the practice of nuclear pharmacy;

(ii) A permit issued by ((~~a~~)) an NRC master material licensee that authorizes medical use or the practice of nuclear pharmacy;

(iii) A permit issued by ((~~a~~)) an NRC or agreement state broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

(iv) A permit issued by ((~~a~~)) an NRC master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or

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

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

((~~(6)~~)) (7) "Authorized user" means a physician, dentist, or podiatrist who:

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

(b) Is identified as an authorized user on:

(i) A department, NRC, or agreement state license that authorizes the medical use of radioactive material; or

(ii) A permit issued by ((~~a~~)) an NRC master material licensee that is authorized to permit the medical use of radioactive material; or

(iii) A permit issued by a department, NRC, or agreement state specific licensee of broad scope that is authorized to permit the medical use of radioactive material; or

(iv) A permit issued by ((~~a~~)) an NRC master material license broad scope permittee that is authorized to permit the medical use of radioactive material.

((~~(7)~~)) (8) "Brachytherapy" means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal, or interstitial application.

((~~(8)~~)) (9) "Brachytherapy source" means a radioactive source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.

((~~(9)~~)) (10) "Client's address" means the area of use or a temporary job site for the purpose of providing mobile medical service in accordance with WAC 246-240-125.

((~~(10)~~)) (11) "Cyclotron" means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of 10 mega-electron volts and is commonly used for production of short half-life radionuclides for medical use.

((~~(11)~~)) (12) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years.

((~~(12)~~)) (13) "Dentist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

((~~(13)~~)) (14) "FDA" means the U.S. Food and Drug Administration.

((~~(14)~~)) (15) "High dose-rate remote afterloader" means a brachytherapy device that remotely delivers a dose rate in excess of 12 gray (1200 rads) per hour at the point or surface where the dose is prescribed.

((~~(15)~~)) (16) "Low dose-rate remote afterloader" means a brachytherapy device that remotely delivers a dose rate of less than or equal to ((~~2~~)) two gray (200 rads) per hour at the point or surface where the dose is prescribed.

((~~(16)~~)) (17) "Management" means the chief executive officer or other individual having the authority to manage, direct, or administer the licensee's activities, or that person's delegate or delegates.

((~~(17)~~)) (18) "Manual brachytherapy" means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

((~~(18)~~)) (19) "Medical event" means an event that meets the criteria in WAC 246-240-651.

((~~(19)~~)) (20) "Medical institution" means an organization in which more than one medical discipline is practiced.

((~~(20)~~)) (21) "Medical use" means the intentional internal or external administration of radioactive material or the radiation from radioactive material to patients or human research subjects under the supervision of an authorized user.

((~~(21)~~)) (22) "Medium dose-rate remote afterloader" means a brachytherapy device that remotely delivers a dose rate of greater than ((~~2~~)) two gray (200 rads), but less than or equal to 12 grays (1200 rads) per hour at the point or surface where the dose is prescribed.

((~~(22)~~)) (23) "Mobile medical service" means the transportation of radioactive material to and its medical use at the client's address.

((~~(23)~~)) (24) "Ophthalmic physicist" means an individual who:

(a) Meets the requirements in WAC 246-240-272 (1)(b) and 246-240-081; and

(b) Is identified as an ophthalmic physicist on a:

(i) Specific medical use license issued by the NRC or an agreement state;

(ii) Permit issued by an NRC or agreement state broad scope medical use licensee;

(iii) Medical use permit issued by an NRC master material licensee; or

(iv) Permit issued by an NRC master material licensee broad scope medical use permittee.

(25) "Output" means the exposure rate, dose rate, or a quantity related in a known manner to these rates from a brachytherapy source

or a teletherapy, remote afterloader, or gamma stereotactic radiosurgery unit for a specified set of exposure conditions.

((~~(24)~~)) (26) "Patient intervention" means actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.

((~~(25)~~)) (27) "Podiatrist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

((~~(26)~~)) (28) "Positron emission tomography (PET) radionuclide production facility" means a facility operating an accelerator for the purpose of producing positron emission tomography radionuclides.

((~~(27)~~)) (29) "Preceptor" means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, ((~~or~~)) an authorized radiation safety officer, or an associate radiation safety officer.

((~~(28)~~)) (30) "Prescribed dosage" means the specified activity or range of activity of unsealed radioactive material as documented:

(a) In a written directive; or

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

((~~(29)~~)) (31) "Prescribed dose" means:

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

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

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

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

((~~(30)~~)) (32) "Pulsed dose-rate remote afterloader" means a special type of remote afterloading brachytherapy device that uses a single source capable of delivering dose rates in the "high dose-rate" range, but:

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

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

((~~(31)~~)) (33) "Sealed source and device registry" means the national registry that contains all the registration certificates, generated by NRC and the agreement states, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

((~~(32)~~)) (34) "Stereotactic radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume.

((~~(33)~~)) (35) "Structured educational program" means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

((~~(34)~~)) (36) "Teletherapy" means a method of radiation therapy in which collimated gamma rays are delivered at a distance from the patient or human research subject.

((~~(35)~~)) (37) "Temporary job site" means a location where mobile medical services are conducted at other than those fixed ((~~location(s)~~)) locations of use authorized by the license.

((~~(36)~~)) (38) "Therapeutic dosage" means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

((~~(37)~~)) (39) "Therapeutic dose" means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

((~~(38)~~)) (40) "Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

((~~(39)~~)) (41) "Type of use" means use of radioactive material under WAC 246-240-151, 246-240-157, 246-240-201, 246-240-251, 246-240-301, 246-240-351, or 246-240-501.

((~~(40)~~)) (42) "Unit dosage" means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

((~~(41)~~)) (43) "Written directive" means an authorized user's written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in WAC 246-240-060.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-010, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-010, filed 1/18/11, effective 2/18/11. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-240-010, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 07-14-131, § 246-240-010, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-010, filed 2/6/06, effective 3/9/06; WSR 98-13-037, § 246-240-010, filed 6/8/98, effective 7/9/98. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 92-06-008 (Order 245), § 246-240-010, filed 2/21/92, effective 3/23/92.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

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

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

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

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

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-016, filed 5/7/13, effective 6/7/13; WSR 06-05-019, § 246-240-016, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

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

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

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

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

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

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

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

(ii) A letter requesting the amendment or renewal with all information required by license application; and

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

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

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

(i) Radiation safety precautions and instructions;

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

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

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

(c) The applicant shall provide identification of and commitment to follow the applicable radiation safety program requirements in WAC 246-240-151 through 246-240-399 of this chapter that are appropriate for the specific medical use under WAC 246-240-501.

(5) An applicant that satisfies the requirements specified in WAC 246-235-090(2) may apply for a Type A specific license of broad scope.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-019, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

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

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

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

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

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

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

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

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

(ii) On a permit issued by NRC or an agreement state specific license of broad scope which is licensed to authorize the use of radioactive material in medical use or in the practice of nuclear pharmacy;

(iii) On a permit issued by NRC master material licensee that is licensed to authorize the use of radioactive material in medical use or in the practice of nuclear pharmacy; or

(iv) By a commercial nuclear pharmacy that has been licensed to authorize nuclear pharmacists.

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

(4) Permits anyone to work as an associate radiation safety officer, or before the radiation safety officer assigns duties and tasks to an associate radiation safety officer that differ from those for which this individual is authorized on the license;

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

((~~(5)~~)) (6) Adds to or changes the areas of use identified in the application or on the license, ((~~except for~~)) including areas used in accordance with either WAC 246-240-151 or 246-240-157 if the change includes the addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide or PET radioactive drug production area. Other areas of use where radioactive material is used only in accordance with either WAC 246-240-151 or 246-240-157 are exempt;

((~~(6)~~)) (7) Changes the address(es) of use identified in the application or on the license; ((~~and~~

~~(7)~~)) (8) Revises procedures required by WAC 246-240-360, 246-240-378, 246-240-381, and 246-240-384, as applicable, where the revision reduces radiation safety; and

(9) Receives a sealed source from a different manufacturer or of a different model number than authorized by its license unless the sealed source is used for manual brachytherapy, is listed in the sealed source and device registry, and is in a quantity and for an isotope authorized by the license.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-022, filed 5/7/13, effective 6/7/13; WSR 06-05-019, § 246-240-022, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 07-14-131, filed 7/3/07, effective 8/3/07)

WAC 246-240-025 Notifications. (1) A licensee shall notify the department no later than ((~~thirty~~)) 30 days after:

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

(b) The licensee's mailing address changes;

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

(d) The licensee has added to or changed the areas of use identified in the application or on the license where radioactive material is used under either WAC 246-240-151 or 246-240-157 if the change does not include the addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide or PET radioactive drug production area; ((~~or~~))

(e) The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in WAC 246-240-022(9). The notification must include the manufacturer and model number of the sealed source, the isotope, and the quantity per sealed source; or

(f) The licensee permits an authorized user or an individual qualified to be a radiation safety officer, under WAC 246-240-069 and 246-240-081, to function as a temporary radiation safety officer and to perform the functions of a radiation safety officer in accordance with WAC 246-240-051(3).

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

[Statutory Authority: RCW 70.98.050. WSR 07-14-131, § 246-240-025, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-025, filed 2/6/06, effective 3/9/06; WSR 98-13-037, § 246-240-025, filed 6/8/98, effective 7/9/98.]

AMENDATORY SECTION (Amending WSR 14-01-077, filed 12/16/13, effective 1/16/14)

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

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

(2) WAC 246-240-022(2);

(3) WAC 246-240-022((~~(5)~~)) (6) regarding additions to or changes in the areas of use at the addresses identified in the application or on the license;

(4) WAC 246-240-025 (1)(a) for an authorized user, an authorized nuclear pharmacist, or an authorized medical physicist, or an ophthalmic physicist;

(5) WAC 246-240-025 (1)(d) regarding additions to or changes in the areas of use identified in the application or on the license where radioactive material is used in accordance with either WAC 246-240-151 or 246-240-157;

(6) WAC 246-240-066.

[Statutory Authority: RCW 70.98.050. WSR 14-01-077, § 246-240-028, filed 12/16/13, effective 1/16/14; WSR 06-05-019, § 246-240-028, filed 2/6/06, effective 3/9/06.]

GENERAL ADMINISTRATIVE REQUIREMENTS

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

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

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

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

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

(2) A licensee's management shall appoint a radiation safety officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the radiation safety officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more associate radiation safety officers to support the radiation safety officer. The radiation safety officer, with the written agreement of the licensee's management, must assign the specific duties and tasks to each associate radiation safety officer. These duties and tasks are restricted to the types of use for which the associate radiation safety officer is listed on a license. The radiation safety officer may delegate duties and tasks to the associate radiation safety officer but shall not delegate the authority or responsibilities for implementing the radiation protection program.

(3) For up to ((~~sixty~~)) 60 days each year, a licensee may permit an authorized user or an individual qualified to be a radiation safety officer, under WAC 246-240-069 and 246-240-081, to function as a temporary radiation safety officer and to perform the functions of a radiation safety officer, under subsection (7) of this section, if the licensee takes the actions required in subsections (2), (5), (7), and (8) of this section and notifies the department in accordance with WAC 246-240-025(1).

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

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

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

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

(a) Identify radiation safety problems;

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

(c) Stop unsafe operations; and

(d) Verify implementation of corrective actions.

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

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-051, filed 5/7/13, effective 6/7/13; WSR 06-05-019, § 246-240-051, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

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

If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive must be documented as soon as possible in writing in the patient's record. A written directive must be prepared within ((~~forty-eight~~)) 48 hours of the oral directive.

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

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

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

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

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

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

(f) For permanent implant brachytherapy:

(i) Before implantation: The treatment site, the radionuclide, and the total source strength; and

(ii) After implantation but before the patient leaves the post-treatment recovery area: The treatment site, the number of sources implanted, the total source strength implanted, and the date; or

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

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

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

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

(b) If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within ((~~forty-eight~~)) 48 hours of the oral revision.

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

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-240-060, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-060, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

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

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

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

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

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

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

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

(d) Verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical units authorized by WAC 246-240-351 or 246-240-501;

(e) Determining if a medical event, as defined in WAC 246-240-651, has occurred; and

(f) Determining, for permanent implant brachytherapy, within 60 calendar days from the date the implant was performed, the total source strength administered outside of the treatment site compared to the total source strength documented in the post-implantation portion of the written directive, unless a written justification of patient unavailability is documented.

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

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-063, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

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

(1) Is certified by a specialty board whose certification process has been recognized by the department, NRC, or an agreement state, and who meets the requirements of subsection((~~s~~)) (4) ((~~and (5)~~)) of this section. ((~~(Specialty boards whose certification process has been recognized by the department, NRC, or an agreement state will be posted on NRC's web page, at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a)(i) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of ((~~twenty~~)) 20 college credits in physical science;

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

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

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

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

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

(B) In clinical nuclear medicine facilities providing diagnostic or therapeutic services under the direction of physicians who meet the requirements for authorized users in WAC 246-240-078, 246-240-163 or 246-240-210; and

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

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

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

(i) Two hundred hours of classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

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

(D) Radiation biology; and

(E) Radiation dosimetry; and

(ii) One year of full-time radiation safety experience under the supervision of the individual identified as the radiation safety officer on a department, NRC, or an agreement state license or ((~~license~~)) permit issued by an NRC master material licensee that authorizes similar ((~~type(s) of use(s)~~)) types of uses of radioactive material ((~~involving the following~~)). An associate radiation safety officer may provide supervision for those areas for which the associate radiation safety officer is authorized on a department, NRC, or an agreement state license or permit issued by an NRC master material licensee. The full-time radiation safety experience must involve the following:

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

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

(C) Securing and controlling radioactive material;

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

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

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

(G) Disposing of radioactive material; ((~~or~~)) and

(b) This individual must obtain a written attestation, signed by a preceptor radiation safety officer or associate radiation safety officer who has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual is seeking approval as a radiation safety officer or an associate radiation safety officer. The written attestation must state that the individual has satisfactorily completed the requirements in (a) of this subsection and subsection (4) of this section, and is able to independently fulfill the radiation safety-related duties as a radiation safety officer or as an associate radiation safety officer for a medical use license; or

(3)(a) Is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the department, NRC, or an agreement state under WAC 246-240-072 and has experience in radiation safety for similar types of use of radioactive material for which the licensee is seeking the approval of the individual as radiation safety officer or associate radiation safety officer, and who meets the requirements in subsection((~~s~~)) (4) ((~~and (5)~~)) of this section; or

((~~(3)~~)) (b) Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on ((~~the licensee's license or a medical physicist who has been certified by a specialty board whose certification process has been recognized by the department, NRC or an agreement state under WAC 246-240-072 and~~)) a department, NRC, or an agreement state license, a permit issued by an NRC master material licensee, a permit issued by the department, NRC, or an agreement state licensee of broad scope, or an NRC master material license broad scope permittee, has experience with the radiation safety aspects of similar types of use of radioactive material for which the licensee seeks the approval of the individual ((~~has~~)) as the radiation safety officer ((~~responsibilities; and~~

~~(4) Has obtained written attestation, signed by a preceptor radiation safety officer, that the individual has satisfactorily completed the requirements in subsection (5) of this section, and in subsection (1)(a) and (b), or (c)(i) and (ii) of this section, or subsection (2)(a) or (b) of this section, or subsection (3) of this section and has achieved a level of radiation safety knowledge sufficient to function independently as a radiation safety officer for a medical use licensee; and~~

~~(5)~~)) or associate radiation safety officer and meets the requirements in subsection (4) of this section; or

(c) Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as the radiation safety officer and the authorized user on the same new medical use license or new medical use permit issued by an NRC master material licensee. The individual must also meet the requirements in subsection (4) of this section.

(4) Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by an authorized medical physicist, authorized user, authorized nuclear pharmacist, ((~~or~~)) radiation safety

officer, or an associate radiation safety officer, as appropriate, who is authorized for the ((~~type(s)~~)) types of use for which the licensee is seeking approval.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-069, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-069, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-069, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-069, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-072 Training for an authorized medical physicist. Except as provided in WAC 246-240-078, the licensee shall require the authorized medical physicist to be an individual who:

(1) Is certified by a specialty board whose certification process has been recognized by the department, NRC, or an agreement state and who meets the requirements in subsection((~~s (2)(b) and~~)) (3) of this section. ((~~(Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

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

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

(i) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the department, NRC, or an agreement state; or

(ii) In clinical radiation facilities providing high energy, external beam therapy (photons and electrons with energies greater than or equal to one million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in WAC 246-240-078, 246-240-278 or 246-240-399;

(c) Pass an examination, administered by diplomates of the specialty board, which assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or

(2)(a) Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the ((~~type(s)~~)) types of use ((~~modalities~~)) for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high energy, external beam therapy (photons and electrons with energies greater than

or equal to 1,000,000 electron volts) and brachytherapy services and must include:

(i) Performing sealed source leak tests and inventories;

(ii) Performing decay corrections;

(iii) Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(iv) Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(b) Has obtained written attestation that the individual has satisfactorily completed the requirements in ((~~subsections (1)(a) and (b) and (3), or (2)~~)) (a) of this subsection and subsection (3) of this section, and ((~~has achieved a level of competency sufficient to function independently~~)) is able to independently fulfill the radiation safety-related duties as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in WAC 246-240-072, 246-240-078, or equivalent NRC or agreement state requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status((~~; and~~)).

(3) Has training for the ((~~type(s)~~)) types of use ((~~in the modalities~~)) for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the ((~~type(s)~~)) types of use for which the individual is seeking authorization.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-072, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-072, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-072, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-072, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-075 Training for an authorized nuclear pharmacist. Except as provided in WAC 246-240-078, the licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Is certified by a specialty board whose certification process has been recognized by the department, NRC, or an agreement state ((~~and who meets the requirements in subsection (2)(b) of this section. (Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)). The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

(b) Hold a current, active license to practice pharmacy;

(c) Provide evidence of having acquired at least ((~~four thousand~~)) 4,000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than ((~~two thousand~~)) 2,000 hours of the required training and experience; and

(d) Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, which assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or

(2)(a) Has completed ((~~two hundred~~)) 700 hours in a structured educational program consisting of both:

(i) ((~~Didactic~~)) Two hundred hours of classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

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

(D) Chemistry of radioactive material for medical use; and

(E) Radiation biology; and

(ii) Supervised practical experience in a nuclear pharmacy involving:

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

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha-or beta-emitting radionuclides;

(C) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(D) Using administrative controls to avoid medical events in the administration of radioactive material; and

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

(b) Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in ((~~subsections (1)(a), (b), and (c) or (2)~~)) (a) of this ((~~section~~)) subsection and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill the radiation safety-related duties as an authorized nuclear pharmacist.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-075, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-075, filed 1/18/11, effective 2/18/11; WSR 06-05-019, § 246-240-075, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-078 Training for experienced radiation safety officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist. (1)(a) An individual identified on a department, NRC, or an agreement state license; or a permit issued by a department, NRC, or an agreement state broad scope licensee or master material license permit; or by a master material license permittee of broad scope as a radiation safety officer, a teletherapy or medical physicist, ((~~or~~)) an authorized medical physicist, a nuclear pharmacist or authorized nuclear pharmacist on ((~~a department, NRC, or agreement state license, or a permit issued by an agreement state or NRC broad scope licensee or master material license permit, or by a master material license permittee of broad scope~~)) or before ((~~October 24, 2006~~)) January 14, 2019, need not comply with the training requirements of WAC 246-240-069, 246-240-072, or 246-240-075, respectively except the radiation safety officers and authorized medical physicists identified in this subsection must meet the training requirements in WAC 246-240-069(4) or 246-240-072(3), as appropriate, for any material or uses for which they were not authorized prior to this date.

(b) Any individual certified by the American Board of Health Physics in Comprehensive Health Physics; American Board of Radiology; American Board of Nuclear Medicine; American Board of Science in Nuclear Medicine; Board of Pharmaceutical Specialties in Nuclear Pharmacy; American Board of Medical Physics in radiation oncology physics; Royal College of Physicians and Surgeons of Canada in nuclear medicine; American Osteopathic Board of Radiology; or American Osteopathic Board of Nuclear Medicine on or before October 24, 2005, need not comply with the training requirements of WAC 246-240-069 to be identified as a radiation safety officer or as an associate radiation safety officer on a department, NRC, or an agreement state license or NRC master material license permit for those materials and uses that these individuals performed on or before October 24, 2005.

(c) Any individual certified by the American Board of Radiology in therapeutic radiological physics, Roentgen ray and gamma ray physics, X-ray and radium physics, or radiological physics, or certified by the American Board of Medical Physics in radiation oncology physics, on or before October 24, 2005, need not comply with the training requirements for an authorized medical physicist described in WAC 246-240-072, for those materials and uses that these individuals performed on or before October 24, 2005.

(d) A radiation safety officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of WAC 246-240-069, 246-240-072 or 246-240-075, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and during the time period identified in this subsection, qualifies as an authorized nuclear pharmacist or an au-

thorized medical physicist, respectively, for those materials and uses performed before these dates, for the purposes of this chapter.

(2)(a) Physicians, dentists, or podiatrists identified as authorized users for the medical use of radioactive material on a license issued by the department, NRC, or an agreement state, ((~~or NRC broad scope license, or license~~)) a permit issued by an NRC master material license, a permit issued by a department, NRC, or an agreement state broad scope licensee, or permit issued by an NRC master material license broad scope permittee on or before ((~~October 24, 2006~~)) January 14, 2019, who perform only those medical uses for which they were authorized on or before that date need not comply with the training requirements of WAC 246-240-151 ((~~and~~)) through 246-240-399.

(b) Physicians, dentists, or podiatrists not identified as authorized users for the medical use of radioactive material on a license issued by the department, NRC, or an agreement state, a permit issued by an NRC master material licensee, a permit issued by the department, NRC, or an agreement state broad scope licensee, or a permit issued in accordance with an NRC master material broad scope license on or before October 24, 2005, need not comply with the training requirements of WAC 246-240-151 through 246-240-399 for those materials and uses that these individuals performed on or before October 24, 2005, as follows:

(i) For uses authorized under WAC 246-240-151 or 246-240-157, or oral administration of sodium iodide I-131 requiring a written directive for imaging and localization purposes, a physician who was certified on or before October 24, 2005, in nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology by the American Board of Radiology; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or American Osteopathic Board of Nuclear Medicine in nuclear medicine;

(ii) For uses authorized under WAC 246-240-201, a physician who was certified on or before October 24, 2005, by the American Board of Nuclear Medicine; the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or the American Osteopathic Board of Radiology after 1984;

(iii) For uses authorized under WAC 246-240-251 or 246-240-351, a physician who was certified on or before October 24, 2005, in radiology, therapeutic radiology or radiation oncology by the American Board of Radiology; radiation oncology by the American Osteopathic Board of Radiology; radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; and

(iv) For uses authorized under WAC 246-240-301, a physician who was certified on or before October 24, 2005, in radiology, diagnostic radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or nuclear medicine by the Royal College of Physicians and Surgeons of Canada.

(c) Physicians, dentists, or podiatrists who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a government agency or federally recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by

the NRC, need not comply with the training requirements of WAC 246-240-151 through 246-240-399 of this chapter when performing the same medical uses. A physician, dentist, or podiatrist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this subsection, qualifies as an authorized user for those materials and uses performed before these dates, for the purposes of this chapter.

(3) Individuals who need not comply with training requirements as described in this section may serve as preceptors for, and supervisors of, applicants seeking authorization on state of Washington radioactive materials licenses for the same uses for which these individuals are authorized.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-078, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-078, filed 1/18/11, effective 2/18/11; WSR 06-05-019, § 246-240-078, filed 2/6/06, effective 3/9/06.]

GENERAL TECHNICAL REQUIREMENTS

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-104 Calibration of survey instruments. (1) A licensee shall calibrate the survey instruments used to show compliance with this section and WAC 246-240-587 before first use, annually, and following a repair that affects the calibration. A licensee shall:

(a) Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;

(b) Calibrate two separated readings on each scale or decade that will be used to show compliance; and

(c) Conspicuously note on the instrument the date of calibration.

(2) A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than ((~~twenty~~)) 20 percent.

(3) A licensee shall retain a record of each survey instrument calibration in accordance with WAC 246-240-566.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-104, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-107 Determination of dosages of unsealed radioactive material for medical use. (1) A licensee shall determine and record the activity of each dosage before medical use.

(2) For a unit dosage, this determination must be made by:

(a) Direct measurement of radioactivity; or

(b) A decay correction, based on the activity or activity concentration determined by:

(i) A manufacturer, producer, or preparer licensed under WAC 246-235-100 or equivalent NRC or agreement state requirements; or

(ii) An agreement state or NRC licensee for use in research in accordance with a radioactive drug research committee-approved protocol or an investigational new drug protocol accepted by FDA.

(3) For other than unit dosages, this determination must be made by:

(a) Direct measurement of radioactivity;

(b) Combination of measurement of radioactivity and mathematical calculations; or

(c) Combination of volumetric measurements and mathematical calculations, based on the measurement made by a manufacturer, producer, or preparer licensed under WAC 246-235-100 or equivalent agreement state requirements.

(4) Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than ((~~twenty~~)) 20 percent.

(5) A licensee shall retain a record of the dosage determination required by this section in accordance with WAC 246-240-569.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-107, filed 5/7/13, effective 6/7/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-240-107, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-107, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-110 Authorization for calibration, transmission, and reference sources. (1) Any person authorized by WAC 246-240-016 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use:

((~~(1)~~)) (a) Sealed sources, not exceeding 1.11 gigabecquerels (30 millicuries) each, manufactured and distributed by a person licensed under WAC 246-235-102 or equivalent agreement state or NRC regulations((~~.~~));

((~~(2)~~)) (b) Sealed sources, not exceeding 1.11 gigabecquerels (30 millicuries) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under WAC 246-235-102, or equivalent agreement state or NRC regulations ((~~if~~)), provided the redistributed sealed sources are in

the original packaging and shielding and are accompanied by the manufacturer's approved instructions((~~.~~));

((~~(3)~~)) (c) Any radioactive material with a half-life not longer than ((~~one hundred twenty~~)) 120 days in individual amounts not to exceed 0.56 gigabecquerels (15 millicuries)((~~.~~));

((~~(4)~~)) (d) Any radioactive material with a half-life longer than ((~~one hundred twenty~~)) 120 days in individual amounts not to exceed the smaller of 7.4 megabecquerels (200 microcuries) or ((~~1000~~)) 1,000 times the quantities in Schedule B of WAC 246-232-120((~~.~~)); or

((~~(5)~~)) (e) Technetium-99m in amounts as needed.

(2) Radioactive material in sealed sources authorized by this provision shall not be:

(a) Used for medical use as defined in WAC 246-240-010, except in accordance with the requirements in WAC 246-240-301; or

(b) Combined, such as bundled or aggregated, to create an activity greater than the maximum activity of any single sealed source authorized under this section.

(3) A licensee using calibration, transmission, and reference sources in accordance with the requirements in subsection (1) or (2) of this section need not list these sources on a specific medical use license.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-110, filed 5/7/13, effective 6/7/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-240-110, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 07-14-131, § 246-240-110, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-110, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-113 Requirements for possession of sealed sources and brachytherapy sources. (1) A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.

(2) A licensee in possession of a sealed source shall:

(a) Test the source for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

(b) Test the source for leakage at intervals not to exceed six months or at other intervals approved by the department, NRC, or an agreement state in the sealed source and device registry.

(3) To satisfy the leak test requirements of this section, the licensee shall ensure the sample is analyzed by such method that the leak test can detect the presence of 185 becquerels (0.005 microcuries) of radioactive material in the sample.

(4) A licensee shall retain leak test records in accordance with WAC 246-240-572(1).

(5) If the leak test reveals the presence of 185 becquerels (0.005 microcurie) or more of removable contamination, the licensee shall:

(a) Immediately withdraw the sealed source from use and store, dispose, or cause it to be repaired in accordance with the requirements in chapters 246-221 and 246-232 WAC; and

(b) File a report within five days of the leak test in accordance with WAC 246-240-657.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than ((~~thirty~~)) 30 days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 3.7 megabecquerels (100 microcuries) or less of beta- or gamma-emitting material or 0.37 megabecquerel (10 microcuries) or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. However, the licensee shall test each source for leakage before any use or transfer unless it has been leak tested within six months before the date of use or transfer.

(7) A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory of all the sources in its possession at intervals not to exceed six months. The licensee shall retain each inventory record in accordance with WAC 246-240-572.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-113, filed 5/7/13, effective 6/7/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-240-113, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-113, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-119 Surveys of ambient radiation exposure rate. (1) In addition to the surveys required by chapter 246-221 WAC, a licensee shall survey with a radiation detection survey instrument at the end of each day of use. A licensee shall survey all areas where unsealed radioactive material requiring a written directive was prepared for use or administered.

(2) A licensee does not need to perform the surveys required by subsection (1) of this section in ((~~an area(s)~~)) areas where patients or human research subjects are confined when they cannot be released under WAC 246-240-122.

(3) A licensee shall retain a record of each survey in accordance with WAC 246-240-575.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-119, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-122 Release of individuals containing unsealed radioactive material or implants containing radioactive material. (1) A licensee may authorize the release from its control of any individual who has been administered unsealed radioactive material or implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed ((~~5~~)) five mSv (0.5 rem).

(2) A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed ((~~1~~)) one mSv (0.1 rem). If the total effective dose equivalent to a nursing infant or child could exceed ((~~1~~)) one mSv (0.1 rem) assuming there were no interruption of breast-feeding, the instructions must also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the potential consequences, if any, of failure to follow the guidance.

(3) A licensee shall maintain a record of the basis for authorizing the release of an individual in accordance with WAC 246-240-578(1).

(4) The licensee shall maintain a record of instructions provided to a breast-feeding female in accordance with WAC 246-240-578(2). NUREG-1556, Vol. 9, "*Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Licenses*," describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding ((~~5~~)) five mSv (0.5 rem).

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-122, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-128 Decay-in-storage. (1) A licensee may hold radioactive material with a physical half-life of less than ((~~one hundred twenty~~)) 120 days for decay-in-storage before disposal without regard to its radioactivity if it:

(a) Monitors radioactive material at the surface before disposal and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey meter set on its most sensitive scale and with no interposed shielding; and

(b) Removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee.

(2) A licensee shall retain a record of each disposal permitted under subsection (1) of this section in accordance with WAC 246-240-584.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-128, filed 2/6/06, effective 3/9/06.]

UNSEALED RADIOACTIVE MATERIAL - WRITTEN DIRECTIVE NOT REQUIRED

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-154 Training for uptake, dilution, and excretion studies. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under WAC 246-240-151 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, NRC, or an agreement state ((~~and who meets the requirements of subsection (3)(b) of this section. (Specialty boards whose certification process has been recognized by the department, the NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)). The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) ((~~Meet the requirements in subsection (3)(a)~~)) Complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies as described in subsection (3)(a)(i) through (ii)(F) of this section; and

(b) Pass an examination, administered by diplomates of the specialty board, which assesses knowledge and competence in radiation safety, radionuclide handling, and quality control; or

(2) Is an authorized user under WAC 246-240-163 or 246-240-210 or equivalent agreement state or NRC requirements((~~; or subsection (3)(a) of this section~~)); or

(3)(a) Has completed ((~~sixty~~)) 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies. The training and experience must include:

(i) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

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

(D) Chemistry of radioactive material for medical use; and

(E) Radiation biology; and

(ii) Work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-078, 246-240-154,

246-240-163, or 246-240-210 or equivalent NRC or agreement state requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

(E) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(b) Has obtained written attestation((~~, signed by a preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-154, 246-240-163, or 246-240-210, or equivalent agreement state or NRC requirements,~~)) that the individual has satisfactorily completed the requirements in (a) of this subsection and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under WAC 246-240-151. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-154, 246-240-163, or 246-240-210, or equivalent NRC or agreement state requirements; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in WAC 246-240-078, 246-240-154, 246-240-163, or 246-240-210, or equivalent NRC or agreement state requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in (a) of this subsection.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-154, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-154, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-154, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-154, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 09-06-003, filed 2/18/09, effective 3/21/09)

WAC 246-240-160 Permissible molybdenum-99, strontium-82, and strontium-85 concentrations. (1) A licensee may not administer to humans a radiopharmaceutical that contains more than:

(a) ((~~5.55~~)) 0.15 kilobecquerel of molybdenum-99 per ((~~37~~)) megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m); or

(b) 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection, (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or

(c) 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).

(2) A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration ((~~of the first eluate after receipt of~~)) in each elute from a generator to demonstrate compliance with subsection (1) of this section.

(3) A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of strontium-82 and strontium-85 to demonstrate compliance with subsection (1)((~~(a)~~)) of this section.

(4) If a licensee is required to measure the molybdenum-99 concentration, or strontium-82 and strontium-85 concentrations the licensee shall retain a record of each measurement in accordance with WAC 246-240-587.

(5) The licensee shall report any measurement that exceeds the limits in subsection (1) of this section at the time of generator elution, in accordance with WAC 246-240-660.

[Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-240-160, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-160, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-163 Training for imaging and localization studies. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under WAC 246-240-157 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, NRC, or an agreement state ((~~and who meets the requirements in subsection (3)(b) of this section. (Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)). The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) ((~~Satisfy the requirements in subsection (3)(a)~~)) Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for imaging and localization studies as described in subsection (3)(a)(i) through (ii)(G) of this section; and

(b) Pass an examination, administered by diplomates of the specialty board, which assesses knowledge and competence in radiation safety, radionuclide handling, and quality control; or

(2) Is an authorized user under WAC 246-240-210 and meets the requirements in ((~~WAC 246-240-163~~)) subsection (3)(a)(ii)(G) ((~~and 246-240-210~~)) of this section, or equivalent agreement state or NRC requirements; or

(3)(a) Has completed ((~~seven hundred~~)) 700 hours of training and experience, including a minimum of ((~~eighty~~)) 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for imaging and localization studies. The training and experience must include, at a minimum:

(i) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

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

(D) Chemistry of radioactive material for medical use;

(E) Radiation biology; and

(ii) Work experience, under the supervision of an authorized user, who meets the requirements in WAC 246-240-078, 246-240-163, or 246-240-210 and ((~~246-240-163 (3)~~))(a)(ii)(G) of this subsection, or equivalent agreement state or NRC requirements((~~, involving~~)). An authorized nuclear pharmacist who meets the requirements in WAC 246-240-075 or 246-240-078 may provide the supervised work experience for (a)(ii)(G) of this subsection. Work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

(E) Using procedures to safely contain spilled radioactive material and using proper decontamination procedures;

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(G) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(b) Has obtained written attestation((~~, signed by a preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-163, or 246-240-210 and 246-240-163 (3)(a)(ii)(G) or equivalent agreement state or NRC requirements,~~)) that the individual has satisfactorily completed the requirements in (a) of this subsection and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under WAC 246-240-151 and 246-240-157. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-163, or 246-240-210 and (a)(ii)(G) of this subsection, or equivalent NRC or agreement state requirements; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the

requirements in WAC 246-240-078, 246-240-163, or 246-240-210 and (a)(ii)(G) of this subsection or equivalent NRC or agreement state requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in (a) of this subsection.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-163, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-163, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-163, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-163, filed 2/6/06, effective 3/9/06.]

UNSEALED RADIOACTIVE MATERIAL - WRITTEN DIRECTIVE REQUIRED

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-201 Use of unsealed radioactive material for which a written directive is required. A licensee may use any unsealed radioactive material identified in WAC 246-240-210 (2)(a)(ii)(G) prepared for medical use and for which a written directive is required that is:

(1) Obtained from a manufacturer, producer, or preparer licensed under WAC 246-235-100(1) or equivalent agreement state or NRC requirements; or

(2) Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in WAC 246-240-163 or 246-240-210, or an individual under the supervision of either as specified in WAC 246-240-057; or

(3) Obtained from and prepared by an agreement state or NRC licensee for use in research in accordance with an investigational new drug protocol accepted by FDA; or

(4) Prepared by the licensee for use in research in accordance with an investigational new drug protocol accepted by FDA.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-201, filed 5/7/13, effective 6/7/13. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 09-06-003, § 246-240-201, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-201, filed 2/6/06, effective 3/9/06.]

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

WAC 246-240-210 Training for use of unsealed radioactive material for which a written directive is required. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under WAC 246-240-201 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, NRC, or an agreement state and who meets the requirements in subsection (2)(a)(ii)(G) of this section. ((~~(Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty that includes ((~~seven hundred~~)) 700 hours of training and experience as described in subsection (2)(a)(i) through (ii)(E) of this section. Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the Committee on Postgraduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, quality assurance, and clinical use of unsealed ((~~by-product~~)) radioactive material for which a written directive is required; or

(2)(a) Has completed ((~~seven hundred~~)) 700 hours of training and experience, including a minimum of ((~~two hundred~~)) 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:

((~~(a)~~)) (i) Classroom and laboratory training in the following areas:

((~~(i)~~)) (A) Radiation physics and instrumentation;

((~~(ii)~~)) (B) Radiation protection;

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

((~~(iv)~~)) (D) Chemistry of radioactive material for medical use; and

((~~(v)~~)) (E) Radiation biology; and

((~~(b)~~)) (ii) Work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-078, or ((~~subsection (1) or (2) of~~)) this section, or equivalent NRC or agreement state requirements. A supervising authorized user, who meets the requirements in this subsection, must also have experience in administering dosages in the same dosage category or categories (((~~i.e., this section~~)) as in (a)(ii)(G) of this subsection) as the individual requesting authorized user status. The work experience must involve:

((~~(i)~~)) (A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

((~~(ii)~~)) (B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

((~~(iii)~~)) (C) Calculating, measuring, and safely preparing patient or human research subject dosages;

((~~(iv)~~)) (D) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

((~~(v)~~)) (E) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; ((~~and~~))

(F) (Reserved);

((~~(vi)~~)) (G) Administering dosages of radioactive drugs to patients or human research subjects ((~~involving~~)) from the three categories in this subsection. Radioactive drugs containing radionuclides in categories not included in this subsection are regulated under WAC 246-240-501. This work experience must involve a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

((~~(A)~~)) (I) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131 for which a written directive is required;

((~~(B)~~)) (II) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131. Experience with at least three cases in this also satisfies the requirement in ((~~(b)(vi)(A)~~)) (a)(ii)(G)(I) of this subsection;

((~~(C)~~)) (III) Parenteral administration of any ((~~beta emitter, or a photon-emitting radionuclide with a~~)) radioactive drug that contains a radionuclide that is primarily used for its electron emission, beta radiation characteristics, alpha radiation characteristics, or photon energy less than 150 keV for which a written directive is required; ((~~or~~

~~(D) Parenteral administration of any other radionuclide for which a written directive is required;~~)) and

((~~(E)~~)) (b) Has obtained written attestation that the individual has satisfactorily completed the requirements in (a) of this subsection ((~~(1)(a) and (2)(b)(vi) of this section~~)), and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill at radiation safety-related duties as an authorized user for the medical uses authorized under WAC 246-240-201 for which the individual is requesting authorized user status. The written attestation must be ((~~signed by~~)) obtained from either:

(i) A preceptor authorized user who meets the requirements in this section, WAC 246-240-078, 246-240-210, or equivalent NRC or agreement state requirements((~~. The preceptor authorized user, who meets the requirements in this subsection, must also have~~)), and has experience in administering dosages in the same dosage category or categories ((~~(i.e., this section)~~)) (as in (a)(ii)(G) of this subsection) as the individual requesting authorized user status; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in WAC 246-240-078, 246-240-210, or equivalent NRC or agreement state requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be

approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in (a) of this subsection.

[Statutory Authority: RCW 70.98.050. WSR 14-09-017, § 246-240-210, filed 4/7/14, effective 5/8/14; WSR 13-11-021, § 246-240-210, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-210, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-210, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-210, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-213 Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries). Except as provided in WAC 246-240-078, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in subsection (3)(a) and (b) of this section and whose certification has been recognized by the department, NRC, or an agreement state. ((~~(Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.)~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page; or

(2) Is an authorized user under WAC 246-240-210 for uses listed in WAC 246-240-210 (2)((~~(b)(vii)(A) and (B)~~)) (a)(ii)(G)(I) or (II), 246-240-216, or equivalent agreement state or NRC requirements; or

(3)(a) Has successfully completed ((~~eighty~~)) 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

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

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-213, 246-240-216, or equivalent agreement state or NRC requirements. A supervising authorized user who meets the requirements in WAC 246-240-210(2), must also have experience in administering dosages as specified in WAC 246-240-210 (2)((~~(b)(vii)(A) or (B)~~)) (a)(ii)(G)(I) or (II). The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of radioactive material;

(v) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(vi) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in (a) and (b) of this subsection and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill the radiation safety-related duties as an authorized user for oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131 for medical uses authorized under WAC 246-240-201. The written attestation must be ((~~signed by~~)) obtained from either:

(i) A preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-213, 246-240-216, or equivalent agreement state or NRC requirements((~~. A preceptor authorized user, who meets the requirement in WAC 246-240-210(2), must also have~~)), and has experience in administering dosages as specified in WAC 246-240-210 (2)((~~(b)(vii)(A) or (B)~~)) (a)(ii)(G)(I) or (II); or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-213, 246-240-216, or equivalent NRC or agreement state requirements, has experience in administering dosages as specified in WAC 246-240-210 (2)(a)(ii)(G)(I) or (II), and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in (a) and (b) of this subsection.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-213, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-213, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-213, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-213, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-216 Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries). Except as provided in WAC 246-240-078, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive

in quantities greater than 1.22 gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in subsection (3)(a) and (b) of this section and whose certification has been recognized by the department, NRC, or an agreement state. ((~~(Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.)~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page; or

(2) Is an authorized user under WAC 246-240-210 for uses listed in WAC 246-240-210 (2)((~~(b)(vii)(B)~~)) (a)(ii)(G)(II), or equivalent agreement state or NRC requirements; or

(3)(a) Has successfully completed ((~~eighty~~)) 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

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

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-216, or equivalent agreement state or NRC requirements. A supervising authorized user, who meets the requirements in WAC 246-240-210(2), must also have experience in administering dosages as specified in WAC 246-240-210 (2)((~~(b)(vii)(B)~~)) (a)(ii)(G)(II).

The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of radioactive material;

(v) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(vi) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in (a) and (b) of this subsection and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill the radiation safety-related duties as an authorized user for oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131 for medical uses authorized under WAC 246-240-201. The written attestation must be ((~~signed by~~)) obtained from either:

(i) A preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-216, or equivalent agreement state

or NRC requirements((~~. A preceptor authorized user, who meets the requirements in WAC 246-240-210(2), must have~~)), and has experience in administering dosages as specified in WAC 246-240-210 (2) ((~~(b)(vii)(B)~~)) (a)(ii)(G)(II); or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-216, or equivalent NRC or agreement state requirements, has experience in administering dosages as specified in WAC 246-240-210 (2)(a)(ii)(G)(II), and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in (a) and (b) of this subsection.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-216, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-216, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-216, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-216, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-219 Training for the parenteral administration of unsealed radioactive material requiring a written directive. (1) Except as provided in WAC 246-240-078, the licensee shall require an authorized user for the parenteral administration requiring a written directive, to be a physician who:

((~~(1)~~)) (a) Is an authorized user under WAC 246-240-210 for uses listed in WAC 246-240-210 (2)((~~(b)(vii)(C) or (D)~~)) (a)(ii)(G)(III), or equivalent agreement state or NRC requirements; or

((~~(2)~~)) (b) Is an authorized user under WAC 246-240-278 or 246-240-399, or equivalent agreement state or NRC requirements and who meets the requirements in subsection ((~~(4)~~)) (2) of this section; or

((~~(3)~~)) (c) Is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state under WAC 246-240-278 or 246-240-399, and who meets the requirements in subsection ((~~(4)~~)) (2) of this section.

((~~(4)~~)) (2) The physician:

(a) Has successfully completed ((~~eighty~~)) 80 hours of classroom and laboratory training, applicable to parenteral administrations((~~, for which a written directive is required, of any beta emitter or any photon-emitting radionuclide with a photon energy less than 150 keV, or parenteral administration of any other radionuclide for which a written directive is required~~)) listed in WAC 246-240-210 (2)(a)(ii)(G)(III). The training must include:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

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

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-219, or equivalent agreement state or NRC requirements, in the parenteral administrations((~~, for which a written directive is required, of any beta emitter or any photon-emitting radionuclide with a photon energy less than 150 keV, or parenteral administration of any other radionuclide for which a written directive is required~~)) listed in WAC 246-240-210 (2)(a)(ii)(G)(III). A supervising authorized user who meets the requirements in WAC 246-240-210, 246-240-219, or equivalent agreement state or NRC requirements, must have experience in administering dosages ((~~as specified in WAC 246-240-210 (2)(b)(vii)(C) or (D)~~)) in the same category or categories as the individual requesting authorized user status. The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely, and performing the related radiation surveys;

(ii) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

(v) Using procedures to contain spilled radioactive material safely, and using proper decontamination procedures; and

(vi) Administering dosages to patients or human research subjects, that include at least three cases involving the parenteral administrations((~~, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV or at least three cases involving the parenteral administration of any other radionuclide, for which a written directive is required~~)) as specified in WAC 246-240-210 (2)(a)(ii)(G)(III); and

((~~(5)~~)) (c) Has obtained written attestation that the individual has satisfactorily completed the requirements in ((~~subsection (2) or (3)~~)) (a) and (b) of this ((~~section~~)) subsection, and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill the radiation safety-related duties as an authorized user for the parenteral administration of unsealed radioactive material requiring a written directive. The written attestation must be ((~~signed by~~)) obtained from either:

(i) A preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-219, or equivalent agreement state or NRC requirements. A preceptor authorized user, who meets the requirements in WAC 246-240-210, 246-240-219, or equivalent agreement state or NRC requirements, must have experience in administering dosages ((~~as specified in WAC 246-240-210 (2)(b)(vii)(C) or (D)~~)) in the same category or categories as the individual requesting authorized user status; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in WAC 246-240-078, 246-240-210, 246-240-219, or equivalent NRC or agreement state requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of

the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Post-doctoral Training of the American Osteopathic Association and must include training and experience specified in (a) and (b) of this subsection.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-219, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-219, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-219, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-219, filed 2/6/06, effective 3/9/06.]

MANUAL BRACHYTHERAPY

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-251 Use of sources for manual brachytherapy. A licensee shall use only brachytherapy sources for therapeutic medical uses:

(1) As approved in the sealed source and device registry for manual brachytherapy medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the sealed source and device registry, but must be used in accordance with the radiation safety conditions and limitations described in the sealed source and device registry; or

(2) In research to deliver therapeutic doses for medical use in accordance with an active investigational device exemption (IDE) application accepted by the FDA provided the requirements of WAC 246-240-066(1) are met.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-251, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-272 ((~~Decay of~~)) Strontium-90 sources for ophthalmic treatments. (1) ((~~Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under WAC 246-240-269.~~

~~(2)~~)) Licensees who use strontium-90 for ophthalmic treatments must ensure that certain activities as specified in subsection (2) of this section are performed by either:

(a) An authorized medical physicist; or

(b) An individual who:

(i) Is identified as an ophthalmic physicist on a specific medical use license issued by a department, NRC, or an agreement state; permit issued by a department, NRC, or an agreement state broad scope medical use licensee; medical use permit issued by an NRC master material licensee; or permit issued by an NRC master material licensee broad scope medical use permittee; and

(ii) Holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university; and

(iii) Has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and

(iv) Has documented training in:

(A) The creation, modification, and completion of written directives;

(B) Procedures for administrations requiring a written directive; and

(C) Performing the calibration measurements of brachytherapy sources as detailed in WAC 246-240-269.

(2) The individuals who are identified in subsection (1) of this section must:

(a) Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under WAC 246-240-269; and

(b) Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in subsection (1) of this section will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the administrations were in accordance with the written directives.

(3) A licensee shall retain a record of the activity of each strontium-90 source in accordance with WAC 246-240-602.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-272, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-278 Training for use of manual brachytherapy sources. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under WAC 246-240-251 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, NRC, or an agreement state. ((~~(Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certifi-

cation process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the Committee on Postgraduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of ((~~high and low dose-rate~~)) manual brachytherapy((~~; and~~

~~(c) Obtain written attestation, signed by a preceptor authorized user who meets the requirements in WAC 246-240-278 or equivalent NRC or agreement state requirements, that the individual has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized in WAC 246-240-251~~)); or

(2)(a) Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:

(i) Two hundred hours of classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

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

(D) Radiation biology; and

(ii) Five hundred hours of work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-078, 246-240-278 or equivalent agreement state or NRC requirements at a medical institution authorized to use radioactive materials under WAC 246-240-251, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Checking survey meters for proper operation;

(C) Preparing, implanting, and removing brachytherapy sources;

(D) Maintaining running inventories of material on hand;

(E) Using administrative controls to prevent a medical event involving the use of radioactive material;

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

(b) Has completed three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in WAC 246-240-078, 246-240-278, or equivalent NRC or agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by (a)(ii) of this subsection; and

(c) Has obtained written attestation((~~, signed by a preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-278 or equivalent agreement state or NRC requirements,~~)) that the individual has satisfactorily completed the requirements in ((~~subsection (1)(a) of this section, or~~)) (a) and (b) of this subsection

((~~and has achieved a level of competency sufficient to function~~)) and is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized under WAC 246-240-251. The attestation must be obtained from either:

(i) A preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-278, or equivalent agreement state or NRC requirements; or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in WAC 246-240-078, 246-240-278, or equivalent NRC or agreement state requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in (a) and (b) of this subsection.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-278, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-278, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-278, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-278, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-281 Training for ophthalmic use of strontium-90. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of strontium-90 for ophthalmic radiotherapy to be a physician who:

(1) Is an authorized user under WAC 246-240-278 or equivalent agreement state or NRC requirements; or

(2)(a) Has completed ((~~twenty-four~~)) 24 hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy. The training must include:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

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

(iv) Radiation biology; and

(b) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals.

This supervised clinical training must involve:

(i) Examination of each individual to be treated;

(ii) Calculation of the dose to be administered;

(iii) Administration of the dose; and

(iv) Follow up and review of each individual's case history; and

(c) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-278, 246-240-281, or equivalent agreement state or NRC re-

quirements, that the individual has satisfactorily completed the requirements in ((~~subsections (1) and (2)~~)) (a) and (b) of this ((~~section~~)) subsection and ((~~has achieved a level of competency sufficient to function~~)) is able to independently fulfill the radiation safety-related duties as an authorized user of strontium-90 for ophthalmic use.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-281, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-281, filed 1/18/11, effective 2/18/11; WSR 06-05-019, § 246-240-281, filed 2/6/06, effective 3/9/06.]

SEALED SOURCES FOR DIAGNOSIS

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-301 Use of sealed sources and medical devices for diagnosis. (1) A licensee shall use only sealed sources that are not in medical devices for diagnostic medical uses ((~~as~~)) if the sealed sources are approved in the sealed source and device registry for diagnostic medicine. The sealed sources may be used for diagnostic medical uses that are not explicitly listed in the sealed source and device registry but must be used in accordance with the radiation safety conditions and limitations described in the sealed source and device registry.

(2) A licensee must only use medical devices containing sealed sources for diagnostic medical uses if both the sealed sources and medical devices are approved in the sealed source and device registry for diagnostic medical uses. The diagnostic medical devices may be used for diagnostic medical uses that are not explicitly listed in the sealed source and device registry but must be used in accordance with the radiation safety conditions and limitations described in the sealed source and device registry.

(3) Sealed sources and devices for diagnostic medical uses may be used in research in accordance with an active IDE application accepted by the FDA provided the requirements of WAC 246-240-066(1) are met.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-301, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-304 Training for use of sealed sources and medical devices for diagnosis. Except as provided in WAC 246-240-078, the licensee shall require the authorized user of a diagnostic sealed source

((~~for use in~~)) a device authorized under WAC 246-240-301 to be a physician, dentist, or podiatrist who:

(1) Is certified by a specialty board whose certification process includes all of the requirements in subsections ((~~(2) and~~)) (3) and (4) of this section and whose certification has been recognized by the department, NRC, or an agreement state. ((~~(Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.)~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page; or

(2) Is an authorized user for uses listed in WAC 246-240-157 or equivalent NRC or agreement state requirements; or

(3) Has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

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

(d) Radiation biology; and

((~~(3)~~)) (4) Has completed training in the use of the device for the uses requested.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-304, filed 5/7/13, effective 6/7/13; WSR 06-05-019, § 246-240-304, filed 2/6/06, effective 3/9/06.]

PHOTON EMITTING REMOTE AFTERLOADER UNITS, TELETHERAPY UNITS, AND GAMMA STEREOTACTIC RADIOSURGERY UNITS

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-351 Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit. (1) A licensee shall use sealed sources:

(a) Approved and as provided for in the sealed source and device registry in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units ((~~for~~)) to deliver therapeutic doses for medical uses((~~:~~

~~(1) As~~)); or

(b) In research involving photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units in accordance with an active IDE application accepted by the FDA provided the requirements of WAC 246-240-066(1) are met.

(2) A licensee shall use photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units:

(a) Approved in the sealed source and device registry to deliver a therapeutic dose for medical use. These devices may be used for therapeutic medical treatments that are not explicitly provided for in the sealed source and device registry, but must be used in accordance with radiation safety conditions and limitations described in the sealed source and device registry; or

((~~(2)~~)) (b) In research in accordance with an active ((~~investigational device exemption (IDE)~~)) IDE application accepted by the FDA provided the requirements of WAC 246-240-066(1) are met.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-351, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-354 Surveys of patients and human research subjects treated with a remote afterloader unit. (1) Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that the ((~~source(s)~~)) sources has been removed from the patient or human research subject and returned to the safe shielded position.

(2) A licensee shall retain a record of these surveys in accordance with WAC 246-240-593.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-354, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-357 Installation, maintenance, adjustment, and repair. (1) Only a person specifically licensed by the department, NRC, or an agreement state shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on the ((~~source(s)~~)) sources shielding, the ((~~source(s)~~)) sources driving unit, or other electronic or mechanical component that could expose the ((~~source(s)~~)) sources, reduce the shielding around the ((~~source(s)~~)) sources, or compromise the radiation safety of the unit or the ((~~source(s)~~)) sources.

(2) Except for low dose-rate remote afterloader units, only a person specifically licensed by the department, NRC, or an agreement state shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.

(3) For a low dose-rate remote afterloader unit, only a person specifically licensed by the department, NRC, or an agreement state or an authorized medical physicist shall install, replace, relocate, or remove a sealed ((~~source(s)~~)) sources contained in the unit.

(4) A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy

units, and gamma stereotactic radiosurgery units in accordance with WAC 246-240-605.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-357, filed 5/7/13, effective 6/7/13; WSR 06-05-019, § 246-240-357, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-360 Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. (1) A licensee shall:

(a) Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;

(b) Permit only individuals approved by the authorized user, radiation safety officer, or authorized medical physicist to be present in the treatment room during treatment with the ((~~source(s)~~)) sources;

(c) Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and

(d) Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the ((~~source(s)~~)) sources in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures must include:

(i) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

(ii) The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

(iii) The names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.

(2) A copy of the procedures required by subsection (1)(d) of this section must be physically located at the unit console.

(3) A licensee shall post instructions at the unit console to inform the operator of:

(a) The location of the procedures required by subsection (1)(d) of this section; and

(b) The names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.

(4) (a) Prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit, a licensee shall ensure that vendor operational and safety training is provided to all individuals who will operate the unit. The vendor operational and safety training must be provided by the device manufacturer or by an individual certified by the device manufacturer to provide the operational and safety training.

(b) A licensee shall provide operational safety instructions, initially and at least annually, to all individuals who operate the unit at the facility, as appropriate to the individual's assigned duties((~~,~~)). The instructions shall include instruction in:

((~~(a)~~)) (i) The procedures identified in subsection (1)(d) of this section; and

((~~(b)~~)) (ii) The operating procedures for the unit.

(5) A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

(6) A licensee shall retain a record of individuals receiving instruction required by subsection (4) of this section, in accordance with WAC 246-240-590.

(7) A licensee shall retain a copy of the procedures required by subsections (1)(d) and (4)(b)(ii) of this section in accordance with WAC 246-240-608.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-360, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-363 Safety precautions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. (1) A licensee shall control access to the treatment room by a door at each entrance.

(2) A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:

(a) Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

(b) Cause the ((~~source(s)~~)) sources to be shielded when an entrance door is opened; and

(c) Prevent the ((~~source(s)~~)) sources from being exposed following an interlock interruption until all treatment room entrance doors are closed and the ((~~source(s)~~)) sources on-off control is reset at the console.

(3) A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

(4) Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

(5) For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.

(6) In addition to the requirements specified in subsections (1) through (5) of this section, a licensee shall:

(a) For *medium dose-rate and pulsed dose-rate remote afterloader units*, require:

(i) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit to be physically present during the initiation of all patient treatments involving the unit; and

(ii) An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user,

who has been trained to remove the source ((~~applicator(s)~~)) applicators in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.

(b) For *high dose-rate remote afterloader units*, require:

(i) An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and

(ii) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.

(c) For *gamma stereotactic radiosurgery units*, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit.

(d) Notify the radiation safety officer, or their designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

(7) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Remaining in the unshielded position; or

(b) Lodged within the patient following completion of the treatment.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-363, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-366 Dosimetry equipment. (1) Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions must be met:

(a) The system must have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration must have been performed within the previous two years and after any servicing that may have affected system calibration; or

(b) The system must have been calibrated within the previous four years. Eighteen to ((~~thirty~~)) 30 months after that calibration, the system must have been intercompared with another dosimetry system that was calibrated within the past ((~~twenty-four~~)) 24 months by NIST or by a calibration laboratory accredited by the AAPM. The results of the intercomparison must indicate that the calibration factor of the licensee's system had not changed by more than two percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and

sources of the same radionuclide as the source used at the licensee's facility.

(2) The licensee shall have a dosimetry system available for use for spot-check output measurements, if applicable. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with subsection (1) of this section. This comparison must have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in subsection (1) of this section.

(3) The licensee shall retain a record of each calibration, intercomparison, and comparison in accordance with WAC 246-240-611.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-366, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-369 Full calibration measurements on teletherapy units. (1) A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

(a) Before the first medical use of the unit; and

(b) Before medical use under the following conditions:

(i) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(ii) Following replacement of the source or following reinstallation of the teletherapy unit in a new location;

(iii) Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one year.

(2) To satisfy the requirement of subsection (1) of this section, full calibration measurements must include determination of:

(a) The output within ±((~~3~~)) three percent for the range of field sizes and for the distance or range of distances used for medical use;

(b) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(c) The uniformity of the radiation field and its dependence on the orientation of the useful beam;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error; and

(f) The accuracy of all distance measuring and localization devices in medical use.

(3) A licensee shall use the dosimetry system described in WAC 246-240-366(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (2)(a) of this section may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by subsection (1) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall mathematically correct the outputs determined in subsection (2)(a) of this section for physical decay for intervals not exceeding one month for cobalt-60, six months for cesium-137, or at intervals consistent with one percent decay for all other nuclides.

(6) Full calibration measurements required by subsection (1) of this section and physical decay corrections required by subsection (5) of this section must be performed by the authorized medical physicist.

(7) A licensee shall retain a record of each calibration in accordance with WAC 246-240-614.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-369, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-372 Full calibration measurements on remote afterloader units. (1) A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(i) Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and

(ii) Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one calendar quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds ((~~seventy-five~~)) 75 days; and

(d) At intervals not exceeding one year for low dose-rate remote afterloader units.

(2) To satisfy the requirement of subsection (1) of this section, full calibration measurements must include, as applicable, determination of:

(a) The output within ±((~~5~~)) five percent;

(b) Source positioning accuracy to within ±((~~1~~)) one millimeter;

(c) Source retraction with backup battery upon power failure;

(d) Length of the source transfer tubes;

(e) Timer accuracy and linearity over the typical range of use;

(f) Length of the applicators; and

(g) Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

(3) A licensee shall use the dosimetry system described in WAC 246-240-366(1) to measure the output.

(4) A licensee shall make full calibration measurements required by subsection (1) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) In addition to the requirements for full calibrations for low dose-rate remote afterloader units in subsection (2) of this section, a licensee shall perform an autoradiograph of the ((~~source(s)~~)) sources to verify inventory and ((~~source(s)~~)) sources arrangement at intervals not exceeding one calendar quarter.

(6) For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with subsections (1) through (5) of this section.

(7) A licensee shall mathematically correct the outputs determined in subsection (2)(a) of this section for physical decay at intervals consistent with one percent physical decay.

(8) Full calibration measurements required by subsection (1) of this section and physical decay corrections required by subsection (7) of this section must be performed by the authorized medical physicist.

(9) A licensee shall retain a record of each calibration in accordance with WAC 246-240-614.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-372, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-375 Full calibration measurements on gamma stereotactic radiosurgery units. (1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(i) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(ii) Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

(iii) Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

(c) At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

(2) To satisfy the requirement of subsection (1) of this section, full calibration measurements must include determination of:

(a) The output within ±((~~3~~)) three percent;

(b) Relative helmet factors;

(c) Isocenter coincidence;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error;

(f) Trunnion centricity;

(g) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(h) Helmet microswitches;

(i) Emergency timing circuits; and

(j) Stereotactic frames and localizing devices (trunnions).

(3) A licensee shall use the dosimetry system described in WAC 246-240-366(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (2)(a) of this section may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by subsection (1) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall mathematically correct the outputs determined in subsection (2)(a) of this section at intervals not exceeding one month for cobalt-60 and at intervals consistent with one percent physical decay for all other radionuclides.

(6) Full calibration measurements required by subsection (1) of this section and physical decay corrections required by subsection (5) of this section must be performed by the authorized medical physicist.

(7) A licensee shall retain a record of each calibration in accordance with WAC 246-240-614.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-375, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-378 Periodic spot-checks for teletherapy units. (1) A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit once in each calendar month that include determination of:

(a) Timer accuracy, and timer linearity over the range of use;

(b) On-off error;

(c) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(d) The accuracy of all distance measuring and localization devices used for medical use;

(e) The output for one typical set of operating conditions measured with the dosimetry system described in WAC 246-240-366(2); and

(f) The difference between the measurement made in (e) of this subsection and the anticipated output, expressed as a percentage of the anticipated output (((~~i.e.,~~)) such as the value obtained at last full calibration corrected mathematically for physical decay).

(2) A licensee shall perform measurements required by subsection (1) of this section in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot-check measurements.

(3) A licensee shall have the authorized medical physicist review the results of each spot-check within ((~~fifteen~~)) 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(4) A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility once in each calendar month and after each source installation to assure proper operation of:

(a) Electrical interlocks at each teletherapy room entrance;

(b) Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);

(c) Source exposure indicator lights on the teletherapy unit, on the control console, and in the facility;

(d) Viewing and intercom systems;

(e) Treatment room doors from inside and outside the treatment room; and

(f) Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.

(5) If the results of the checks required in subsection (4) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee shall retain a record of each spot-check required by subsections (1) and (4) of this section, and a copy of the procedures required by subsection (2) of this section, in accordance with WAC 246-240-617.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-378, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-381 Periodic spot-checks for remote afterloader units. (1) A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:

(a) Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

(b) Before each patient treatment with a low dose-rate remote afterloader unit; and

(c) After each source installation.

(2) A licensee shall perform the measurements required by subsection (1) of this section in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(3) A licensee shall have the authorized medical physicist review the results of each spot-check within ((~~fifteen~~)) 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(4) To satisfy the requirements of subsection (1) of this section, spot-checks must, at a minimum, assure proper operation of:

(a) Electrical interlocks at each remote afterloader unit room entrance;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

(d) Emergency response equipment;

(e) Radiation monitors used to indicate the source position;

(f) Timer accuracy;

(g) Clock (date and time) in the unit's computer; and

(h) Decayed ((~~source(s)~~)) sources activity in the unit's computer.

(5) If the results of the checks required in subsection (4) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit ex-

cept as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee shall retain a record of each check required by subsection (4) of this section and a copy of the procedures required by subsection (2) of this section in accordance with WAC 246-240-620.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-381, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-384 Periodic spot-checks for gamma stereotactic radiosurgery units. (1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

(a) Monthly;

(b) Before the first use of the unit on a given day; and

(c) After each source installation.

(2) A licensee shall:

(a) Perform the measurements required by subsection (1) of this section in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(b) Have the authorized medical physicist review the results of each spot-check within ((~~fifteen~~)) 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(3) To satisfy the requirements of subsection (1)(a) of this section, spot-checks must, at a minimum:

(a) Assure proper operation of:

(i) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(ii) Helmet microswitches;

(iii) Emergency timing circuits; and

(iv) Stereotactic frames and localizing devices (trunnions).

(b) Determine:

(i) The output for one typical set of operating conditions measured with the dosimetry system described in WAC 246-240-366(2);

(ii) The difference between the measurement made in (b)(i) of this subsection and the anticipated output, expressed as a percentage of the anticipated output (((~~i.e.,~~)) such as the value obtained at last full calibration corrected mathematically for physical decay);

(iii) Source output against computer calculation;

(iv) Timer accuracy and linearity over the range of use;

(v) On-off error; and

(vi) Trunnion centricity.

(4) To satisfy the requirements of subsection (1)(b) and (c) of this section, spot-checks must assure proper operation of:

(a) Electrical interlocks at each gamma stereotactic radiosurgery room entrance;

(b) Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Timer termination;

(e) Radiation monitors used to indicate room exposures; and

(f) Emergency off buttons.

(5) A licensee shall arrange for the repair of any system identified in subsection (3) of this section that is not operating properly as soon as possible.

(6) If the results of the checks required in subsection (4) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(7) A licensee shall retain a record of each check required by subsections (3) and (4) of this section and a copy of the procedures required by subsection (2) of this section in accordance with WAC 246-240-623.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-384, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-390 Radiation surveys. (1) In addition to the survey requirement in WAC 246-221-110(1), a person licensed under this chapter shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with the ((~~source(s)~~)) sources in the shielded position do not exceed the levels stated in the sealed source and device registry.

(2) The licensee shall make the survey required by subsection (1) of this section at installation of a new source and following repairs to the ((~~source(s)~~)) sources shielding, the ((~~source(s)~~)) sources driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around the ((~~source(s)~~)) sources, or compromise the radiation safety of the unit or the ((~~source(s)~~)) sources.

(3) A licensee shall retain a record of the radiation surveys required by subsection (1) of this section in accordance with WAC 246-240-629.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-390, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-393 ((~~Five-year inspection~~)) Full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units. (1) A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during each source replacement ((~~or at intervals not to exceed five years, whichever comes first,~~)) to assure proper functioning of the source exposure mechanism and other safety components. The interval between each full-inspection servicing shall not exceed five years for each teletherapy unit and

shall not exceed seven years for each gamma stereotactic radiosurgery unit.

(2) This inspection and servicing may only be performed by persons specifically licensed to do so by the department, NRC, or an agreement state.

(3) A licensee shall keep a record of the inspection and servicing in accordance with WAC 246-240-632.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-393, filed 5/7/13, effective 6/7/13; WSR 06-05-019, § 246-240-393, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

WAC 246-240-399 Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. Except as provided in WAC 246-240-078, the licensee shall require an authorized user of a sealed source for a use authorized under WAC 246-240-351 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the department, NRC, or an agreement state and meets the requirements in subsection (3) of this section. ((~~(Specialty boards whose certification process has been recognized by NRC or an agreement state will be posted on NRC's web page at http://www.nrc.gov/materials/miau/med-use-toolkit/spec-board-cert.html.) To be~~)) The names of board certifications that have been recognized by the department, NRC, or an agreement state are posted on the NRC's medical uses licensee toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the ((~~Committee on Postgraduate~~)) Council of Postdoctoral Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, high and low dose-rate brachytherapy, and external beam therapy; or

(2)(a) Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:

(i) Two hundred hours of classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

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

(D) Radiation biology; and

(ii) Five hundred hours of work experience, under the supervision of an authorized user who meets the requirements in WAC 246-240-078, 246-240-399, or equivalent agreement state or NRC requirements, at a

medical institution((~~,~~)) that is authorized to use radioactive materials in WAC 246-240-351 involving:

(A) Reviewing full calibration measurements and periodic spot-checks;

(B) Preparing treatment plans and calculating treatment doses and times;

(C) Using administrative controls to prevent a medical event involving the use of radioactive material;

(D) Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;

(E) Checking and using survey meters; and

(F) Selecting the proper dose and how it is to be administered; and

(b) Has completed three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in WAC 246-240-078, 246-240-399 or equivalent NRC or agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the ((~~Committee~~)) Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by (a)(ii) of this subsection; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in ((~~subsection (1)~~)) (a) and (b) of this subsection, and subsection (3) of this section((~~, or (a) and (b), and (d) of this subsection and has achieved a level of competency sufficient to function~~)) and is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be ((~~signed by~~)) obtained from either:

(i) A preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-399, or equivalent NRC or agreement state requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status((~~; and~~

~~(d)~~)); or

(ii) A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in WAC 246-240-078, 246-240-399, or equivalent NRC or agreement state requirements, for the types of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in (a) and (b) of this subsection.

(3) Has received training in device operation, safety procedures, and clinical use for the ((~~type(s)~~)) types of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for

the ((~~type(s)~~)) types of use for which the individual is seeking authorization.

[Statutory Authority: RCW 70.98.050. WSR 13-11-021, § 246-240-399, filed 5/7/13, effective 6/7/13; WSR 11-03-068, § 246-240-399, filed 1/18/11, effective 2/18/11; WSR 07-14-131, § 246-240-399, filed 7/3/07, effective 8/3/07; WSR 06-05-019, § 246-240-399, filed 2/6/06, effective 3/9/06.]

OTHER MEDICAL USES OF RADIOACTIVE MATERIAL OR RADIATION FROM RADIOACTIVE MATERIAL

RECORDS

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-551 Records of authority and responsibilities for radiation protection programs. (1) A licensee shall retain a record of actions taken by the licensee's management in accordance with WAC 246-240-051(1) for five years. The record must include a summary of the actions taken and a signature of licensee management.

(2) The licensee shall retain a copy of both authority, duties, and responsibilities of the radiation safety officer as required by WAC 246-240-051(5), and a signed copy of each radiation safety officer's agreement to be responsible for implementing the radiation safety program, as required by WAC 246-240-051(2), for the duration of the license. The records must include the signature of the radiation safety officer and licensee management.

(3) For each associate radiation safety officer appointed under WAC 246-240-051(2), the licensee shall retain, for five years after the associate radiation safety officer is removed from the license, a copy of the written document appointing the associate radiation safety officer signed by the licensee's management.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-551, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-578 Records of the release of individuals containing unsealed radioactive material or implants containing radioactive material. (1) A licensee shall retain a record of the basis for authorizing the release of an individual in accordance with WAC 246-240-122, if the total effective dose equivalent is calculated by:

(a) Using the retained activity rather than the activity administered;

(b) Using an occupancy factor less than 0.25 at ((~~1~~)) one meter;

(c) Using the biological or effective half-life; or

(d) Considering the shielding by tissue.

(2) A licensee shall retain a record that the instructions required by WAC 246-240-122(2) were provided to a breast-feeding female if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding ((~~5~~)) five mSv (0.5 rem).

(3) The records required by subsections (1) and (2) of this section must be retained for three years after the date of release of the individual.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-578, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-590 Records of safety instruction. A licensee shall maintain a record of safety instructions required by WAC 246-240-204, 246-240-263, and the operational and safety instructions required by WAC 246-240-360 for three years. The record must include a list of the topics covered, the date of the instruction, the ((~~name(s)~~)) names of the ((~~attendee(s)~~)) attendees, and the ((~~name(s)~~)) names of the ((~~individual(s)~~)) individuals who provided the instruction.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-590, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-605 Records of installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units. A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units as required by WAC 246-240-357 for three years. For each installation, maintenance, adjustment and repair, the record must include the date, description of the service, and ((~~name(s)~~)) names of the ((~~individual(s)~~)) individuals who performed the work.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-605, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-614 Records of teletherapy, remote afterloader, and gamma stereotactic radiosurgery full calibrations. (1) A licensee shall maintain a record of the teletherapy unit, remote afterloader unit, and gamma stereotactic radiosurgery unit full calibrations required by WAC 246-240-369, 246-240-372, and 246-240-375 for three years.

(2) The record must include:

(a) The date of the calibration;

(b) The manufacturer's name, model number, and serial number of the teletherapy, remote afterloader, and gamma stereotactic radiosurgery ((~~unit(s)~~)) units, the ((~~source(s)~~)) sources, and the instruments used to calibrate the ((~~unit(s)~~)) units;

(c) The results and an assessment of the full calibrations;

(d) The results of the autoradiograph required for low dose-rate remote afterloader units; and

(e) The signature of the authorized medical physicist who performed the full calibration.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-614, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-632 Records of ((~~five-year inspection~~)) full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units. (1) A licensee shall maintain a record of the ((~~five-year inspections~~)) full-inspection servicing for teletherapy and gamma stereotactic radiosurgery units required by WAC 246-240-393 for the duration of use of the unit.

(2) The record must contain:

(a) The inspector's radioactive materials license number;

(b) The date of inspection;

(c) The manufacturer's name and model number and serial number of both the treatment unit and source;

(d) A list of components inspected and serviced, and the type of service; and

(e) The signature of the inspector.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-632, filed 2/6/06, effective 3/9/06.]

REPORTS

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-651 Report and notification of a medical event. (1) A licensee shall report any event as a medical event, except for an event that results from patient intervention, in which:

(a) The administration of radioactive material or radiation from radioactive material, except permanent implant brachytherapy, results in:

((~~(a)~~)) (i) A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (((~~5~~)) five rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and

((~~(i)~~)) (A) The total dose delivered differs from the prescribed dose by ((~~twenty~~)) 20 percent or more;

((~~(ii)~~)) (B) The total dosage delivered differs from the prescribed dosage by ((~~twenty~~)) 20 percent or more or falls outside the prescribed dosage range; or

((~~(iii)~~)) (C) The fractionated dose delivered differs from the prescribed dose, for a single fraction, by ((~~fifty~~)) 50 percent or more.

((~~(b)~~)) (ii) A dose that exceeds 0.05 Sv (((~~5~~)) five rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:

((~~(i)~~)) (A) An administration of a wrong radioactive drug containing radioactive material or the wrong radionuclide for a brachytherapy procedure;

((~~(ii)~~)) (B) An administration of a radioactive drug containing radioactive material by the wrong route of administration;

((~~(iii)~~)) (C) An administration of a dose or dosage to the wrong individual or human research subject;

((~~(iv)~~)) (D) An administration of a dose or dosage delivered by the wrong mode of treatment; or

((~~(v)~~)) (E) A leaking sealed source.

((~~(c)~~)) (iii) A dose to the skin or an organ or tissue other than the treatment site that exceeds by:

(A) 0.5 Sv (50 rem) ((~~to an organ or tissue and fifty percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site)~~)) or more the expected dose to that site from the procedure if the administration had been given in accordance with the written directive prepared or revised before administration; and

(B) Fifty percent or more the expected dose to that site from the procedure if the administration had been given in accordance with the written directive prepared or revised before administration.

(b) For permanent implant brachytherapy, the administration of radioactive material or radiation from radioactive material (excluding sources that were implanted in the correct site but migrated outside the treatment site) that results in:

(i) The total source strength administered differing by 20 percent or more from the total source strength documented in the post-implantation portion of the written directive;

(ii) The total source strength administered outside of the treatment site exceeding 20 percent of the total source strength documented in the post-implantation portion of the written directive; or

(iii) An administration that includes any of the following:

(A) The wrong radionuclide;

(B) The wrong individual or human research subject;

(C) Sealed sources implanted directly into a location discontiguous from the treatment site, as documented in the post-implantation portion of the written directive; or

(D) A leaking sealed source resulting in a dose that exceeds 0.5 Sv (50 rem) to an organ or tissue.

(2) A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

(3) The licensee shall notify by telephone (360-236-3300) the department no later than the next calendar day after discovery of the medical event.

(4) By an appropriate method listed in WAC 246-221-250, the licensee shall submit a written report to the department at P.O. Box 47827, Olympia WA 98504-7827 within ((~~fifteen~~)) 15 days after discovery of the medical event.

(a) The written report must include:

(i) The licensee's name;

(ii) The name of the prescribing physician;

(iii) A brief description of the event;

(iv) Why the event occurred;

(v) The effect, if any, on the ((~~individual(s)~~)) individuals who received the administration;

(vi) What actions, if any, have been taken or are planned to prevent recurrence; and

(vii) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

(5) The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than ((~~twenty-four~~)) 24 hours after its discovery, unless the referring physician personally informs the licensee either that they will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within ((~~twenty-four~~)) 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements

of this ((~~section~~)) subsection, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide a written description if requested.

(6) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

(7) A licensee shall:

(a) Annotate a copy of the report provided to the department with the:

(i) Name of the individual who is the subject of the event; and

(ii) Social Security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and

(b) Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than ((~~fifteen~~)) 15 days after the discovery of the event.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-651, filed 2/6/06, effective 3/9/06.]

AMENDATORY SECTION (Amending WSR 06-05-019, filed 2/6/06, effective 3/9/06)

WAC 246-240-654 Report and notification of a dose to an embryo/fetus or a nursing child. (1) A licensee shall report to the department at P.O. Box 47827, Olympia WA 98504-7827, (phone 360-236-3300), any dose to an embryo/fetus that is greater than 50 mSv (((~~5~~)) five rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

(2) A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:

(a) Is greater than 50 mSv (((~~5~~)) five rem) total effective dose equivalent; or

(b) Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

(3) The licensee shall notify by telephone the department no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in subsection (1) or (2) of this section.

(4) By an appropriate method listed in WAC 246-221-250, the licensee shall submit a written report to the department within ((~~fifteen~~)) 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in subsection (1) or (2) of this section.

(a) The written report must include:

(i) The licensee's name;

(ii) The name of the prescribing physician;

(iii) A brief description of the event;

(iv) Why the event occurred;

(v) The effect, if any, on the embryo/fetus or the nursing child;

(vi) What actions, if any, have been taken or are planned to prevent recurrence; and

(vii) Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.

(b) The report must not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

(5) The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than ((~~twenty-four~~)) 24 hours after discovery of an event that would require reporting under subsection (1) or (2) of this section, unless the referring physician personally informs the licensee either that they will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within ((~~twenty-four~~)) 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide a written description if requested.

(6) A licensee shall:

(a) Annotate a copy of the report provided to the department with the:

(i) Name of the pregnant individual or the nursing child who is the subject of the event; and

(ii) Social Security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and

(b) Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than ((~~fifteen~~)) 15 days after the discovery of the event.

[Statutory Authority: RCW 70.98.050. WSR 06-05-019, § 246-240-654, filed 2/6/06, effective 3/9/06.]

NEW SECTION

WAC 246-240-660 Report and notification for an eluate exceeding permissible molybdenum-99, strontium-82, and strontium-85 concentrations. (1) The licensee shall notify by telephone the department and the distributor of the generator within seven calendar days after discovery that an eluate exceeded the permissible concentration listed in

WAC 246-240-160(1) at the time of generator elution. The telephone report to the department must include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects, when the distributor was notified, and the action taken.

(2) By an appropriate method listed in WAC 246-221-250, the licensee shall submit a written report to the department at P.O. Box 47827, Olympia WA 98504-7827 within 30 days after discovery of an eluate exceeding the permissible concentration at the time of generator elution. The written report must include the action taken by the licensee; the patient dose assessment; the methodology used to make this dose assessment if the eluate was administered to patients or human research subjects; and the probable cause and an assessment of failure in the licensee's equipment, procedures or training that contributed to the excessive readings if an error occurred in the licensee's breakthrough determination; and the information in the telephone report as required by subsection (1) of this section.

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WSR 22-19-094
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed September 21, 2022, 9:19 a.m., effective October 22, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is adopting amendments to WAC 388-436-0050 Determining financial need and benefit amount for CEAP and 388-478-0005 Cash assistance need and payment standards and grant maximum, to increase the temporary assistance for needy families and state family assistance payment standard for households with nine or more assistance unit members. Amendments also update net income limits and allowable benefit amounts for the consolidated emergency assistance program.

These changes were funded in the 2022 supplemental operating budget. Emergency amendments to implement this change took effect July 1, 2022, under WSR 22-14-046.

Citation of Rules Affected by this Order: Amending WAC 388-436-0050 and 388-478-0005.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.660, 74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.08A.120, 74.08A.230, and 74.62.030.

Other Authority: 2022 Supplemental operating budget (chapter 297, Laws of 2022).

Adopted under notice filed as WSR 22-13-181 on June 22, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: September 21, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4928.1

AMENDATORY SECTION (Amending WSR 21-21-054, filed 10/15/21, effective 11/15/21)

WAC 388-436-0050 Determining financial need and benefit amount for CEAP. (1) To be eligible for the consolidated emergency assistance program (CEAP), the assistance unit's nonexcluded income, minus

allowable deductions, must be less than or equal to ((~~ninety percent~~)) 90% of the temporary assistance for needy families (TANF) payment standard. The net income limit for CEAP assistance units is:

Assistance unit members	Net income limit
1	$375
2	475
3	589
4	694
5	799
6	908
7	1,049
8 ((~~or more~~))	1,160
9	1,274
10 or more	1,385

(2) The assistance unit's allowable amount of need is the lesser of:

(a) The TANF payment standard, based on assistance unit size, as specified under WAC 388-478-0020; or

(b) The assistance unit's actual emergent need, not to exceed maximum allowable amounts, for the following items:

Need item: Maximum allowable amount by assistance unit size:

	1	2	3	4	5	6	7	8 ((~~or more~~))	9	10 or more
Food	$253	$322	$397	$469	$539	$612	$699	$773	$864	$939
Shelter	308	390	485	572	657	744	863	952	1,048	1,139
Clothing	36	45	56	66	76	89	98	112	127	139
Minor medical care	214	273	338	397	458	516	603	665	736	800
Utilities	105	132	163	191	220	253	292	322	354	385
Household maintenance	76	97	121	140	163	185	214	235	255	277
Job related transportation	417	528	654	771	888	1,009	1,165	1,289	1,416	1,539
Child related transportation	417	528	654	771	888	1,009	1,165	1,289	1,416	1,539

(3) The assistance unit's CEAP payment is determined by computing the difference between the allowable amount of need, as determined under subsection (2) of this section, and the total of:

(a) The assistance unit's net income, as determined under subsection (1) of this section and WAC 388-436-0045;

(b) Cash on hand, if not already counted as income; and

(c) The value of other nonexcluded resources available to the assistance unit.

(4) The assistance unit is not eligible for CEAP if the amount of income and resources, as determined in subsection (3) of this section, is equal to or exceeds its allowable amount of need.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.660, 74.08.090, 74.08A.230 and 2021 c 334. WSR 21-21-054, § 388-436-0050, filed 10/15/21, effective 11/15/21. Statutory Authority: RCW 74.04.050, 74.08.090, 74.08A.230, 2018 c 299 and 2017 c 1. WSR 18-09-088, § 388-436-0050, filed 4/17/18, effective 7/1/18. Statutory Authority: RCW 74.04.050, 74.08.090, 74.08A.230, and 2015 3rd sp.s. c 4 § 207. WSR 16-01-093, § 388-436-0050, filed 12/15/15, effective 1/15/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, and chapters 74.08A and 74.12 RCW. WSR

11-16-029, § 388-436-0050, filed 7/27/11, effective 8/27/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.660. WSR 09-14-040, § 388-436-0050, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 08-18-009, § 388-436-0050, filed 8/22/08, effective 9/22/08; WSR 98-16-044, § 388-436-0050, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 20-20-007, filed 9/24/20, effective 10/25/20)

WAC 388-478-0005 Cash assistance need and payment standards and grant maximum. (1) Need standards for cash assistance programs represent the amount of income required by individuals and families to maintain a minimum and adequate standard of living. Need standards are based on assistance unit size and include basic requirements for food, clothing, shelter, energy costs, transportation, household maintenance and operations, personal maintenance, and necessary incidentals.

(2) Payment standards for assistance units in medical institutions and other facilities are based on the need for clothing, personal maintenance, and necessary incidentals (see WAC 388-478-0006).

(3) Need and payment standards for persons and families who do not reside in medical institutions and other facilities are based on program grant standards.

((~~(4) Starting July 1, 2012, the monthly cash assistance grant for an assistance unit cannot exceed the payment standard for a family of 8 listed in WAC 388-478-0020(1).~~))

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.08A.120, 74.08A.230, 74.62.030 and 2020 c 357. WSR 20-20-007, § 388-478-0005, filed 9/24/20, effective 10/25/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 2011 1st sp.s. c 15. WSR 13-18-005, § 388-478-0005, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.100, 74.04.770, 74.08.090, and 2012 2nd sp.s. c 7. WSR 12-18-023, § 388-478-0005, filed 8/27/12, effective 9/27/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.100, 74.04.770, and 74.08.090. WSR 11-21-024, § 388-478-0005, filed 10/11/11, effective 11/11/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.100, 74.04.770, 74.08.090, and 2008 c 329 § 207 (1)(e). WSR 08-21-134, § 388-478-0005, filed 10/20/08, effective 10/28/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-05-010, § 388-478-0005, filed 2/6/04, effective 3/8/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-478-0005, filed 7/31/98, effective 9/1/98.]

WSR 22-19-095
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed September 21, 2022, 9:25 a.m., effective October 22, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-493-0010 Working family support, through the expedited rule-making process for housekeeping purposes. The amendments remove obsolete dates and do not represent a policy change to working family support.

Citation of Rules Affected by this Order: Amending WAC 388-493-0010.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Other Authority: Section 205 (1)(c), chapter 297, Laws of 2022.

Adopted under notice filed as WSR 22-09-033 on April 12, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 21, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4920.1

AMENDATORY SECTION (Amending WSR 20-16-133, filed 8/3/20, effective 9/3/20)

WAC 388-493-0010 Working family support. (1) What is the working family support (WFS) program?

The working family support program is administered by the department of social and health services (department) and provides an additional monthly food benefit ((~~from May 2016 through June 30, 2021~~)) to low income families who meet specific criteria. Continuance of the program ((~~beyond June 30, 2021~~)) is contingent on specific legislative funding for the working family support program.

(2) The following definitions apply to this program:

(a) "Co-parent" means another adult in your home who is related to your qualifying child through birth or adoption.

(b) "Qualifying child" means a child under the age of ((~~eighteen~~)) 18 who is:

(i) Your child through birth or adoption; or

(ii) Your step-child.

(c) "Work" means subsidized or unsubsidized employment or self-employment. To determine self-employment hours, we divide your net self-employment income by the federal minimum wage.

(3) Who is eligible for the working family support program?

You may be eligible for working family support food assistance if you meet all of the following:

(a) You receive food assistance through basic food, food assistance program for legal immigrants (FAP), or transitional food assistance (TFA);

(b) Receipt of working family support food assistance would not cause your countable food assistance income to exceed the ((~~two hundred percent~~)) 200% federal poverty level (FPL);

(c) No one in your food assistance unit receives temporary assistance for needy families (TANF) or state family assistance (SFA);

(d) A qualifying child lives in your home;

(e) You, your spouse, or co-parent work a minimum of ((~~thirty-five~~)) 35 hours a week, and if you live with your spouse or co-parent, you must be in the same assistance unit;

(f) You provide proof of the number of hours worked; and

(g) You reside in Washington state as required under WAC 388-468-0005.

(4) How may I apply for working family support?

(a) The department will review your eligibility for the working family support program:

(i) When you apply for food assistance, or

(ii) At the time of your food assistance eligibility review.

(b) You may request the working family support benefit in person, in writing, or by phone at any time.

(5) How long may I receive working family support?

(a) You may recertify up to an additional six months for working family support if you meet the criteria listed in subsection (3) of this section and provide current proof that you, your spouse, or co-parent works a minimum of ((~~thirty-five~~)) 35 hours a week.

(b) Working family support certification ends when:

(i) You complete either a certification or mid-certification review for food assistance under WAC 388-434-0010 or 388-418-0011, and you do not provide proof of the number of hours that you, your spouse, or your co-parent work;

(ii) You no longer receive basic food, FAP, or TFA;

(iii) You receive TANF or SFA;

(iv) You do not have a qualifying child in your home;

(v) You, your spouse, or co-parent no longer work a minimum of ((~~thirty-five~~)) 35 hours a week; or

(vi) You are no longer a resident of Washington state.

(6) What benefits will I receive if I am eligible for the working family support program?

(a) The assistance unit will receive a separate ((~~ten dollars~~)) $10 monthly food assistance benefit each month.

(b) Working family support benefits are not prorated.

(7) Enrollment in the working family support program is limited to ((~~ten thousand~~)) 10,000 households per month.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and 2019 c 415. WSR 20-16-133, § 388-493-0010, filed 8/3/20, effective 9/3/20. Statutory Authority: RCW 74.04.050, 74.040.055 [74.04.055],

74.04.057, 74.08.090 and 2017 3rd sp.s. c 1. WSR 17-23-050, § 388-493-0010, filed 11/9/17, effective 12/10/17. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 17-07-012, § 388-493-0010, filed 3/6/17, effective 4/6/17; WSR 16-08-034, § 388-493-0010, filed 3/30/16, effective 5/1/16.]

WSR 22-19-101
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 21, 2022, 11:34 a.m., effective October 22, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule making is to create chapter 296-71 WAC, Refinery worker training and certification in high-hazard facilities, implementing the advanced safety training requirements under chapter 49.80 RCW established by ESHB 1817, passed by the Washington state legislature in 2019. Chapter 49.80 RCW requires owners of petroleum-refining or petrochemical-manufacturing facilities to use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair, or maintenance work. All workers in the skilled and trained workforce must have completed at least 20 hours of approved advanced safety training for workers at high-hazard facilities within the past three calendar years. Delayed enforcement policies will be used to ensure employers have adequate time to train all employees as required. This adoption includes requirements for advanced safety training certification for workers, curriculum for in-person classroom and laboratory instruction, and approval of training providers. Please see below for an overview of the adopted language, as well as minor changes to the proposed language.

New Sections:

WAC 296-71-001 Purpose and scope.

- Indicates this new chapter applies to the training and certification of a skilled and trained workforce under chapter 49.80 RCW, establishing a training course approval program and certification and the issuance of worker certification.

WAC 296-71-003 Definitions.

- Includes definitions of the following terms: Apprenticeable occupation, approved, competent instructor, department, director, high-hazard facility, on-site work, owner/operator, person, registered apprentice, revocation, skilled journeyperson, skilled and trained workforce, suspension. These definitions are applicable throughout this chapter, unless context clearly requires otherwise.

WAC 296-71-010 Skilled and trained workforce requirements.

- Establishes the skilled and trained workforce requirements and includes statutory requirements for percentages of the workforce that must be trained, training standards, and employer documentation with recordkeeping standards. This rule also has exceptions from the section outlined.

WAC 296-71-020 Training certification.

- Sets forth how to qualify for, renew, and issue an advanced training certificate.

WAC 296-71-030 Training course approval.

- Training courses must be 20 hours and meet the minimum requirements in Appendix A.

WAC 296-71-040 Reciprocity.

- Outlines the standards for training certificate reciprocity, when reciprocity isn't available, and that the department of labor and industries (L&I) will maintain a list of states recognized that meet Washington standards.

WAC 296-71-050 Denial, suspension, and revocation.

- Outlines the criteria and how L&I may deny, suspend, or revoke a training certificate or course approval.

Appendix A: Training course content - Nonmandatory.

- Outlines the curriculum a training course would have to meet to become an approved course.

Citation of Rules Affected by this Order: New WAC 296-71-001, 296-71-003, 296-71-010, 296-71-020, 296-71-030, 296-71-040, 296-71-050, and Appendix A.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.80.060.

Other Authority: Chapter 49.80 RCW.

Adopted under notice filed as WSR 22-07-086 on March 22, 2022.

Changes Other than Editing from Proposed to Adopted Version:

WAC 296-71-010 Skilled and trained workforce requirements.

- Added clarifying language to subsection (1) that a skilled and trained workforce in the building and construction trades performing on-site work should be done within the worker's specific occupation or craft.

WAC 296-71-030 Training course approval.

- Updated the second sentence in subsection (1) to include "20-hours of in-person and laboratory instruction," which matches the language in chapter 49.80 RCW. It was determined that our language needed to be as descriptive as RCW to ensure it was clear and concise to readers of L&I's rule language.

Appendix A: Training course content - Nonmandatory.

- In the table, added "including but not limited to" to the title "Craft-Specific Safety Training."

A final cost-benefit analysis is available by contacting Tari Enos, L&I, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5541, fax 360-902-5619, email Tari.Enos@Lni.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 8, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 21, 2022.

Joel Sacks
Director

OTS-3472.5

Chapter 296-71 WAC
REFINERY WORKER TRAINING AND CERTIFICATION IN HIGH HAZARD FACILITIES

NEW SECTION

WAC 296-71-001 Purpose and scope. This standard contains requirements under chapter 49.80 RCW for:

(1) Owners and operators of petroleum refining or petrochemical manufacturing facilities to use a skilled and trained workforce when contracting for construction, alteration, demolition, installation, repair or maintenance work at the stationary source.

(2) Training and certification of the skilled and trained workforce, including training course approval, and the issuance of worker certification.

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NEW SECTION

WAC 296-71-003 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

Apprenticeable occupation. An occupation for which an apprenticeship program has been approved by the Washington state apprenticeship and training council pursuant to chapter 49.04 RCW.

Approved. Approved by the department.

Competent instructor. An instructor who has demonstrated satisfactory performance in the occupation for a minimum of three years beyond the customary learning period for that occupation and who:

(a) Meets the requirements of the state board for community and technical colleges for a vocational-technical instructor; or

(b) Is recognized within an industry as having expertise in a specific occupation and is a subject matter expert; and

(c) Has training in teaching techniques and adult learning styles. The training may be acquired before, or within one year after, the competent instructor begins to provide related supplemental instruction.

Department. The department of labor and industries.

Director. The director of the department of labor and industries or the director's designee.

High hazard facility. A stationary source that is engaged in activities described in code 324110 or 325110 of the North American Industry Classification System (NAICS).

On-site work. Does not include ship and rail car support activities; environmental inspection and testing; security guard services; work which is performed by an original equipment manufacturer for warranty, repair, or maintenance on the vendor's equipment if required by the original equipment manufacturer's warranty agreement between the original equipment manufacturer and the owner; industrial cleaning not related to construction; safety services requiring professional safety certification; nonconstruction catalyst loading, regeneration, and removal; chemical purging and cleaning; refinery by-product separation and recovery; inspection services not related to construction; and work performed that is not in an apprenticeable occupation.

Owner/operator. The owner or operator of a stationary source that is engaged in activities described in code 324110 or 325110 of the North American Industry Classification System (NAICS).

Person. One or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

Registered apprentice. An apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

Revocation. A withdrawal of a certification issued by the department or by department approval.

Skilled journeyperson. The worker either graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, and who is paid a wage meeting the requirements of chapter 49.80 RCW.

Skilled and trained workforce. A workforce that meets both of the following criteria:

(a) All the workers are either registered apprentices or skilled journeypersons; and

(b) The workforce meets the approved advanced safety training requirements established in this chapter, and the apprenticeship graduation established in RCW 49.80.030.

Suspension. A temporary withdrawal of department course approval. No suspension may be less than six months or longer than one year.

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NEW SECTION

WAC 296-71-010 Skilled and trained workforce requirements. (1) Owners and operators, when contracting for the performance of construction, alteration, demolition, installation, repair or maintenance work at the stationary source, must require that its contractors and any subcontractors use a skilled and trained workforce to perform all on-site work within an apprenticeable occupation in the building and construction trades, and that work is done within the worker's specific occupation or craft. This includes:

(a) The percentages of skilled journeypersons who are graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW meet the requirements under RCW 49.80.030;

(b) Six months after the effective date of this chapter, all workers in the skilled and trained workforce must have completed at least 20 hours of approved advanced safety training for workers at high hazard facilities within the past three calendar years.

(c) The skilled and trained workforce requirements under this section apply to each individual contractor's and subcontractor's on-site workforce.

(2) The owner/operator must have documentation showing that the skilled and trained workforce requirements are met. This documentation must be provided to the department upon request.

(3) This section does not apply to:

(a) The employees of the owner or operator of the stationary source;

(b) A contractor who has requested qualified workers from the local hiring halls or apprenticeship programs that dispatch workers in the apprenticeable occupation and who, due to workforce shortages, is unable to obtain sufficient qualified workers within two working days of the request; and

(c) Emergencies that make compliance impracticable because they require immediate action to prevent harm to public health, safety, or the environment. This section applies as soon as the emergency is over, or it becomes practicable for contractors to obtain a qualified workforce.

Note: This section does not prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working.

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NEW SECTION

WAC 296-71-020 Training certification. (1) To qualify for an advanced safety training certificate, workers must:

(a) Attend and successfully complete an approved 20-hour advanced safety training course for workers at high hazard facilities.

(b) Complete an application through an approved training course sponsor.

(2) Workers must do the following to renew and continue certification prior to the certificate expiration date:

(a) Attend and successfully complete an approved 20-hour advanced safety training course for workers at high hazard facilities.

(b) Complete an application through an approved training course sponsor.

(3) Upon receipt of the verification of completion of approved training, and the completed application, the department will issue a certificate to the worker which will include:

(a) The name of the person awarded the certificate;

(b) Certificate number;

(c) Expiration date; and

(d) A statement that the person receiving the certificate has completed the 20-hour high hazard facilities training.

(4) Certificates will be issued and mailed to the individual applicants and will be valid for three years from the date of course completion.

(5) The department may suspend or revoke a certificate as provided in WAC 296-71-050.

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NEW SECTION

WAC 296-71-030 Training course approval. (1) High hazard facilities 20-hour training courses may be sponsored by any person, or other entity having department approval. An approved course must include 20 hours of in-person and laboratory instruction, and meet the minimum required elements for approved course in Appendix A, including topics and hours.

(2) Prior to receiving department approval, each course must be evaluated by the department for the breadth of knowledge and experience required to properly train workers. Course content must be carefully scrutinized for adequacy and accuracy. Training techniques will be evaluated by the department.

(3) Sponsors of training courses proposed for approval must submit:

(a) Background information about course sponsors;

(b) Course locations;

(c) Course fees;

(d) Copies of course handouts;

(e) A detailed description of course content and the amount of time allotted to each major topic. See Appendix A for a list of required training topics that must be included;

(f) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review;

(g) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualifications of each. Training must be taught by competent instructors. The department may, in its discretion, require proposed instructors to pass an examination on subjects related to their respective topics of instruction;

(h) A description of student evaluation methods;

(i) A description of course evaluation methods;

(j) Any restrictions on attendance (language, class size, affiliation, etc.);

(k) A list of any other states that currently approve the training course; and

(l) The amount and type of hands-on training.

(4) Materials may be submitted electronically through the online portal or mailed to:

High Hazard Facilities Program
Department of Labor & Industries
P.O. Box 44615
Olympia, WA 98504-4615

(5) For timely approval, the initial application for training course approval and course materials must be submitted to the department at least 60 days prior to the requested approval date.

(6) The decision to grant or renew approval of a training course is the sole discretion of the department.

(a) Following approval of a training course, the department will issue the course sponsor an approval that is valid for three years from the date of issuance.

(b) Application for renewal must follow the procedures described in subsections (3) and (4) of this section.

(7) In recognition that the industry is evolving, the department reserves the right to require additional subjects to be taught and to specify the amount of time which must be allotted to adequately cover required subjects. To ensure adequate coverage of required material, each course sponsor must be provided and required to incorporate into their training course, a detailed outline of subject matter developed by the department.

(8) For timely approval, the training course approval renewal must be received by the department no later than 30 days before the approval expiration date.

(9) Any changes to a training course must be approved by the department in advance.

(10) The course sponsor must provide the department with a roster of all persons who have completed the training course. The list must be provided no later than 10 days after course completion and must include the:

(a) Training course provider name;

(b) Instructor name(s);

(c) Course name;

(d) Dates of class;

(e) Location of class;

(f) Student's name;

(g) Student's mailing address; and

(h) Certificate number (if applicable).

(11) The course sponsor must notify the department, in writing, at least 14 days before a training class is scheduled to begin. The notification must include the date, time, instructor, and address where the training will be conducted.

(12) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

(a) Course sponsors conducting training outside the state of Washington must reimburse the department for reasonable travel expenses associated with department audits of the training courses.

(b) Reasonable travel expenses are defined as current state of Washington per diem and travel allowance rates including airfare and/or surface transportation rates. Such reimbursement must be paid within 30 days of receipt of the billing notice.

(13) The training course sponsor must limit each class to a maximum of 50 participants.

(14) There must be at least one instructor for every 25 students.

(15) Denial, suspension, or revocation of approval will be done in accordance with WAC 296-71-050.

(16) Recordkeeping requirements for training providers: All approved providers of accredited training courses must comply with the following minimum recordkeeping requirements:

(a) Training course materials. A training provider must retain copies of all instructional materials used in delivery of the classroom training such as student manuals, instructor notebooks and handouts.

(b) Instructor qualifications. A training provider must retain copies of all instructors' resumes, and the documents approving each instructor issued by the department. Instructors must be approved by the department before teaching courses for accreditation purposes. A training provider must notify the department in advance whenever it changes course instructors. Records must accurately identify the instructors that taught each particular class for each date that a course is offered.

(c) Training records. The training providers must maintain records that document the names of all persons who have completed training, the disciplines for which training was provided, training dates and training locations.

(d) Record retention and access. The training provider must maintain the records in a manner that allows verification of the required information via telephone, or other communication.

(i) The training provider must maintain all required training course materials for a minimum of the duration of the course offering plus four years.

(ii) The training provider must maintain all required instructor qualification records for the duration of the instructor's employment plus four years.

(iii) The training provider must maintain all required training records for a minimum of four years. The training provider may find it advantageous to retain these records for a longer period.

(iv) The training provider must allow reasonable access to all of the records which may be required by the department for the approval of training providers or the accreditation of training courses, to the department, on request.

(v) If a training provider ceases to conduct training, the training provider must notify the department and give it the opportunity to take possession of that provider's training records.

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NEW SECTION

WAC 296-71-040 Reciprocity. (1) The department may recognize 20-hour high hazard facilities training certifications issued by another state provided that:

(a) The worker is in possession of a currently valid certification from the other state;

(b) The training was completed within the past three years; and

(c) The department evaluates the other state's qualification procedures and determines the certification to be equivalent to the minimum requirements of this chapter.

(2) The department will maintain a list of states with recognized 20-hour high hazard facilities training certifications accessible from the department's website.

(3) When the department's evaluation of another state's training and certification procedures identifies deficiencies, the department will require the worker to complete the Washington 20-hour high hazard facilities training before issuing a Washington state certification.

Note: Reciprocity in this section applies only to the 20-hour high hazard facilities training requirement. It does not apply to apprenticeship requirements.

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NEW SECTION

WAC 296-71-050 Denial, suspension, and revocation. (1) The department may deny, suspend, or revoke a course approval if the course sponsor does not comply with the training standards and accreditation requirements of this chapter.

(2) The department may suspend or revoke the training course approval, if in the department's judgment the sponsor does not maintain the course content and quality as initially approved, or make changes to a course as required by WAC 296-71-030(7). The criteria for suspension or revocation of training course approval includes, but is not limited to, at least one of the following:

(a) Misrepresentation of the extent of training course approval;

(b) Failure to submit required information or notification in a timely manner;

(c) Failure to maintain requisite records;

(d) Falsification of accreditation records, instructor qualifications, or other accreditation information; or

(e) Failure to adhere to the training standards and accreditation requirements of this chapter.

(3) The department may deny, suspend, or revoke any certificate issued under this chapter if the certificate was obtained through error or fraud.

(4) The criteria for denying, suspending, or revoking a certificate for workers must include at least one of the following:

(a) Obtaining certification from a training provider that does not have approval to offer training;

(b) Obtaining certification through fraudulent representation of training documents;

(c) Obtaining training documentation through fraudulent means.

(5) Before any course approval or certificate may be denied, suspended, or revoked, the holder thereof must be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address.

(6) A denial, suspension, or revocation order may be appealed in accordance with RCW 49.17.140. Any party aggrieved by an order of the board of industrial insurance appeals may obtain superior court review in the manner provided in RCW 49.17.150.

Appendix A: Training course content - Nonmandatory

Fundamentals of Petroleum Refining	4.0 Hours General Overview	Specific content

Crude oil and its refining into downstream products	Basic high level information about refineries	How crude oil is processed; relevant hazards as described on the safety data sheet for crude oil; fractions and their related hazards (temperatures, pressures, etc.); introduction to key refining processes; classes of refinery processes and refinery configurations; properties of the refinery-produced streams; and the interrelationship between processing units.
Refining Industry Safety Concepts	**8.0 Hours WAC Reference**	**Overview**
Exit routes and employee alarm systems	WAC 296-800-310	Details of emergency action plan concepts.
Process safety management for refineries	Chapter 296-67 WAC	Overview of the requirements for process safety management, including: Workplace assessments; stop work authority; job hazard analysis; contractor roles and responsibilities in a refinery facility; and other sections of the rule.
Emergency response	Chapter 296-824 WAC, Emergency response; WAC 296-24-567 Employee emergency plans and fire prevention plans	General overview of emergency operations in a refinery. May include facility-specific information.
Fire brigades	Chapter 296-811 WAC	Understanding how refinery fire brigades work, including rescue operations, confined space entry protocols, fire suppression techniques, use of testing instruments, etc. May include facility-specific information.
Fire prevention and protection	WAC 296-24-567 (general industry); WAC 296-155-250 (construction industry)	Basic overview touching on fire prevention, ignition sources, testing before hot work, etc. May include facility-specific information.
Hazard communication	Chapter 296-901 WAC	Review of chemicals found in refineries and their locations, including general "streams"; personal protective equipment and practices; signs and symptoms of exposure; long-term health effects; and a comprehensive review of relevant safety data sheets.
Personal protective equipment (PPE) for refinery work	WAC 296-800-160 (general industry); WAC 296-155-200 (construction industry)	Fire resistant clothing; head protection; eye protection; foot protection; hearing protection; and contaminated clothing.
Respiratory protection	Chapter 296-842 WAC	The use of respirators in certain refinery locations. May include facility-specific information.
Hearing conservation	Chapter 296-817 WAC	Understanding the areas in a refinery facility where hearing protection is required. May include facility-specific information.
Lockout/tagout	Chapter 296-803 WAC (general industry); WAC 296-155-429 (construction industry)	Energy control protocols in a refinery. May include facility-specific information.
Confined spaces	Chapter 296-809 WAC (general industry) in addition to WAC 296-155-203 (construction industry)	Types of confined spaces in a refinery; entry protocols; atmospheric testing; other related hazards. May include facility-specific information and permit forms.
Heat related illness	WAC 296-62-095	Maintain awareness of outdoor heat in the hot areas of a refinery, which may contribute to heat-related illness.

Refinery safe work practices	General safety in a refinery	Identify walking/working surface hazards; areas of nonentry; understanding general hazards of vessels and other equipment. May include facility-specific information.
Craft-Specific Safety Training Including, but not limited to:	**8.0 Hours WAC References**	**The purpose of this section is to have a discussion about specific interdependencies and relationships of trades, including stacked work; dissimilar trades in direct proximity with each other; dissimilar risks associated with various trades (i.e., radiation, potential falling objects, etc.); job sequencing; and barricading.**
Hot work	WAC 296-24-695 Fire prevention and protection (general industry); WAC 296-155-250, fire prevention and protection (construction industry)	Understanding what hot work is and how to perform craft work safely; awareness of ignition sources such as welding, and performing dissimilar work around such areas. Hot work permits are specific to each facility and facility-specific information may be included in training.
Working at heights	Chapter 296-874 WAC, Scaffolds; Chapter 296-880 WAC, Unified safety standards for fall protection	Recognizing where overhead work is occurring; understanding any hazards associated with craft work in such areas.
Electrical	WAC 296-24-957 (general industry); WAC 296-155-426 (construction industry)	Recognizing potential hazards about electrical work in a refinery and how to perform such work around other contract operations.
Pipefitting	Chapter 296-155 WAC: Part D Fire protection and prevention; Part F-1, rigging other than with the use of a crane (winch/tugger, chainfall, etc.); Part G Tools—Hand and power; Part H Welding and cutting; Part L, rigging and signaling with cranes	Basic knowledge of pipe safety: Including eliminating risk of contamination in process lines through fit, purge, weld techniques and pre and post weld buffing and machining. Basic knowledge of testing lines e.g.: Nondestructive pipe testing techniques; safety regarding fuel and pressure pipes including design, construction, location, leak detection and environmental considerations; pressure vessel fabrication certification; welding qualifications; knowledge and application of relevant standards; pipe corrosion; pipe cracks; pipe modifications, e.g., removing; cutting into or destroying existing pipe lines and piping, installing new pipes, maintaining old pipes, etc.
Equipment operating engineers	Chapter 296-155 WAC: Part L, rigging and signaling with cranes; Part F-1, rigging other than with the use of a crane (winch/tugger, chainfall, etc.)	Crane principles, rigging, signaling; forklift principles, etc.
Finishing trades	Chapter 296-155 WAC: Part F, general requirements for storage (Brick/block, handling cement/lime); Part G Tools—Hand and power; Part O Concrete, concrete forms, shoring, and masonry construction	Lead renovator, repair and painting program (RRP) Toxic Substance Control Act (TSCA) Section 402/chapter 365-230 WAC.
Cement masons	Chapter 296-155 WAC: Part F, general requirements for storage (Brick/block, handling cement/lime); Part G Tools—Hand and power; Part O Concrete, concrete forms, shoring, and masonry construction	How cement masons work relates to other work performed in the refinery.

Ironworkers, boilermakers, and steelworkers	Chapter 296-155 WAC: Part D Fire protection and prevention; Part F-1, rigging other than with the use of a crane (winch/tugger, chainfall, etc.); Part G Tools—Hand and power; Part H Welding and cutting; Part L, rigging and signaling with cranes; Part P Steel erection	How boilermakers', ironworkers', and steelworkers' work relates to other work performed in the refinery, including: Measuring, fabricating, cutting, welding and shaping steel parts such as girders, columns and frames; using equipment including shears, welding tools and torches; hoisting steel parts to their appropriate location; ensuring proper alignment and positioning and bolting them into place; assembly and use of equipment, including setting up cable and chain systems for hoisting or moving steel parts; disassembling it after completion of the task; following blueprint and instructions from supervisors to perform all tasks involved in assembly of steel structures; communicate with supervisors and coworkers to ensure smooth teamwork; notifying supervisors immediately of safety or structural concerns; taking apart structures or equipment in accordance with directions and standard operating procedures; repair steel components in older structures; directing crane operators as they move and position steel components; drilling holes and aligning parts with framework in preparation for riveting; use of tools including levels, laser tools and plumb bobs to ensure precise alignment.

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