

WSR 14-09-001
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 2, 2014, 2:53 p.m., effective May 3, 2014]

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

Purpose: WAC 246-338-070 Records (for medical test sites), adopting amended rule for medical test site record retention requirements for blood/blood components and individual products, and updates to histopathology report record-keeping requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 246-338-070 Records (for medical test sites).

Statutory Authority for Adoption: RCW 70.42.220.

Other Authority: 42 C.F.R. 493.1273 (d) and (e) and 21 C.F.R. 606.160 (b)(3)(ii), (v), and (7)(d) a.

Adopted under notice filed as WSR 14-03-050 on January 9, 2014.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: April 2, 2014

Jessica Todorovich
 Deputy Secretary
 for John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 05-04-040, filed 1/27/05, effective 3/19/05)

WAC 246-338-070 Records. Medical test sites must maintain records as described in this section.

(1) REQUISITIONS must include the following information, in written or electronic form:

(a) Patient name, identification number, or other method of patient identification;

(b) Name and address or other suitable identifiers of the authorized person ordering the test;

(c) Date of specimen collection, and time, if appropriate;

(d) Source of specimen, if appropriate;

(e) Type of test ordered;

(f) Sex, and age or date of birth, of the patient; and

(g) For cytology and histopathology specimens:

(i) Pertinent clinical information; and

(ii) For Pap smears:

(A) Date of last menstrual period; and

(B) Indication whether the patient had a previous abnormal report, treatment, or biopsy.

(2) TEST RECORD SYSTEMS must:

(a) Consist of instrument printouts, worksheets, accession logs, corrective action logs, and other records that ensure reliable identification of patient specimens as they are processed and tested to assure that accurate test results are reported; and

(b) Include:

(i) The patient's name or other method of specimen identification;

(ii) The date and time the specimen was received;

(iii) The reason for specimen rejection or limitation;

(iv) The date of specimen testing; and

(v) The identification of the personnel who performed the test.

(3) TEST REPORTS must:

(a) Be maintained in a manner permitting identification and reasonable accessibility;

(b) Be released only to authorized persons or designees;

(c) Include:

(i) Name and address of the medical test site, or where applicable, the name and address of each medical test site performing each test;

(ii) Patient's name and identification number, or a unique patient identifier and identification number;

(iii) Date reported;

(iv) Time reported, if appropriate;

(v) Specimen source, when appropriate, and any information regarding specimen rejection or limitation; and

(vi) Name of the test performed, test result, and units of measurement, if applicable.

(4) CYTOLOGY REPORTS must:

(a) Distinguish between unsatisfactory specimens and negative results;

(b) Provide narrative descriptions for any abnormal results, such as the 2001 Bethesda system of terminology as published in the *Journal of the American Medical Association*, 2002, Volume 287, pages 2114-2119; and

(c) Include the signature or initials of the technical supervisor, or an electronic signature authorized by the technical supervisor, for nongynecological preparations and gynecological preparations interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial neoplasia lesions including human papillomavirus-associated changes) or malignant category.

(5) HISTOPATHOLOGY REPORTS must include the signature or initials of the technical supervisor or an electronic signature authorized by the technical supervisor on all reports. Reports must be signed by the same qualified individual who performs the diagnostic interpretation and evaluation, and must utilize appropriate terminology such as the SnoMed system.

(6) CYTOGENETICS REPORTS must:

(a) Use the International System for Human Cytogenetic Nomenclature on final reports;

(b) Include the number of cells counted and analyzed; and

(c) Include a summary and interpretation of the observations.

(7) If a specimen is referred to another laboratory for testing, the medical test site must:

(a) Report the essential elements of the referred test results without alterations that could affect the clinical interpretation of the results; and

(b) Retain or be able to produce an exact duplicate of each testing report from the referral laboratory.

(8) The medical test site must retain records, slides, and tissues as described in Table 070-1, under storage conditions that ensure proper preservation.

(9) If the medical test site ceases operation, it must make provisions to ensure that all records and, as applicable, slides, blocks and tissue are retained and available for the time frames specified in Table 070-1.

Table 070-1 Record/Slide/Tissue Retention Schedule

	Two Years	Five Years	Ten Years
(a) General Requirements for all Laboratory Specialties	<ul style="list-style-type: none"> • Test requisitions or equivalent; • Test records, including instrument printouts if applicable; • Test reports; • Quality control records; • Quality assurance records; • Proficiency testing records; • Hard copy of report, or ability to reproduce a copy, for all specimens referred for testing; and • Discontinued procedures for all specialty areas 		
(b) Transfusion Services((*)		<ul style="list-style-type: none"> • Test requisitions or equivalent; • Test records; • Test reports; • Quality control records; and • Quality assurance records 	<ul style="list-style-type: none"> • <u>Individual product records*</u>
(c) Cytology		<ul style="list-style-type: none"> • All cytology slides, from date of examination of the slide 	<ul style="list-style-type: none"> • All cytology reports
(d) Histopathology/Oral Pathology	<ul style="list-style-type: none"> • Specimen blocks, from date of examination 		<ul style="list-style-type: none"> • All histopathology and oral pathology reports; and • Stained slides, from date of examination of the slide
(e) Histopathology/Oral Pathology-Tissues	Retain remnants of tissue specimens in an appropriate preserved state until the portions submitted for microscopic examination have been examined and diagnosed		
(f) Instrument/method Validation Studies	For life of instrument/method plus two years		

* Must be retained for no less than ((five) ten) years in accordance with 21 C.F.R. 606.160(7)(d).

WSR 14-09-002
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 3, 2014, 9:23 a.m., effective May 4, 2014]

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

Purpose: WAC 246-980-065 Home care aide provisional certification, adoption of a new section to establish a process for the department of health to issue a provisional home care aide certification to a long-term care worker who is limited-English proficient. This new rule allows these applicants additional time to comply with the certification requirements in chapter 18.88B RCW pursuant to SHB 1629 (chapter 259, Laws of 2013).

Statutory Authority for Adoption: Chapter 259, Laws of 2013 (SHB 1629), RCW 18.88B.035.

Adopted under notice filed as WSR 14-02-028 on December 20, 2013.

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 0, Repealed 0.

Number of Sections Adopted at 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 1, Amended 0, Repealed 0.

Date Adopted: April 3, 2014.

Jessica Todorovich
 Deputy Secretary
 for John Wiesman, DrPH, MPH
 Secretary

**REQUIREMENTS FOR A
 PROVISIONAL CERTIFICATION**

NEW SECTION

WAC 246-980-065 Home care aide provisional certification. (1) The department may issue a provisional certification to a long-term care worker who is limited-English proficient and submits:

(a) A request for a provisional certification; and
 (b) Verification of his or her date of hire as a long-term care worker, as follows:

(i) For individual providers, verification of the applicant's date of hire submitted directly by the department of social and health services; or

(ii) For all other applicants, a form supplied by the department and completed by the employer who hired the applicant as a long-term care worker, verifying the applicant's date of hire.

(2) A provisional certification will be issued only once.

(3) A provisional certification will take effect two hundred days from the applicant's date of hire as a long-term care worker, as defined in WAC 246-980-010(2).

(4) A provisional certification will expire two hundred sixty days from the applicant's date of hire as a long-term care worker. The applicant must stop working on the two hundred sixtieth day of employment if the certification has not been granted for any reason.

(5) A request for provisional certification may be denied pursuant to chapter 18.130 RCW, the Uniform Disciplinary Act, or based on RCW 18.88B.080.

(6) For the purposes of this section, "limited-English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

(7) Provisional certifications will not be issued after March 1, 2016.

WSR 14-09-003
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 3, 2014, 9:29 a.m., effective May 4, 2014]

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

Purpose: WAC 246-282-005 Minimum performance standards, 246-282-006 Washington state Vibrio parahaemolyticus control plan, 246-282-010 Definitions; clarify references to the United States Food and Drug Administration, National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish. All changes to the rules are editorial only and clarify the language without changing the effect.

Citation of Existing Rules Affected by this Order: Amending WAC 246-282-005, 246-282-006, and 246-282-010.

Statutory Authority for Adoption: RCW 60.30.030.

Adopted under notice filed as WSR 14-05-084 on February 18, 2014.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Date Adopted: April 3, 2014.

Jessica Todorovich
 Deputy Secretary
 for John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 14-01-002, filed 12/4/13, effective 1/4/14)

WAC 246-282-005 Minimum performance standards. (1) Any person engaged in a shellfish operation or possessing a commercial quantity of shellfish or any quantity of shellfish for sale for human consumption must comply with and is subject to:

(a) The requirements of the ~~((2014))~~ U.S. Food and Drug Administration National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish ~~((published by the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration))~~ ~~((2011))~~ (copies available through the U.S. Food and Drug Administration, Shellfish Sanitation Branch, and the Washington state department of health, office of shellfish and water protection);

(b) The provisions of 21 Code of Federal Regulations (C.F.R.), Part 123 - Fish and Fishery Products, adopted December 18, 1995, by the United States Food and Drug Administration, regarding Hazard Analysis Critical Control Point (HACCP) plans (copies available through the U.S. Food and Drug Administration, Office of Seafood, and the Washington state department of health, office of food safety and shellfish programs); and

(c) All other provisions of this chapter.

(2) If a requirement of the NSSP ~~((Guide for the Control of Molluscan Shellfish))~~ Model Ordinance or a provision of 21 C.F.R., Part 123, is inconsistent with a provision otherwise established under this chapter or other state law or rule, then the more stringent provision, as determined by the department, will apply.

AMENDATORY SECTION (Amending WSR 09-08-122, filed 4/1/09, effective 5/2/09)

WAC 246-282-006 Washington state *Vibrio parahaemolyticus* control plan. (1) The Washington state *Vibrio parahaemolyticus* control plan, also known as the control plan, establishes harvest, temperature control, and transportation requirements for oysters intended for raw consumption during the months of May through September. This section does not apply to shucked oyster meats labeled "for cooking only." The requirements of this section are in addition to ~~((Chapter VIII of))~~ the ~~((2007 National Shellfish Sanitation Program))~~ NSSP Model Ordinance ~~((NSSP), Requirements for Harvesters, -03 Shellfish Temperature, Control Option 2;))~~ and consist ~~((s))~~ of:

- (a) Time of harvest to temperature control based on the growing area and month of the year;
- (b) Harvest record requirements;
- (c) *Vibrio* illness response requirements;
- (d) Training requirements; and
- (e) Hazard Analysis Critical Control Point (HACCP) plan and harvest checklist requirements.

(2) All Puget Sound growing areas, including the Strait of Juan de Fuca, are subject to the requirements of this section. Growing areas in Grays Harbor and Willapa Bay where oysters have been epidemiologically associated as the source of any *Vibrio parahaemolyticus* illness are also subject to the requirements of this section.

(3) The department may grant an annual exemption to the control plan for Puget Sound growing areas, including the Strait of Juan de Fuca, where there has been no epidemiologically associated *Vibrio parahaemolyticus* illness after review and approval of a written exemption request.

(a) The written exemption request must include the following information:

- (i) Name of the growing area;
- (ii) Description of the harvesting methods;
- (iii) Description of the temperature control methods; and
- (iv) Description of the transportation methods.

(b) The department shall review the exemption request within five business days of submittal.

(c) If approved, the licensed harvester or dealer shall comply with the department-approved exemption.

(d) The department-approved exemption expires October 1 of the calendar year for which it is approved. If the growing area is epidemiologically associated as the source of a *Vibrio parahaemolyticus* illness at any time after approval of the exemption, the department shall issue an order revoking the exemption.

(4) Time of harvest to temperature controls are:

**Table 1
Puget Sound Growing Areas
(including the Strait of Juan de Fuca):**

Months of Control	Time of harvest to Temperature Control
May	Twelve hours
June and September	Five hours
July and August	Four hours

**Table 2
Coastal Growing Areas:**

Months of Control	Time of harvest to Temperature Control
July and August	Ten hours

(5) Licensed dealers and harvesters shall maintain harvest records showing the time of harvest and the time oysters are placed under temperature control to demonstrate compliance with the control plan. If ownership of oysters is transferred prior to the time that time of harvest to temperature control requirements must be met, the licensed dealer or harvester shall include in the harvest record date, time, and person or entity to whom the oysters were transferred. If the new owner is a licensed dealer, the dealer shall meet the time of harvest to temperature control requirements established in this section. The harvest times begin as follows:

(a) Intertidal (exposed) time of harvest begins after the first oysters to be harvested are exposed to the air by the receding tide.

(b) Submerged time of harvest begins after the first oysters harvested are exposed to the air and have been placed onto a conveyance, such as a barge or boat. Submerged harvest includes dredge harvesting or retrieval of harvest tubs, bags, baskets, or other containers of oysters previously filled

which have been under water for a minimum of one hour for coastal areas and four hours for Puget Sound growing areas.

(c) Temperature control is achieved when harvested oysters are placed in a controlled environment with an ambient temperature of 45°F (7.2°C) or less.

(6) All licensed harvesters and dealers in a growing area shall reduce the time of harvest to temperature control as defined in Table 1 or 2 of subsection (4) of this section by one hour if oysters from the growing area:

(a) Are epidemiologically associated as the probable source of two sporadic *Vibrio parahaemolyticus* illnesses; and

(b) Were harvested within thirty days of each other.

(7) A growing area shall be closed to harvest and shipment of oysters intended for raw consumption throughout the remainder of the control months for the calendar year when the following conditions are met:

(a) Oysters from the growing area are epidemiologically associated as the probable source of two additional sporadic *Vibrio parahaemolyticus* illnesses;

(b) Oysters from the growing area were harvested in compliance with the reduced time of harvest to temperature control provisions of subsection (6) of this section; and

(c) Oysters from the growing area were harvested within thirty days of the previous illnesses.

(8) If the two additional *Vibrio parahaemolyticus* illnesses specified in subsection (7) of this section are attributed to the same licensed harvester or dealer as the first two illnesses, the department shall conduct an investigation in accordance with the requirements as stated in the ((2007)) NSSP(~~(, Chapter II, Risk Assessment and Risk Management,)) Model Ordinance to determine if the illnesses are the result of harvester or dealer practices or are linked to the growing area as the probable source. If the harvester or dealer practices are reasonably likely to have caused the illnesses:~~

(a) The harvester or dealer shall retake the training identified in subsection (12) of this section prior to renewal of their next year's license;

(b) The department may take disciplinary action against the harvester or dealer license; and

(c) The department will evaluate whether to associate the illnesses with the growing area.

(9)(a) The department may grant an exemption to closure identified in subsection (7) of this section if the licensed harvester or dealer can demonstrate in a written exemption request that an additional one hour reduction in the time of harvest to temperature control as identified in subsection (6) of this section can be successfully implemented. The written exemption request must include the following information:

(i) Name of the growing area;

(ii) Description of the harvesting methods;

(iii) Description of the temperature control methods; and

(iv) Description of the transportation methods.

(b) The department shall review the request within five business days of submittal.

(c) If approved, the licensed harvester or dealer shall comply with the requirements of the department-approved exemption throughout the remainder of the applicable control months for the particular growing area.

(10)(a) If the required time of harvest to temperature control period is not met, the licensed harvester or dealer shall either:

(i) Destroy the oysters; or

(ii) Remove all oysters from containers, disperse them within the original growing area, and allow a minimum of twenty-four hours for purging before reharvesting.

(b) If the required time of harvest to temperature control period is not met, the licensed harvester or dealer shall record the disposition of the oysters on the harvest record.

(11) In the event of a *Vibrio parahaemolyticus* illness outbreak where oysters from a growing area are epidemiologically associated as the source, the requirements as stated in the ((2007)) NSSP(~~(, Chapter II, Risk Assessment and Risk Management,)) Model Ordinance shall apply.~~

(12) All licensed harvesters and dealers shall complete an initial department-approved training specific to the requirements of this section prior to harvesting or shipping oysters intended for raw consumption during the months of May through September. All licensed harvesters and dealers shall complete department-approved refresher training following any revision of this section considered significant under RCW 34.05.328. Licensed harvesters and dealers who complete the training shall provide the training to those responsible for the on-site management of harvest activities for their operation, and document the training for responsible employees in their operational records.

(13) Following completion of the training required in subsection (12) of this section:

(a) All licensed harvesters planning to harvest oysters intended for raw consumption from May through September shall develop a harvest plan that describes the harvest, temperature control, and transportation methods that meet the requirements of subsections (4) and (6) of this section. Licensed harvesters shall obtain department approval of the harvest plan prior to harvesting oysters for raw consumption.

(b) All licensed dealers planning to harvest oysters intended for raw consumption from May through September shall amend their Hazard Analysis Critical Control Point (HACCP) plans to define the harvest, temperature control, and transportation methods that meet the requirements of subsections (4) and (6) of this section. Licensed dealers shall obtain department approval of the amended HACCP plan prior to harvesting oysters for raw consumption.

AMENDATORY SECTION (Amending WSR 01-04-054, filed 2/5/01, effective 3/8/01)

WAC 246-282-010 Definitions. The following definitions, as well as those in the NSSP Model Ordinance, apply in the interpretation and the implementation of these rules and regulations.

(1) "Abatement" means an action or series of actions to eliminate a public health hazard or reduce it to a level acceptable to the secretary.

(2) "Approved" means acceptable to the secretary based on the department's determination as to conformance with appropriate standards and good public health practice.

(3) "Approved laboratory" means a laboratory that is in conformance with requirements of the NSSP Model Ordinance.

(4) "Certificate of approval" means a license issued by the department.

(5) "Civil penalty" means a monetary penalty administratively issued by the secretary. It does not include any criminal penalty; damage assessment; wages, premiums, or taxes owed; or interest or late fees on any existing obligation.

(6) "Commercial quantity" means any quantity exceeding:

- (a) Forty pounds of mussels;
- (b) One hundred oysters;
- (c) Fourteen horse clams;
- (d) Six geoducks; or
- (e) Fifty pounds of other hard or soft shell clams; or
- (f) Fifty pounds of scallops.

(7) "Cultch" means any material, other than live shellfish, used for the attachment of seed shellfish.

(8) "Department" means the state department of health.

(9) "Export certificate" means a certificate issued by the department to a licensed shucker-packer or shellstock shipper for use in the foreign export of a lot or shipment of shellfish.

(10) "Harvest" means the act of removing shellstock from a harvest site and its placement on or in a container for transport.

(11) "Harvester" means a shellfish operation with activities limited to growing shellstock, placing shellstock in a container, harvesting shellstock, transporting shellstock within Washington state, and delivering shellstock to a shellfish dealer licensed by the department within four hours of landing it. A harvester does not process shellfish, ship shellfish outside of Washington state, sell shellfish to retail outlets, shuck shellfish, repack shellfish, or store shellfish in any location outside of the approved growing area from where the shellfish is harvested.

(12) "Harvest site" means an area of intertidal or subtidal property within a commercial shellfish growing area, that is described by a unique county parcel number, department of fish and wildlife tract number, department of fish and wildlife catch area number, tribal identification number, or other government identification.

(13) "Harvest site certificate" means a type of certificate of approval that designates one or more harvest sites approved for the harvesting of shellfish.

(14) "Hatchery" means an operation where shellfish larvae are produced and grown to the first sessile stage of life.

(15) "Notice of correction" means a document issued by the department that describes a condition or conduct that is not in compliance with chapter 69.30 RCW, this chapter, or the NSSP Model Ordinance and is not subject to civil penalties as provided for in RCW 43.05.110. It is not a formal enforcement action and is not subject to appeal. It is a public record.

(16) "NSSP Model Ordinance" means the U.S. Food and Drug Administration National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish, as adopted in WAC 246-282-005.

(17) "Nursery" means an operation where shellfish are grown from an early sessile stage of life up to a maximum size meeting the definition of shellfish seed.

~~((17))~~ (18) "Number of previous violations" means the number of prior violations of the same or a similar nature for which the department has taken a license action or assessed a civil penalty.

~~((18))~~ (19) "Person" means any individual, firm, corporation, partnership, company, association, or joint stock association, and the legal successor thereof.

~~((19))~~ (20) "Person in charge" means an individual responsible for the supervision of employees and the management of any shellfish operation.

~~((20))~~ (21) "Public health threat" is either:

(a) "Low," which means a violation that poses a minor possibility of direct or indirect hazard to public health;

(b) "Intermediate," which means a violation that poses a moderate possibility of direct or indirect hazard to public health; or

(c) "High," which means a violation that poses a known significant hazard or possibility of significant direct or indirect hazard to public health.

~~((21))~~ (22) "Sale" means to sell; offer for sale; barter; trade; deliver; consign; hold for sale, consignment, barter, trade, or delivery; and/or possess with intent to sell or dispose of in a commercial manner.

~~((22))~~ (23) "Secretary" means the secretary of the department of health or the secretary's authorized representative.

~~((23))~~ (24) "Seed" means shellfish that are less than market size for human consumption and have a maximum shell length of:

(a) Thirteen millimeters (1/2 inch) for mussels;

(b) Twenty-five millimeters (1 inch) for scallops;

(c) Nineteen millimeters (3/4 inch) for Olympia oysters;

(d) Nineteen millimeters (3/4 inch) for Kumomoto oysters;

(e) Fifty-one millimeters (2 inches) for other oyster species;

(f) Thirty-eight millimeters (1 and 1/2 inch) for geoducks; and

(g) Thirteen millimeters (1/2 inch) for other clam species.

~~((24))~~ (25) "Shellfish" means all varieties of fresh or fresh-frozen oysters, clams, scallops or mussels, either shucked or in the shell, and all fresh or fresh-frozen edible products thereof.

~~((25))~~ (26) "Shellfish dealer" means a person with a shellstock shipper or shucker-packer license.

~~((26))~~ (27) "Shellfish growing area" means the lands and waters in and upon which shellfish are grown for harvesting in commercial quantities or for sale for human consumption.

~~((27))~~ (28) "Shellfish operation" means growing, placing in a container, harvesting, transporting, processing, culling, shucking, packing, and repacking, storing, shipping, or reshipping of shellfish in commercial quantities or for sale for human consumption.

~~((28))~~ (29) "Shellfish operation license" means a type of certificate of approval applying to the overall activities of a shellfish operation.

~~((29))~~ (30) "Shellstock shipper" means a shellfish operation that does not shuck shellfish or repack shucked shellfish.

~~((30))~~ (31) "Shucker-packer" means a shellfish operation that may shuck and pack shellfish.

~~((31))~~ (32) "Technical assistance" means information provided by the department to a person regarding chapter 69.30 RCW; this chapter; technologies or other methods to achieve compliance with these rules; assistance in applying for a departmental license or permit required by these rules; or the goals and objectives of these rules. This is not intended to modify the definition of "technical assistance" as provided in RCW 43.05.010(3).

~~((32))~~ (33) "Violation" means the commission of an act or acts prohibited by the provisions of chapter 69.30 RCW, these rules, or the NSSP Model Ordinance.

~~((33))~~ (34) "Wet storage" means the temporary storage of shellstock in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater.

~~((34))~~ (35) "Wild seed" means naturally set seed shellfish.

WSR 14-09-009

PERMANENT RULES

WENATCHEE VALLEY COLLEGE

[Filed April 4, 2014, 8:58 a.m., effective May 5, 2014]

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

Purpose: Amend existing rules to comply with college policies.

Citation of Existing Rules Affected by this Order: Amending WAC 132W-115-070, 132W-115-080, 132W-115-090, and 132W-115-100.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 13-21-086 on October 10 [18], 2013.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, 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: February 26, 2014.

Jim Richardson
President

AMENDATORY SECTION (Amending WSR 01-12-015, filed 5/25/01, effective 6/25/01)

WAC 132W-115-070 Standards of classroom behavior. Academic honesty and proper classroom conduct is vital to the very fabric and integrity of the college. All students must comply with an appropriate and sound academic honesty policy and code of honest behavior and classroom conduct policy. All members of the college community are responsible for knowing and understanding the statement on academic honesty and classroom conduct. The statement and procedures will be made readily available to all students and faculty to ensure understanding of the academic honesty system and expected classroom conduct and its proper functioning.

Where suspected violations of the academic honesty system occur, appropriate procedures are designed to protect academic integrity while ensuring due process.

(1) Academic dishonesty: Honest assessment of student performance is crucial to all members of the academic community. Acts of dishonesty are serious breaches of honor and shall be dealt with in the following manner:

(a) The college administration and teaching faculty will provide reasonable and prudent security measures designed to minimize opportunities for acts of academic dishonesty that occur at the college.

(b) Any student who knowingly submits a fraudulent examination, assignment, or any other academic work product shall have committed an act of academic dishonesty. Acts of academic dishonesty shall be cause for disciplinary action.

(c) Any student who aids or abets the accomplishment of an act of academic dishonesty, as described in (b) of this subsection, shall be subject to disciplinary action.

(d) This section shall not be construed as preventing an instructor from taking immediate disciplinary action when the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom. This action shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

(2) Classroom conduct: Instructors have the authority to take whatever summary actions may be necessary to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(a) Any student who substantially disrupts any college class by engaging in conduct that renders it difficult or impossible to maintain class decorum shall be subject to disciplinary action which may include removal from the class.

(b) Any college instructor is authorized to take steps necessary to preserve order and to maintain the effective cooperation of the class in fulfilling course objectives; provided that a student shall have the right to appeal such disciplinary action to the ~~(dean of)~~ chief student services officer or designee.

AMENDATORY SECTION (Amending WSR 01-12-015, filed 5/25/01, effective 6/25/01)

WAC 132W-115-080 Code of conduct. Wenatchee Valley College expects that its students (~~while within college facilities or attending a college-sponsored activity, will adhere to high standards of honor and good citizenship at all times. Students will always conduct themselves in a responsible manner that reflects credit on themselves and~~), both on and off campus, conduct themselves in a manner that maintains high standards of integrity, honesty and morality at all times. A student who does not follow college rules will be subject to such action as may be deemed appropriate by designated college authorities. Conduct, either on or off campus, should be of such nature as not to reflect adversely on the reputation of the individual or the college. Students arrested for violation of criminal law on or off campus may also be subject to disciplinary action by the college. The following misconduct on college facilities is subject to disciplinary action:

(1) Intentionally or recklessly endangering, threatening, or causing physical harm to any person or oneself, or intentionally or recklessly causing reasonable apprehension of such harm.

(2) (~~Sexual harassment as defined in college policy under Policy 000.340 and 000.350.~~) Harassment, bullying, abuse: No student shall physically, sexually, or emotionally harass, bully, abuse, coerce, intimidate, seriously embarrass, assault, or recklessly endanger any other person.

(3) Students engaging in any activity which inhibits or interferes with the orderly operation of Wenatchee Valley College or the ability of students and/or college personnel to perform their functions in an orderly environment shall be subject to disciplinary action. No student shall intentionally or recklessly (~~interfering~~) interfere with normal college or college-sponsored activities or any form of emergency services.

(4) Unauthorized entry or use of college facilities.

(5) Knowingly violating the term of any disciplinary sanction imposed in accordance with the code.

(6) Theft of property or services; knowing possession of stolen property.

(7) Violating college policies or procedures by any student or by the guest of any student.

(8) (~~Smoking or~~) Using tobacco products (~~in classrooms or~~) on the college premises (~~except in designated smoking areas~~).

(9) (~~The possession, use, sale or distribution of any alcoholic beverage or illegal drug on the college campus; the use of illegal drugs by any student attending a college-sponsored event, even though the event does not take place at the college.~~) The consumption of alcoholic beverages on college property, except in accordance with state of Washington liquor license procedures. The unlawful (as a matter of local, state or federal law) manufacture, distribution, dispensing, possession or use of alcohol, legend drugs, narcotic drugs, or controlled substances including marijuana, on college property or during college-sponsored events, whether on or off campus except when use or possession of a legend drug, narcotic drug, or controlled substance other than marijuana is specifically prescribed by an appropriately licensed health care provider.

(10) Academic dishonesty, including cheating, plagiarism, or knowingly furnishing false information to the college.

(11) Forgery, alteration, or misuse of college documents, records, funds, or instruments of identification.

(12) Refusal to comply with the direction of college officials acting in the legitimate performance of their duties.

(13) (~~Possession of firearms, licensed or unlicensed, except where possessed by commissioned police officers as prescribed by law.~~) Possession or use of firearms (licensed or unlicensed), explosives, dangerous chemicals, or other dangerous weapons or instruments. Legal defense sprays are not covered by this rule. Exceptions to this rule are permitted when the weapon is used in conjunction with an approved college instructional program or is carried by a duly commissioned law enforcement officer.

(14) Failure to comply with the college's (~~technology~~) network acceptable use policy, WashingtonOnline (WAOL) memorandum of understanding and/or misuse of computing equipment (~~and~~) services and facilities, including use of electronic mail and the internet.

(15) Ethics violation: The (~~breach~~) breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular trade, skill, craft or profession for which the student is taking courses or is pursuing as their educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that a violation of such ethics codes may subject the student to disciplinary action by the college.

(16) Hazing: Conspiracy to engage in hazing or participation in hazing another. Hazing shall include any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student or other person attending Wenatchee Valley College. Consent is no defense to hazing. The term does not include customary athletic events or other similar contests or competitions. Hazing is also a misdemeanor, punishable under state law.

(17) Initiation violation: Conduct associated with initiation into a student organization, association, or living group, or any pastime or amusement engaged in with respect to an organization, association or living group not amounting to a violation (~~of~~) under the definition of hazing. Conduct covered by this definition may include embarrassment, ridicule, sleep deprivation, verbal abuse, or personal humiliation. Consent is no defense to initiation violation.

(18) Animals, with the exception of service animals, are not allowed on or in college facilities. All service(~~s~~) animals on campus shall be under direct physical control, leashed by their owner or custodian and registered with the special populations coordinator.

(19) Gambling: Any form of gambling is prohibited.

AMENDATORY SECTION (Amending WSR 01-12-015, filed 5/25/01, effective 6/25/01)

WAC 132W-115-090 Civil disturbances. In accordance with provision contained in RCW 28B.10.571 and 28B.10.572:

(1) It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any (~~administrator, faculty member~~) employee, or student of the college who is in the peaceful discharge or conduct of (~~his~~) their duties or studies.

(2) (~~It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, faculty member or student of the college who is in the peaceful discharge of his/her duties or studies.~~) The college prohibits acts of intimidation as well as actual or threatened violence against co-workers, students, visitors, or any other persons who are on campus or college employees in the course of their duties. The prohibited acts include behavior that interferes with an individual's legal rights of movement, or expression, disrupts the workplace, the academic environment or the college's ability to provide service to the public. See college policy 500.450 violence in the workplace.

(3) The crimes described in RCW 28B.10.571 and 28B.10.572 shall not apply to any (~~administrator or faculty member~~) college employee who is engaged in the reasonable exercise of their disciplinary authority.

(4) Any person or persons who violate the provisions of subsections (1) and (2) of this section will be subject to disciplinary action and referred to the authorities for prosecution.

AMENDATORY SECTION (Amending WSR 01-12-015, filed 5/25/01, effective 6/25/01)

WAC 132W-115-100 Disciplinary process. (1) Any infractions of college policies or procedures may be referred by anyone within the college community to the (~~dean of~~) chief student services officer or designee. That official shall then follow the appropriate procedures for any disciplinary action which he or she deems necessary relative to the alleged misconduct.

(2) The disciplinary official may take whatever action deemed appropriate within the framework of this code. If the student concludes that any sanctions imposed are inappropriate, the student may appeal to the (~~academic regulations committee~~) disciplinary review board.

(3) If a referral or an appeal is made to the (~~academic regulations committee~~) disciplinary review board, the (~~committee~~) board shall hold a hearing, reach conclusion, and recommend sanctions. The student may appeal all cases involving suspension or dismissal from the college to the president of the college (~~All other cases may be appealed to the administrator designated by the president~~) or his/her designee.

(4) The president of the college or his/her designee, after reviewing the case, may reverse, sustain or modify any sanctions. The decision of the president or designee is final.

WSR 14-09-012

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 13-06—Filed April 4, 2014, 12:30 p.m., effective May 5, 2014]

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

Purpose: The purpose of this rule is to repeal two chapters that ecology no longer has authority to implement, chapter 173-325 WAC, Low-level radioactive waste disposal and chapter 173-326 WAC, Commercial low-level radioactive waste disposal—Site use permits. Chapter 70.98 RCW, as amended by chapter 19, Laws of 2012 (HB 2304 and SB 6491), transferred authority for the site use permit program to the department of health effective July 1, 2012. Health has been administering the program since that date and has adopted rules under chapters 246-249 and 246-254 WAC to align their rules with the statute.

Citation of Existing Rules Affected by this Order: Repealing chapters 173-325 and 173-326 WAC.

Statutory Authority for Adoption: Chapter 43.200 RCW, Radioactive Waste Act.

Adopted under notice filed as WSR 13-20-067 on September 27, 2013.

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 11.

Number of Sections Adopted at 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 0, Repealed 0.

Date Adopted: April 4, 2014.

Maia D. Bellon
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-325-010 Purpose.
- WAC 173-325-020 Definitions.
- WAC 173-325-030 Requirements for generators and brokers.
- WAC 173-325-040 Requirements for site operator.
- WAC 173-325-050 Effective dates.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-326-010 Purpose.
- WAC 173-326-020 Definitions.
- WAC 173-326-030 Requirements for generators and brokers using the Hanford low-level radioactive waste disposal facility.
- WAC 173-326-040 Payment procedures.
- WAC 173-326-050 Permit fees.
- WAC 173-326-060 Requirements for site operator.

WSR 14-09-015**PERMANENT RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed April 4, 2014, 4:02 p.m., effective May 5, 2014]

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

Purpose: The department is amending WAC 388-440-0001 to include an individual's serious risk of institutionalization as a consideration in determining whether DSHS staff are authorized to request an exception to rule, and is amending WAC 388-106-1305 to place into rule the exception to rule process for in-home personal care described in DSHS Home and Community Services Management Bulletin H13-001.

Citation of Existing Rules Affected by this Order: Amending WAC 388-440-0001 and 388-106-1305.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520,

Adopted under notice filed as WSR 14-05-067 on February 18, 2014.

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

Number of Sections Adopted at 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 2, Repealed 0.

Date Adopted: April 1, 2014.

Katherine I. Vasquez
Rules Manager

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-1305 What if I disagree with the result of the CARE assessment and/or other eligibility decisions made by the department? (1) You have a right to contest the result of your CARE assessment and/or other eligibility decisions made by the department. The department will notify you in writing of the right to contest a decision and provide you with information on how to request a hearing.

(2) Additionally, if you believe that you need more in-home personal care services than the CARE assessment has authorized for you, and you believe that your situation meets the criteria in WAC 388-440-0001(1) for an exception to rule (ETR), you may request additional personal care services.

(a) Requests may be made to your case manager or local HCS, AAA or DDA field office, either verbally or in writing.

(b) Requests that are approved at the field level will be forwarded to the ETR committee located in Olympia for a final decision.

(c) If your request is denied at the field level:

(i) You will receive a written notification.

(ii) You may request a headquarters review of your request by contacting your case manager or local HCS, AAA or DDA field office or by contacting the headquarters committee directly.

(d) You will be notified in writing whether additional ETR hours are approved or if your request was denied.

AMENDATORY SECTION (Amending WSR 13-18-006, filed 8/22/13, effective 10/1/13)

WAC 388-440-0001 Exceptions to rule. (1) The secretary of the department, or designee, authorizes department staff to request an exception to a rule in the Washington Administrative Code (WAC) for individual cases when:

(a) The exception would not contradict a specific provision of federal law or state statute; and

(b) The client's situation differs from the majority; and

(c) It is in the interest of overall economy and the client's welfare; and either

(d) It increases opportunities for the client to function effectively; or

(e) A client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment and/or the client is at serious risk of institutionlization.

(2) The secretary or the secretary's designee makes the final decision on all requests for exceptions to a rule.

(3) Clients have no fair hearing rights as defined under chapter 388-02 WAC regarding exception to rule decisions by department staff.

(4) Clients who do not agree with a decision on an exception to rule may file a complaint according to chapter 388-426 WAC.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 14-09-017
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 7, 2014, 11:57 a.m., effective May 8, 2014]

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

Purpose: Chapter 246-231 WAC, Packaging and transportation of radioactive material and chapter 246-240 WAC, Radiation protection—Medical use of radioactive material. The rules require licensees to provide advance notification to participating federally recognized tribal governments for shipments of irradiated reactor fuel and certain nuclear wastes that pass within or across their reservations, and corrects an internal cross-reference in WAC 246-240-210.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-231-080; and amending WAC 246-231-001, 246-231-005, 246-231-010, 246-231-030, 246-231-040, 246-231-050, 246-231-060, 246-231-090, 246-231-094, 246-231-096, 246-231-098, 246-231-106, 246-231-110, 246-231-120, 246-231-133, 246-231-136, 246-231-140, 246-231-150, 246-231-170, 246-231-186, 246-231-200, and 246-240-210 Training for use of unsealed radioactive material for which a written directive is required.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 14-02-068 on December 27, 2013.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 22, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at 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 22, Repealed 1.

Date Adopted: April 7, 2014.

Jessica Todorovich
for John Weisman, DrPH, MPH
Secretary

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

WAC 246-231-001 Purpose and scope. (1) This chapter establishes requirements for packaging, preparation for shipment, and transportation of radioactive material.

(2) Licensees shall also comply with applicable requirements of ~~((the United States Nuclear Regulatory Commission (USNRC), the United States Department of Transportation (USDOT)))~~ NRC, DOT, the United States Postal Service¹ ~~((USPS))~~, and other requirements of Title 246 WAC.

(3) The regulations in this chapter apply to any licensee authorized by specific or general license issued by the depart-

ment, ~~((USNRC))~~ NRC or an agreement state, to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this chapter authorizes possession of licensed material.

¹ *Mailing Standards of the United States Postal Service, Domestic Mail Manual*, 39 C.F.R. 111.1.

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

WAC 246-231-005 Requirement for license. No licensee shall deliver radioactive material to a carrier for transport, or transport radioactive material, except as authorized in a general or specific license issued by the department, ~~((USNRC))~~ NRC or an agreement state, or as exempted in this chapter.

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

WAC 246-231-010 Definitions, abbreviations, and acronyms. ~~The ((following terms are as defined here for the purpose of this chapter))~~ definitions, abbreviations, and acronyms in this section and in WAC 246-220-010 apply throughout this chapter unless the context clearly indicates otherwise. To ensure compatibility with international transportation standards, all limits in this chapter are given in terms of dual units: The International System of Units (SI) followed or preceded by U.S. standard or customary units. The U.S. customary units are not exact equivalents, but are rounded to a convenient value, providing a functionally equivalent unit. For the purpose of this chapter, either unit may be used.

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

(2) "A2" means the maximum activity of radioactive material, other than special form material, LSA and SCO material, permitted in a Type A package. This value is either listed in WAC 246-231-200, Table A-1, or may be derived in accordance with the procedure prescribed in WAC 246-231-200.

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

(4) "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

~~((5))~~ (4) "Certificate holder" means a person who has been issued a certificate of compliance or other package approval by ~~((the U.S. Nuclear Regulatory Commission (USNRC)))~~ NRC.

~~((6))~~ (5) "Certificate of compliance ~~((CoC))~~" means the certificate issued by ~~((the USNRC))~~ NRC under 10

C.F.R. 71 Subpart D which approves the design of a package for the transportation of radioactive material.

~~((7))~~ (6) "Close reflection by water" means immediate contact by water of sufficient thickness for maximum reflection of neutrons.

~~((8))~~ (7) "Consignment" means each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

~~((9))~~ (8) "Containment system" means the assembly of components of the packaging intended to retain the radioactive material during transport.

~~((10))~~ (9) "Conveyance" means:

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

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

(c) For transport by any aircraft.

~~((11))~~ (10) "Criticality safety index (CSI)" means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages containing fissile material during transportation. Determination of the criticality safety index is described in WAC 246-231-094, 246-231-096, and 10 C.F.R. 71.59.

~~((12))~~ "Department" means the Washington state department of health, which has been designated as the state radiation control agency under chapter 70.98 RCW.

~~((13))~~ (11) "Deuterium" means, for the purposes of WAC 246-231-040 and 246-231-094, deuterium and any deuterium compounds, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

~~((14))~~ (12) "DOT" (~~and "USDOT"~~) means the United States Department of Transportation. (~~USDOT~~) DOT regulations are found in Code of Federal Regulations Title 49 Transportation.

~~((15))~~ (13) "Exclusive use" means the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

~~((16))~~ (14) "Fissile material" means the radionuclides uranium-233, uranium-235, plutonium-239, and plutonium-241, or any combination of these radionuclides. Fissile material means the fissile nuclides themselves, not material containing fissile nuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only are not included in this definition. Certain exclusions from fissile material controls are provided in WAC 246-231-040.

~~((17))~~ (15) "Graphite" means graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

~~((18))~~ "License" means a license issued by the department.

~~((19))~~ "Licensed material" means radioactive, by product, source, or special nuclear material received, possessed, used, or transferred under a general or specific license issued by the department pursuant to the regulations in this chapter, or issued by the USNRC or an agreement state pursuant to equivalent regulations.

~~((20))~~ "Licensee" means any person who is licensed by the department under these rules and the act.

~~((21))~~ (16) "Indian tribe" means an Indian or Alaskan native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a. A current listing of officially recognized Indian tribes may be found at: <http://www.bia.gov/cs/groups/mywcsp/documents/text/idc-020733.pdf>.

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

(a) LSA-I.

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

(ii) Solid unirradiated natural uranium or depleted uranium or natural thorium or their solid or liquid compounds or mixtures; or

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

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

(b) LSA-II.

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

(ii) Other material in which the activity is distributed throughout, and the average specific activity does not exceed 1E-4 A2/g for solids and gases, and 1E-5 A2/g for liquids.

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

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

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

(iii) The estimated average specific activity of the solid does not exceed $2E-3$ A2/g.

~~((22))~~ (18) "Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than ten days.

~~((23))~~ (19) "Maximum normal operating pressure" means the maximum gauge pressure that would develop in the containment system in a period of one year under the heat condition specified in ~~((USNRC))~~ NRC regulations 10 C.F.R. 71.71 (c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

~~((24))~~ (20) "Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

~~((25))~~ (21) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material."

~~((26))~~ (22) "Nuclear waste" as used in WAC 246-231-140 means any quantity of radioactive material (not including radiography sources being returned to the manufacturer) required to be in Type B packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Nuclear waste, as used in these regulations, is a special classification of radioactive waste.

~~((27))~~ (23) "Optimum interspersed hydrogenous moderation" means the presence of hydrogenous material between packages to such an extent that the maximum nuclear reactivity results.

~~((28))~~ (24) "Package" means the packaging together with its radioactive contents as presented for transport.

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

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

(c) "Type B package" means a Type B packaging together with its radioactive contents. ~~((On))~~ Upon approval by ~~((the USNRC))~~ NRC, a Type B package design is designated by ~~((the USNRC))~~ NRC as B(U) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lbs/in²) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in ~~((USNRC))~~ NRC regulations 10 C.F.R. 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, see ~~((USDOT))~~ DOT regulations in 49 C.F.R. 173. A Type B package approved before September 6, 1983, was

designated only as Type B. Limitations on its use are specified in 10 C.F.R. 71.19.

~~((29))~~ (25) "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of this chapter. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

~~((30))~~ (26) "Special form radioactive material" means radioactive material that satisfies the following conditions:

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

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

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

~~((31))~~ (27) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

~~((32))~~ (28) "Spent nuclear fuel" or "spent fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, has undergone at least one year's decay since being used as a source of energy in a power reactor, and has not been chemically separated into its constituent elements by reprocessing. Spent fuel includes the special nuclear material, by-product material, source material, and other radioactive materials associated with fuel assemblies.

~~((33))~~ (29) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

~~((34))~~ (30) "Surface contaminated object (SCO)" means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

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

(i) The nonfixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 Bq/cm² (1E-4 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (1E-5 microcurie/cm²) for all other alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4E+4 Bq/cm² (1.0 microcurie/cm²)

for beta and gamma and low toxicity alpha emitters, or $4E+3$ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters; and

(iii) The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed $4E+4$ Bq/cm² (1 microcurie/cm²) for beta and gamma and low toxicity alpha emitters, or $4E+3$ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters.

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

(i) The nonfixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 400 Bq/cm² ($1E-2$ microcurie/cm²) for beta and gamma and low toxicity alpha emitters or 40 Bq/cm² ($1E-3$ microcurie/cm²) for all other alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed $8E+5$ Bq/cm² (20 microcuries/cm²) for beta and gamma and low toxicity alpha emitters, or $8E+4$ Bq/cm² (2 microcuries/cm²) for all other alpha emitters; and

(iii) The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed $8E+5$ Bq/cm² (20 microcuries/cm²) for beta and gamma and low toxicity alpha emitters, or $8E+4$ Bq/cm² (2 microcuries/cm²) for all other alpha emitters.

~~((35))~~ (31) "Transport index (TI)" means the dimensionless number (rounded up to the next tenth) placed on the label of a package, to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter (3.3 ft)).

~~((36))~~ (32) "Tribal official" means the highest ranking individual who represents tribal leadership, such as the chief, president, or tribal council leadership.

(33) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material, or A2 for normal form radioactive material, where A1 and A2 are given in Table A-1 of WAC 246-231-200, or may be determined by procedures described in WAC 246-231-200.

~~((37))~~ (34) "Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

~~((38))~~ (35) "Unirradiated uranium" means uranium containing not more than $2E+3$ Bq of plutonium per gram of uranium-235, not more than $9E+6$ Bq of fission products per gram of uranium-235, and not more than $5E-3$ g of uranium-236 per gram of uranium-235.

~~((39))~~ (36) Uranium—Natural, depleted, enriched.

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

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

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

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

WAC 246-231-030 Transportation of licensed material. (1) Each licensee who transports licensed material outside the site of usage, as specified in the license issued by the department, (~~(USNRC))~~ NRC or an agreement state, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the (~~(USDOT))~~ DOT regulations in 49 C.F.R. 107, 171 through 180, and 390 through 397, appropriate to the mode of transport.

(a) The licensee shall particularly note (~~(USDOT))~~ DOT regulations in the following areas:

(i) Packaging—49 C.F.R. 173: Subparts A, B, and I.

(ii) Marking and labeling—49 C.F.R. 172: Subpart D, 172.400 through 172.407; and Subpart E, 172.436 through 172.441.

(iii) Placarding—49 C.F.R. 172: Subpart F, especially 172.500 through 172.519 and 172.556, and appendices B and C.

(iv) Accident reporting—49 C.F.R. 171.15 and 171.16.

(v) Shipping papers and emergency information—49 C.F.R. 172: Subparts C and G.

(vi) Hazardous material employee training—49 C.F.R. 172: Subpart H.

(vii) Security plans—49 C.F.R. 172: Subpart I.

(viii) Hazardous material shipper/carrier registration—49 C.F.R. 107: Subpart G.

(b) The licensee shall also note (~~(USDOT))~~ DOT regulations pertaining to the following modes of transportation:

(i) Rail—49 C.F.R. 174: Subparts A through D and K.

(ii) Air—49 C.F.R. 175.

(iii) Vessel—49 C.F.R. 176: Subparts A through F and M.

(iv) Public Highway—49 C.F.R. 177 and 390 through 397.

(2) If (~~(USDOT))~~ DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the (~~(USDOT))~~ DOT specified in (~~(paragraph))~~ subsection (1) of this section to the same extent as if the shipment or transportation were subject to (~~(USDOT))~~ DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Director, Office of Nuclear Material Safety and Safeguards, (~~(U.S. Nuclear Regulatory Commission))~~ NRC, Washington, D.C. 20555-0001.

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

WAC 246-231-040 Exemptions. (1) Common and contract carriers, freight forwarders, and warehouse workers who are subject to the rules and regulations of the United States Department of Transportation (49 C.F.R. 170 through 189) or the United States Postal Service (*Mailing Standards of the*

United States Postal Service, Domestic Mail Manual, 39 C.F.R. 111.1) are exempt from this chapter to the extent that they transport or store radioactive material in the regular course of their carriage for another or storage incident thereto. Common and contract carriers who are not subject to the rules and regulations of the (~~United States Department of Transportation~~) DOT or United States Postal Service are subject to WAC 246-231-005 and other applicable sections of these regulations.

(2) Any licensee who delivers radioactive material to a carrier for transport, where such transport is subject to the regulations of the United States Postal Service, is exempt from the provisions of WAC 246-231-005.

(3) **Exemption of physicians.** Any physician as defined in WAC 246-220-010 who is licensed by the department, (~~the USNRC~~) NRC or an agreement state, to dispense drugs in the practice of medicine, is exempt from WAC 246-220-030 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under chapter 246-240 WAC, 10 C.F.R. 35, or the equivalent agreement state regulations.

(4) **Exemption for low-level materials.** A licensee is exempt from all requirements of this chapter with respect to shipment or carriage of the following low-level materials:

(a) Natural material and ores containing naturally occurring radionuclides that are not intended to be processed for use of these radionuclides, provided the activity concentration of the material does not exceed ten times the values specified in WAC 246-231-200, Table A-2.

(b) Materials for which the activity concentration is not greater than the activity concentration values specified in WAC 246-231-200, Table A-2, or for which the consignment activity is not greater than the limit for an exempt consignment found in WAC 246-231-200, Table A-2.

(5) **Exemption from classification as fissile material.** Fissile material meeting at least one of the requirements in (a) through (f) of this subsection is exempt from classification as fissile material and from the fissile material package standards of 10 C.F.R. 71.55 and 71.59, but are subject to all other requirements of this chapter, except as noted.

(a) Individual package containing 2 grams or less fissile material.

(b) Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.

(c)(i) Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:

(A) There (~~is~~) are at least 2000 grams of solid nonfissile material for every gram of fissile material; and

(B) There (~~is~~) are no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material.

(ii) Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must

not be included in determining the required mass of solid nonfissile material.

(d) Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass.

(e) Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a (~~USDOT~~) DOT Type A package.

(f) Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

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

WAC 246-231-050 General licenses for carriers. (1)

A general license is hereby issued to any common or contract carrier not exempted under WAC 246-231-040 to receive, possess, transport and store radioactive material in the regular course of their carriage for another or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport, of the United States Department of Transportation.

(2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport, of the United States Department of Transportation insofar as such regulations relate to the loading and storage of packages, placarding of the transporting vehicle, shipping papers, and incident reporting. Any notification of incidents referred to in those requirements shall be filed with, or made to, the department.

(3) Persons who transport radioactive material pursuant to the general licenses of subsection (1) or (2) of this section are exempt from the requirements of chapters 246-221 and 246-222 WAC to the extent that they transport radioactive material.

(4) A general license is hereby issued to deliver radioactive material to a carrier¹ for transport provided that:

(a) The licensee complies with the applicable requirements of the regulations, appropriate to the mode of transport, of the United States Department of Transportation insofar as such regulations relate to the packaging of radioactive material, to shipping papers, and to the monitoring, marking and labeling of those packages.

(b) The licensee has established procedures for opening and closing packages in which radioactive material is transported to provide safety and to assure that, prior to the delivery to a carrier for transport, each package is properly closed for transport.

(c) Prior to delivery of a package to a carrier for transport, the licensee shall assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee.

(d) In addition to the requirements of the United States Department of Transportation, each package of Type A or B quantity radioactive material prepared for shipment must have the innermost container labeled as to the isotope, chemical form, number of (~~becquerels~~) becquerels or subunits thereof, and date of determination of activity and each innermost container shall be tested to assure that the container is properly sealed and that contamination which would cause undue hazard to public health and safety or property is not present prior to transportation. This requirement does not apply to properly packaged shipments of radioactive waste consigned to a commercial low level radioactive waste disposal facility.

~~(Note 1)~~¹ For the purpose of this regulation, licensees who transport their own licensed material as a private carrier are considered to have delivered such material to a carrier for transport.

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

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

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

(3) This general license applies only to a licensee who:

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

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

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

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

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

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

WAC 246-231-090 General license—Use of foreign approved package. (1) A general license is issued to any licensee of the department, (~~USNRC~~) NRC, or an agreement state, to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by (~~USDOF~~) DOT as meeting the applicable requirements of 49 C.F.R. 171.12.

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

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

(4) This general license applies only to a licensee who:

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

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

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

WAC 246-231-094 General license—Fissile material.

(1) A general license is issued to any licensee of the department, (~~USNRC~~) NRC, or an agreement state, to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped in accordance with this section. The fissile material need not be contained in a package which meets the standards of 10 C.F.R. 71 Subparts E and F; however, the material must be contained in a Type A package. The Type A package must also meet the (~~USDOF~~) DOT requirements of 49 C.F.R. 173.417(a).

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

(3) The general license applies only when a package's contents:

(a) Contain no more than a Type A quantity of radioactive material; and

(b) Contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium.

(4) The general license applies only to packages containing fissile material that are labeled with a CSI which:

(a) Has been determined in accordance with subsection (5) of this section;

(b) Has a value less than or equal to 10; and

(c) For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).

(5)(a) The value for the CSI must be greater than or equal to the number calculated by the following equation:

$$CSI = 10 \left[\frac{\text{grams of } ^{235}\text{U}}{X} + \frac{\text{grams of } ^{233}\text{U}}{Y} + \frac{\text{grams of Pu}}{Z} \right];$$

(b) The calculated CSI must be rounded up to the first decimal place;

(c) The values of X, Y, and Z used in the CSI equation must be taken from WAC 246-231-200 Table-1 or Table-2, as appropriate;

(d) If Table-2 is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and

(e) Values from Table-1 for X, Y, and Z must be used to determine the CSI if:

(i) Uranium-233 is present in the package;

(ii) The mass of plutonium exceeds 1 percent of the mass of uranium-235;

(iii) The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or

(iv) Substances having a moderating effectiveness (i.e., an average hydrogen density greater than H₂O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.

Table-1.

Mass Limits for General License Packages Containing Mixed Quantities of Fissile Material or Uranium-235 of Unknown Enrichment per WAC 246-231-094(5)

Fissile material	Fissile material mass mixed with moderating substances having an average hydrogen density less than or equal to H ₂ O (grams)	Fissile material mass mixed with moderating substances having an average hydrogen density greater than H ₂ O ^a (grams)
²³⁵ U (X)	60	38
²³³ U (Y)	43	27
²³⁹ Pu or ²⁴¹ Pu (Z)	37	24

^a When mixtures of moderating substances are present, the lower mass limits shall be used if more than 15 percent of the moderating substance has an average hydrogen density greater than H₂O.

Table-2.

Mass Limits for General License Packages Containing Uranium-235 of Known Enrichment per WAC 246-231-094(5)

Uranium enrichment in weight percent of ²³⁵ U not exceeding	Fissile material mass of ²³⁵ U (X) (grams)
24	60
20	63
15	67
11	72
10	76
9.5	78
9	81
8.5	82
8	85
7.5	88
7	90
6.5	93
6	97
5.5	102
5	108
4.5	114
4	120
3.5	132
3	150
2.5	180
2	246
1.5	408
1.35	480
1	1,020
0.92	1,800

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

WAC 246-231-096 General license—Plutonium-beryllium special form material. (1) A general license is issued to any licensee of the department, ((USNRC)) NRC, or an agreement state, to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this section. This material must be contained in a Type A package. The Type A package must also meet the ((USDOT)) DOT requirements of 49 C.F.R. 173.417(a).

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

(3) The general license applies only when a package's contents:

(a) Contain no more than a Type A quantity of radioactive material; and

(b) Contain less than 1000 g of plutonium, provided that: Plutonium-239, plutonium-241, or any combination of these radionuclides, constitutes less than 240 g of the total quantity of plutonium in the package.

(4) The general license applies only to packages labeled with a CSI which:

(a) Has been determined in accordance with subsection (5) of this section;

(b) Has a value less than or equal to 100; and

(c) For a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).

(5)(a) The value for the CSI must be greater than or equal to the number calculated by the following equation:

$$CSI = 10 \left[\frac{\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu}}{24} \right]; \text{ and}$$

(b) The calculated CSI must be rounded up to the first decimal place.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

WAC 246-231-098 External radiation standards for all packages. (1) Except as provided in subsection (2) of this section, each package of radioactive materials offered for transportation must be designed and prepared for shipment so that under conditions normally incident to transportation the radiation level does not exceed 2 mSv/~~((h))~~ hour (200 mrem/~~((h))~~ hour) at any point on the external surface of the package, and the transport index does not exceed 10.

(2) A package that exceeds the radiation level limits specified in subsection (1) of this section must be transported by exclusive use shipment only, and the radiation levels for such shipment must not exceed the following during transportation:

(a) 2 mSv/~~((h))~~ hour (200 mrem/~~((h))~~ hour) on the external surface of the package, unless the following conditions are met, in which case the limit is 10 mSv/~~((h))~~ hour (1000 mrem/~~((h))~~ hour):

(i) The shipment is made in a closed transport vehicle;

(ii) The package is secured within the vehicle so that its position remains fixed during transportation; and

(iii) There are no loading or unloading operations between the beginning and end of the transportation;

(b) 2 mSv/~~((h))~~ hour (200 mrem/~~((h))~~ hour) at any point on the outer surface of the vehicle, including the top and underside of the vehicle; or in the case of a flat-bed style vehicle, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load or enclosure, if used, and on the lower external surface of the vehicle; and

(c) 0.1 mSv/~~((h))~~ hour (10 mrem/~~((h))~~ hour) at any point 2 meters (80 in) from the outer lateral surfaces of the vehicle (excluding the top and underside of the vehicle); or in the case of a flat-bed style vehicle, at any point 2 meters (6.6 feet) from the vertical planes projected by the outer edges of the vehicle (excluding the top and underside of the vehicle); and

(d) 0.02 mSv/~~((h))~~ hour (2 mrem/~~((h))~~ hour) in any normally occupied space, except that this provision does not apply to private carriers, if exposed personnel under their control wear radiation dosimetry devices in conformance with WAC 246-221-090 and 246-221-100.

(3) For shipments made under the provisions of subsection (2) of this section, the shipper shall provide specific written instructions to the carrier for maintenance of the exclusive use shipment controls. The instructions must be included with the shipping paper information.

(4) The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will unnecessarily delay delivery or unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.

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

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

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

(2) Where the maximum normal operating pressure will exceed 35 kPa (5 lbs/in²) gauge, the licensee shall test the containment system at an internal pressure at least fifty percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; and

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

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

WAC 246-231-110 Routine determinations. Before each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this chapter and of the license. The licensee shall determine that:

- (1) The package is proper for the contents to be shipped;
- (2) The package is in unimpaired physical condition except for superficial defects such as marks or dents;
- (3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
- (4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
- (5) Any pressure relief device is operable and set in accordance with written procedures;
- (6) The package has been loaded and closed in accordance with written procedures;
- (7) For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
- (8) Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of 10 C.F.R. 71.45;
- (9) The level of nonfixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in ((~~USDOF~~)) DOT regulations in 49 C.F.R. 173.443;
- (10) External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in WAC 246-231-098 at any time during transportation; and
- (11) Accessible package surface temperatures will not exceed the limits specified in 10 C.F.R. 71.43(g) at any time during transportation.

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

WAC 246-231-120 Air transport of plutonium. (1) Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this chapter or included indirectly by citation of 49 C.F.R. chapter I, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

- (a) The plutonium is contained in a medical device designed for individual human application; or
- (b) The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for plutonium specified in WAC 246-231-200, Table A-2, and in which the radioactivity is essentially uniformly distributed; or
- (c) The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with WAC 246-231-030; or
- (d) The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by ((~~the U.S. Nuclear Regulatory Commission~~)) NRC.

(2) Nothing in subsection (1) of this section is to be interpreted as removing or diminishing the requirements of ((~~USNRC~~)) NRC regulations 10 C.F.R. 73.24.

(3) For a shipment of plutonium by air which is subject to subsection (1)(d) of this section, the licensee shall, through special arrangement with the carrier, require compliance with 49 C.F.R. 175.704 ((~~USDOF~~)) DOT regulations applicable to the air transport of plutonium.

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

WAC 246-231-133 Public inspection of application. Applications for approval of a package design under this chapter, which are submitted to ((~~the USNRC~~)) NRC, may be made available for public inspection, in accordance with provisions of 10 C.F.R. 2 and 9. This includes an application to amend or revise an existing package design, any associated documents and drawings submitted with the application, and any responses to ((~~USNRC~~)) NRC requests for additional information.

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

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

- (a) Identification of the packaging by model number and serial number;
 - (b) Verification that there are no significant defects in the packaging, as shipped;
 - (c) Volume and identification of coolant;
 - (d) Type and quantity of licensed material in each package, and the total quantity of each shipment;
 - (e) For each item of irradiated fissile material:
 - (i) Identification by model number and serial number;
 - (ii) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - (iii) Any abnormal or unusual condition relevant to radiation safety;
 - (f) Date of the shipment;
 - (g) For fissile packages and for Type B packages, any special controls exercised;
 - (h) Name and address of the transferee;
 - (i) Address to which the shipment was made; and
 - (j) Results of the determinations required by WAC 246-231-110 and by the conditions of the package approval.
- (2) Each certificate holder shall maintain, for a period of three years after the life of the packaging to which they apply, records identifying the packaging by model number, serial number, and date of manufacture.
- (3) The licensee, certificate holder, and an applicant for a ((~~CoC~~)) certificate of compliance, shall make available to ((~~the USNRC~~)) NRC for inspection, upon reasonable notice, all records required by 10 C.F.R. 71.91. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.

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

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

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

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

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

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

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

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

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

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

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

(3) Procedures for submitting advance notification.

(a) The notification must be made in writing to the office of each appropriate governor or governor's designee, to the

office of each appropriate tribal official or tribal official's designee, and to the Director, Division of ~~((Nuclear))~~ Security Policy, Office of Nuclear Security and Incident Response.

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

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

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

(ii) The list of governors' designees and tribal officials' designees of participating tribes will be published annually in the *Federal Register* on or about June 30 to reflect any changes in information.

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

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

(4) Information to be furnished in advance notification of shipment. Each advance notification of shipment of irradiated reactor fuel or nuclear waste must contain the following information:

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

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

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

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

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

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

(5) Revision notice. A licensee who finds that schedule information previously furnished to a governor or governor's designee, or a tribal official or tribal official's designee, in accordance with this section, will not be met, shall telephone a responsible individual in the office of the governor of the state or of the governor's designee or the tribal official or the tribal official's designee, and inform that individual of the

extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for three years.

(6) Cancellation notice.

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

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

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

WAC 246-231-150 Quality assurance requirements.

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

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

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

Project Office, Office of Nuclear Material Safety and Safeguards.

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

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

WAC 246-231-170 Quality assurance program. (1)

The licensee, certificate holder, and applicant for a ~~((€€))~~ certificate of compliance shall establish, at the earliest practicable time consistent with the schedule for accomplishing the activities, a quality assurance program that complies with the requirements of 10 C.F.R. 71.101 through 71.137. The licensee, certificate holder, and applicant for a ~~((€€))~~ certificate of compliance shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which the packaging is used. The licensee, certificate holder, and applicant for a ~~((€€))~~ certificate of compliance shall identify the material and components to be covered by the quality assurance program, the major organizations participating in the program, and the designated functions of these organizations.

(2) The licensee, certificate holder, and applicant for a ~~((€€))~~ certificate of compliance, through its quality assurance program, shall provide control over activities affecting the quality of the identified materials and components to an extent consistent with their importance to safety, and as necessary to assure conformance to the approved design of each individual package used for the shipment of radioactive material. The licensee, certificate holder, and applicant for a ~~((€€))~~ certificate of compliance shall assure that activities affecting quality are accomplished under suitably controlled conditions. Controlled conditions include the use of appropriate equipment; suitable environmental conditions for accomplishing the activity, such as adequate cleanliness; and assurance that all prerequisites for the given activity have been satisfied. The licensee, certificate holder, and applicant for a ~~((€€))~~ certificate of compliance shall take into account the need for special controls, processes, test equipment, tools, and skills to attain the required quality, and the need for verification of quality by inspection and test.

(3) The licensee, certificate holder, and applicant for a ~~((€€))~~ certificate of compliance shall base the requirements and procedures of its quality assurance program on the following considerations concerning the complexity and proposed use of the package and its components:

- (a) The impact of malfunction or failure of the item to safety;
- (b) The design and fabrication complexity or uniqueness of the item;
- (c) The need for special controls and surveillance over processes and equipment;
- (d) The degree to which functional compliance can be demonstrated by inspection or test; and

(e) The quality history and degree of standardization of the item.

(4) The licensee, certificate holder, and applicant for a ~~((C0C))~~ certificate of compliance shall provide for indoctrination and training of personnel performing activities affecting quality, as necessary to assure that suitable proficiency is achieved and maintained. The licensee, certificate holder, and applicant for a ~~((C0C))~~ certificate of compliance shall review the status and adequacy of the quality assurance program at established intervals. Management of other organizations participating in the quality assurance program shall review regularly the status and adequacy of that part of the quality assurance program they are executing.

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

WAC 246-231-186 Quality assurance records. The licensee, certificate holder, and applicant for a ~~((C0C))~~ certificate of compliance shall maintain sufficient written records to describe the activities affecting quality. The records must include the instructions, procedures, and drawings required by 10 C.F.R. 71.111 to prescribe quality assurance activities and must include closely related specifications such as required qualifications of personnel, procedures, and equipment. The records must include the instructions or procedures which establish a records retention program that is consistent with applicable regulations and designates factors such as duration, location, and assigned responsibility. The licensee, certificate holder, and applicant for a ~~((C0C))~~ certificate of compliance shall retain these records for three years beyond the date when the licensee, certificate holder, and applicant for a ~~((C0C))~~ certificate of compliance last engaged in the activity for which the quality assurance program was developed. If any portion of the written procedures or instructions is superseded, the licensee, certificate holder, and applicant for a ~~((C0C))~~ certificate of compliance shall retain the superseded material for three years after it is superseded.

AMENDATORY SECTION (Amending WSR 11-03-068, filed 1/18/11, effective 2/18/11)

WAC 246-231-200 Appendix A—Determination of A1 and A2. (1) Values of A1 and A2 for individual radionuclides, which are the basis for many activity limits elsewhere in these regulations, are given in this section, Table A-1. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) value. The Terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. Where values of A1 or A2 are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

(2)(a) For individual radionuclides whose identities are known, but which are not listed in this section, Table A-1, the A1 and A2 values contained in this section, Table A-3 may be used. Otherwise, the licensee shall obtain prior ~~((USNRC))~~ NRC approval of the A1 and A2 values for radionuclides not listed in this section, Table A-1, before shipping the material.

(b) For individual radionuclides whose identities are known, but which are not listed in this section, Table A-2, the

exempt material activity concentration and exempt consignment activity values contained in this section, Table A-3 may be used. Otherwise, the licensee shall obtain prior ~~((USNRC))~~ NRC approval of the exempt material activity concentration and exempt consignment activity values for radionuclides not listed in this section, Table A-2, before shipping the material.

(c) The licensee shall submit requests for prior approval, described under (a) and (b) of this subsection, to ~~((the USNRC))~~ NRC in accordance with 10 C.F.R. 71.1.

(3) In the calculations of A1 and A2 for a radionuclide not in this section, Table A-1, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no daughter radionuclide has a half-life either longer than ten days, or longer than that of the parent radionuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A1 or A2 value to be applied shall be those corresponding to the parent radionuclide of that chain. In the case of radioactive decay chains in which any daughter radionuclide has a half-life either longer than ten days, or greater than that of the parent radionuclide, the parent and those daughter radionuclides shall be considered as mixtures of different radionuclides.

(4) For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:

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

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

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

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

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

Where B(i) is the activity of radionuclide I and A2(i) is the A2 value for radionuclide I.

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

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

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

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

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

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

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

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

Where f(i) is the fraction of activity concentration of radionuclide I in the mixture, and A is the activity concentration of material containing radionuclide I.

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

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

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

(5) When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest A1 or A2 value, as appropriate, for the radionuclides in each group may be used in applying the formulas in subsection (4) of this section. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A1 or A2 values for the alpha emitters and beta/gamma emitters.

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

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Ac-225 (a)	Actinium (89)	8.0X10 ⁻¹	2.2X10 ¹	6.0X10 ⁻³	1.6X10 ⁻¹	2.1X10 ³	5.8X10 ⁴
Ac-227 (a)		9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻⁵	2.4X10 ⁻³	2.7	7.2X10 ¹
Ac-228		6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	8.4X10 ⁴	2.2X10 ⁶
Ag-105	Silver (47)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.1X10 ³	3.0X10 ⁴
Ag-108m (a)		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	9.7X10 ⁻¹	2.6X10 ¹
Ag-110m (a)		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.8X10 ²	4.7X10 ³
Ag-111		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.8X10 ³	1.6X10 ⁵
Al-26	Aluminum (13)	1.0X10 ⁻¹	2.7	1.0X10 ⁻¹	2.7	7.0X10 ⁻⁴	1.9X10 ⁻²
Am-241	Americium (95)	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.3X10 ⁻¹	3.4
Am-242m (a)		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	3.6X10 ⁻¹	1.0X10 ¹
Am-243 (a)		5.0	1.4X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	7.4X10 ⁻³	2.0X10 ⁻¹
Ar-37	Argon (18)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.7X10 ³	9.9X10 ⁴
Ar-39		4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	1.3	3.4X10 ¹
Ar-41		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.5X10 ⁶	4.2X10 ⁷
As-72	Arsenic (33)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	6.2X10 ⁴	1.7X10 ⁶
As-73		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	8.2X10 ²	2.2X10 ⁴
As-74		1.0	2.7X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	3.7X10 ³	9.9X10 ⁴
As-76		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.8X10 ⁴	1.6X10 ⁶
As-77		2.0X10 ¹	5.4X10 ²	7.0X10 ⁻¹	1.9X10 ¹	3.9X10 ⁴	1.0X10 ⁶
At-211 (a)	Astatine (85)	2.0X10 ¹	5.4X10 ²	5.0X10 ⁻¹	1.4X10 ¹	7.6X10 ⁴	2.1X10 ⁶
Au-193	Gold (79)	7.0	1.9X10 ²	2.0	5.4X10 ¹	3.4X10 ⁴	9.2X10 ⁵
Au-194		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.5X10 ⁴	4.1X10 ⁵
Au-195		1.0X10 ¹	2.7X10 ²	6.0	1.6X10 ²	1.4X10 ²	3.7X10 ³
Au-198		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.0X10 ³	2.4X10 ⁵
Au-199		1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	7.7X10 ³	2.1X10 ⁵

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Ba-131 (a)	Barium (56)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.1X10 ³	8.4X10 ⁴
Ba-133		3.0	8.1X10 ¹	3.0	8.1X10 ¹	9.4	2.6X10 ²
Ba-133m		2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	2.2X10 ⁴	6.1X10 ⁵
Ba-140 (a)		5.0X10 ⁻¹	1.4X10 ¹	3.0X10 ⁻¹	8.1	2.7X10 ³	7.3X10 ⁴
Be-7	Beryllium (4)	2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	1.3X10 ⁴	3.5X10 ⁵
Be-10		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻¹	1.6X10 ¹	8.3X10 ⁻⁴	2.2X10 ⁻²
Bi-205	Bismuth (83)	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.5X10 ³	4.2X10 ⁴
Bi-206		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	3.8X10 ³	1.0X10 ⁵
Bi-207		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.9	5.2X10 ¹
Bi-210		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.6X10 ³	1.2X10 ⁵
Bi-210m (a)		6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	2.1X10 ⁻⁵	5.7X10 ⁻⁴
Bi-212 (a)		7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.4X10 ⁵	1.5X10 ⁷
Bk-247	Berkelium (97)	8.0	2.2X10 ²	8.0X10 ⁻⁴	2.2X10 ⁻²	3.8X10 ⁻²	1.0
Bk-249 (a)		4.0X10 ¹	1.1X10 ³	3.0X10 ⁻¹	8.1	6.1X10 ¹	1.6X10 ³
Br-76	Bromine (35)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	9.4X10 ⁴	2.5X10 ⁶
Br-77		3.0	8.1X10 ¹	3.0	8.1X10 ¹	2.6X10 ⁴	7.1X10 ⁵
Br-82		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁴	1.1X10 ⁶
C-11	Carbon (6)	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.1X10 ⁷	8.4X10 ⁸
C-14		4.0X10 ¹	1.1X10 ³	3.0	8.1X10 ¹	1.6X10 ⁻¹	4.5
Ca-41	Calcium (20)	Unlimited	Unlimited	Unlimited	Unlimited	3.1X10 ⁻³	8.5X10 ⁻²
Ca-45		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	6.6X10 ²	1.8X10 ⁴
Ca-47 (a)		3.0	8.1X10 ¹	3.0X10 ⁻¹	8.1	2.3X10 ⁴	6.1X10 ⁵
Cd-109	Cadmium (48)	3.0X10 ¹	8.1X10 ²	2.0	5.4X10 ¹	9.6X10 ¹	2.6X10 ³
Cd-113m		4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	8.3	2.2X10 ²
Cd-115 (a)		3.0	8.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.9X10 ⁴	5.1X10 ⁵
Cd-115m		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	9.4X10 ²	2.5X10 ⁴
Ce-139	Cerium (58)	7.0	1.9X10 ²	2.0	5.4X10 ¹	2.5X10 ²	6.8X10 ³
Ce-141		2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.1X10 ³	2.8X10 ⁴
Ce-143		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁴	6.6X10 ⁵
Ce-144 (a)		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.2X10 ²	3.2X10 ³
Cf-248	Californium (98)	4.0X10 ¹	1.1X10 ³	6.0X10 ⁻³	1.6X10 ⁻¹	5.8X10 ¹	1.6X10 ³
Cf-249		3.0	8.1X10 ¹	8.0X10 ⁻⁴	2.2X10 ⁻²	1.5X10 ⁻¹	4.1
Cf-250		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	4.0	1.1X10 ²
Cf-251		7.0	1.9X10 ²	7.0X10 ⁻⁴	1.9X10 ⁻²	5.9X10 ⁻²	1.6
Cf-252 (h)		5.0X10 ⁻²	1.4	3.0X10 ⁻³	8.1X10 ⁻²	2.0X10 ¹	5.4X10 ²
Cf-253 (a)		4.0X10 ¹	1.1X10 ³	4.0X10 ⁻²	1.1	1.1X10 ³	2.9X10 ⁴
Cf-254		1.0X10 ⁻³	2.7X10 ⁻²	1.0X10 ⁻³	2.7X10 ⁻²	3.1X10 ²	8.5X10 ³
Cl-36	Chlorine (17)	1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁻³	3.3X10 ⁻²
Cl-38		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	4.9X10 ⁶	1.3X10 ⁸
Cm-240	Curium (96)	4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	7.5X10 ²	2.0X10 ⁴
Cm-241		2.0	5.4X10 ¹	1.0	2.7X10 ¹	6.1X10 ²	1.7X10 ⁴
Cm-242		4.0X10 ¹	1.1X10 ³	1.0X10 ⁻²	2.7X10 ⁻¹	1.2X10 ²	3.3X10 ³
Cm-243		9.0	2.4X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.9X10 ⁻³	5.2X10 ¹
Cm-244		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	3.0	8.1X10 ¹
Cm-245		9.0	2.4X10 ²	9.0X10 ⁻⁴	2.4X10 ⁻²	6.4X10 ⁻³	1.7X10 ⁻¹
Cm-246		9.0	2.4X10 ²	9.0X10 ⁻⁴	2.4X10 ⁻²	1.1X10 ⁻²	3.1X10 ⁻¹
Cm-247 (a)		3.0	8.1X10 ¹	1.0X10 ⁻³	2.7X10 ⁻²	3.4X10 ⁻⁶	9.3X10 ⁻⁵

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Cm-248		2.0X10 ⁻²	5.4X10 ⁻¹	3.0X10 ⁻⁴	8.1X10 ⁻³	1.6X10 ⁻⁴	4.2X10 ⁻³
Co-55	Cobalt (27)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.1X10 ⁵	3.1X10 ⁶
Co-56		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.1X10 ³	3.0X10 ⁴
Co-57		1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	3.1X10 ²	8.4X10 ³
Co-58		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.2X10 ³	3.2X10 ⁴
Co-58m		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	2.2X10 ⁵	5.9X10 ⁶
Co-60		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.2X10 ¹	1.1X10 ³
Cr-51	Chromium (24)	3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	3.4X10 ³	9.2X10 ⁴
Cs-129	Cesium (55)	4.0	1.1X10 ²	4.0	1.1X10 ²	2.8X10 ⁴	7.6X10 ⁵
Cs-131		3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	3.8X10 ³	1.0X10 ⁵
Cs-132		1.0	2.7X10 ¹	1.0	2.7X10 ¹	5.7X10 ³	1.5X10 ⁵
Cs-134		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.8X10 ¹	1.3X10 ³
Cs-134m		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ⁵	8.0X10 ⁶
Cs-135		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	4.3X10 ⁻⁵	1.2X10 ⁻³
Cs-136		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.7X10 ³	7.3X10 ⁴
Cs-137 (a)		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.2	8.7X10 ¹
Cu-64	Copper (29)	6.0	1.6X10 ²	1.0	2.7X10 ¹	1.4X10 ⁵	3.9X10 ⁶
Cu-67		1.0X10 ¹	2.7X10 ²	7.0X10 ⁻¹	1.9X10 ¹	2.8X10 ⁴	7.6X10 ⁵
Dy-159	Dysprosium (66)	2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	2.1X10 ²	5.7X10 ³
Dy-165		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ⁵	8.2X10 ⁶
Dy-166 (a)		9.0X10 ⁻¹	2.4X10 ¹	3.0X10 ⁻¹	8.1	8.6X10 ³	2.3X10 ⁵
Er-169	Erbium (68)	4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	3.1X10 ³	8.3X10 ⁴
Er-171		8.0X10 ⁻¹	2.2X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	9.0X10 ⁴	2.4X10 ⁶
Eu-147	Europium (63)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.4X10 ³	3.7X10 ⁴
Eu-148		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.0X10 ²	1.6X10 ⁴
Eu-149		2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	3.5X10 ²	9.4X10 ³
Eu-150 (short lived)		2.0	5.4X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	6.1X10 ⁴	1.6X10 ⁶
Eu-150 (long lived)		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	6.1X10 ⁴	1.6X10 ⁶
Eu-152		1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.5	1.8X10 ²
Eu-152m		8.0X10 ⁻¹	2.2X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	8.2X10 ⁴	2.2X10 ⁶
Eu-154		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.8	2.6X10 ²
Eu-155		2.0X10 ¹	5.4X10 ²	3.0	8.1X10 ¹	1.8X10 ¹	4.9X10 ²
Eu-156		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	2.0X10 ³	5.5X10 ⁴
F-18	Fluorine (9)	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.5X10 ⁶	9.5X10 ⁷
Fe-52 (a)	Iron (26)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.7X10 ⁵	7.3X10 ⁶
Fe-55		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	8.8X10 ¹	2.4X10 ³
Fe-59		9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	1.8X10 ³	5.0X10 ⁴
Fe-60 (a)		4.0X10 ¹	1.1X10 ³	2.0X10 ⁻¹	5.4	7.4X10 ⁻⁴	2.0X10 ⁻²
Ga-67	Gallium (31)	7.0	1.9X10 ²	3.0	8.1X10 ¹	2.2X10 ⁴	6.0X10 ⁵
Ga-68		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.5X10 ⁶	4.1X10 ⁷
Ga-72		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.1X10 ⁵	3.1X10 ⁶
Gd-146 (a)	Gadolinium (64)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.9X10 ²	1.9X10 ⁴
Gd-148		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	1.2	3.2X10 ¹
Gd-153		1.0X10 ¹	2.7X10 ²	9.0	2.4X10 ²	1.3X10 ²	3.5X10 ³
Gd-159		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.9X10 ⁴	1.1X10 ⁶
Ge-68 (a)	Germanium (32)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.6X10 ²	7.1X10 ³
Ge-71		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	5.8X10 ³	1.6X10 ⁵

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Ge-77		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.3X10 ⁵	3.6X10 ⁶
Hf-172 (a)	Hafnium (72)	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.1X10 ¹	1.1X10 ³
Hf-175		3.0	8.1X10 ¹	3.0	8.1X10 ¹	3.9X10 ²	1.1X10 ⁴
Hf-181		2.0	5.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.3X10 ²	1.7X10 ⁴
Hf-182		Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 ⁻⁶	2.2X10 ⁻⁴
Hg-194 (a)	Mercury (80)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.3X10 ⁻¹	3.5
Hg-195m (a)		3.0	8.1X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.5X10 ⁴	4.0X10 ⁵
Hg-197		2.0X10 ¹	5.4X10 ²	1.0X10 ¹	2.7X10 ²	9.2X10 ³	2.5X10 ⁵
Hg-197m		1.0X10 ¹	2.7X10 ²	4.0X10 ⁻¹	1.1X10 ¹	2.5X10 ⁴	6.7X10 ⁵
Hg-203		5.0	1.4X10 ²	1.0	2.7X10 ¹	5.1X10 ²	1.4X10 ⁴
Ho-166	Holmium (67)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	2.6X10 ⁴	7.0X10 ⁵
Ho-166m		6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.6X10 ⁻²	1.8
I-123	Iodine (53)	6.0	1.6X10 ²	3.0	8.1X10 ¹	7.1X10 ⁴	1.9X10 ⁶
I-124		1.0	2.7X10 ¹	1.0	2.7X10 ¹	9.3X10 ³	2.5X10 ⁵
I-125		2.0X10 ¹	5.4X10 ²	3.0	8.1X10 ¹	6.4X10 ²	1.7X10 ⁴
I-126		2.0	5.4X10 ¹	1.0	2.7X10 ¹	2.9X10 ³	8.0X10 ⁴
I-129		Unlimited	Unlimited	Unlimited	Unlimited	6.5X10 ⁻⁶	1.8X10 ⁻⁴
I-131		3.0	8.1X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.6X10 ³	1.2X10 ⁵
I-132		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.8X10 ⁵	1.0X10 ⁷
I-133		7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ⁴	1.1X10 ⁶
I-134		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	9.9X10 ⁵	2.7X10 ⁷
I-135 (a)		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.3X10 ⁵	3.5X10 ⁶
In-111	Indium (49)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	1.5X10 ⁴	4.2X10 ⁵
In-113m		4.0	1.1X10 ²	2.0	5.4X10 ¹	6.2X10 ⁵	1.7X10 ⁷
In-114m (a)		1.0X10 ¹	2.7X10 ²	5.0X10 ⁻¹	1.4X10 ¹	8.6X10 ²	2.3X10 ⁴
In-115m		7.0	1.9X10 ²	1.0	2.7X10 ¹	2.2X10 ⁵	6.1X10 ⁶
Ir-189 (a)	Iridium (77)	1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	1.9X10 ³	5.2X10 ⁴
Ir-190		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	2.3X10 ³	6.2X10 ⁴
Ir-192 (c)		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.4X10 ²	9.2X10 ³
Ir-194		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	3.1X10 ⁴	8.4X10 ⁵
K-40	Potassium (19)	9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	2.4X10 ⁻⁷	6.4X10 ⁻⁶
K-42		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	2.2X10 ⁵	6.0X10 ⁶
K-43		7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁵	3.3X10 ⁶
Kr-81	Krypton (36)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	7.8X10 ⁻⁴	2.1X10 ⁻²
Kr-85		1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	1.5X10 ¹	3.9X10 ²
Kr-85m		8.0	2.2X10 ²	3.0	8.1X10 ¹	3.0X10 ⁵	8.2X10 ⁶
Kr-87		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.0X10 ⁶	2.8X10 ⁷
La-137	Lanthanum (57)	3.0X10 ¹	8.1X10 ²	6.0	1.6X10 ²	1.6X10 ⁻³	4.4X10 ⁻²
La-140		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	2.1X10 ⁴	5.6X10 ⁵
Lu-172	Lutetium (71)	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ³	1.1X10 ⁵
Lu-173		8.0	2.2X10 ²	8.0	2.2X10 ²	5.6X10 ¹	1.5X10 ³
Lu-174		9.0	2.4X10 ²	9.0	2.4X10 ²	2.3X10 ¹	6.2X10 ²
Lu-174m		2.0X10 ¹	5.4X10 ²	1.0X10 ¹	2.7X10 ²	2.0X10 ²	5.3X10 ³
Lu-177		3.0X10 ¹	8.1X10 ²	7.0X10 ⁻¹	1.9X10 ¹	4.1X10 ³	1.1X10 ⁵
Mg-28 (a)	Magnesium (12)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.0X10 ⁵	5.4X10 ⁶
Mn-52	Manganese (25)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.6X10 ⁴	4.4X10 ⁵
Mn-53		Unlimited	Unlimited	Unlimited	Unlimited	6.8X10 ⁻⁵	1.8X10 ⁻³

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Mn-54		1.0	2.7X10 ¹	1.0	2.7X10 ¹	2.9X10 ²	7.7X10 ³
Mn-56		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	8.0X10 ⁵	2.2X10 ⁷
Mo-93	Molybdenum (42)	4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	4.1X10 ⁻²	1.1
Mo-99 (a) (i)		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.8X10 ⁴	4.8X10 ⁵
N-13	Nitrogen (7)	9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.4X10 ⁷	1.5X10 ⁹
Na-22	Sodium (11)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.3X10 ²	6.3X10 ³
Na-24		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	3.2X10 ⁵	8.7X10 ⁶
Nb-93m	Niobium (41)	4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	8.8	2.4X10 ²
Nb-94		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	6.9X10 ⁻³	1.9X10 ⁻¹
Nb-95		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.5X10 ³	3.9X10 ⁴
Nb-97		9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.9X10 ⁵	2.7X10 ⁷
Nd-147	Neodymium (60)	6.0	1.6X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ³	8.1X10 ⁴
Nd-149		6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	4.5X10 ⁵	1.2X10 ⁷
Ni-59	Nickel (28)	Unlimited	Unlimited	Unlimited	Unlimited	3.0X10 ⁻³	8.0X10 ⁻²
Ni-63		4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	2.1	5.7X10 ¹
Ni-65		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	7.1X10 ⁵	1.9X10 ⁷
Np-235	Neptunium (93)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	5.2X10 ¹	1.4X10 ³
Np-236 (short-lived)		2.0X10 ¹	5.4X10 ²	2.0	5.4X10 ¹	4.7X10 ⁻⁴	1.3X10 ⁻²
Np-236 (long-lived)		9.0X10 ⁰	2.4X10 ²	2.0X10 ⁻²	5.4X10 ⁻¹	4.7X10 ⁻⁴	1.3X10 ⁻²
Np-237		2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	2.6X10 ⁻⁵	7.1X10 ⁻⁴
Np-239		7.0	1.9X10 ²	4.0X10 ⁻¹	1.1X10 ¹	8.6X10 ³	2.3X10 ⁵
Os-185	Osmium (76)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	2.8X10 ²	7.5X10 ³
Os-191		1.0X10 ¹	2.7X10 ²	2.0	5.4X10 ¹	1.6X10 ³	4.4X10 ⁴
Os-191m		4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	4.6X10 ⁴	1.3X10 ⁶
Os-193		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	6.2X10 ⁴	5.3X10 ⁵
Os-194 (a)		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.1X10 ¹	3.1X10 ²
P-32	Phosphorus (15)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.1X10 ⁴	2.9X10 ⁵
P-33		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	5.8X10 ³	1.6X10 ⁵
Pa-230 (a)	Protactinium (91)	2.0	5.4X10 ¹	7.0X10 ⁻²	1.9	1.2X10 ³	3.3X10 ⁴
Pa-231		4.0	1.1X10 ²	4.0X10 ⁻⁴	1.1X10 ⁻²	1.7X10 ⁻³	4.7X10 ⁻²
Pa-233		5.0	1.4X10 ²	7.0X10 ⁻¹	1.9X10 ¹	7.7X10 ²	2.1X10 ⁴
Pb-201	Lead (82)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.2X10 ⁴	1.7X10 ⁶
Pb-202		4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	1.2X10 ⁻⁴	3.4X10 ⁻³
Pb-203		4.0	1.1X10 ²	3.0	8.1X10 ¹	1.1X10 ⁴	3.0X10 ⁵
Pb-205		Unlimited	Unlimited	Unlimited	Unlimited	4.5X10 ⁻⁶	1.2X10 ⁻⁴
Pb-210 (a)		1.0	2.7X10 ¹	5.0X10 ⁻²	1.4	2.8	7.6X10 ¹
Pb-212 (a)		7.0X10 ⁻¹	1.9X10 ¹	2.0X10 ⁻¹	5.4	5.1X10 ⁴	1.4X10 ⁶
Pd-103 (a)	Palladium (46)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	2.8X10 ³	7.5X10 ⁴
Pd-107		Unlimited	Unlimited	Unlimited	Unlimited	1.9X10 ⁻⁵	5.1X10 ⁻⁴
Pd-109		2.0	5.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	7.9X10 ⁴	2.1X10 ⁶
Pm-143	Promethium (61)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	1.3X10 ²	3.4X10 ³
Pm-144		7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	9.2X10 ¹	2.5X10 ³
Pm-145		3.0X10 ¹	8.1X10 ²	1.0X10 ¹	2.7X10 ²	5.2	1.4X10 ²
Pm-147		4.0X10 ¹	1.1X10 ³	2.0	5.4X10 ¹	3.4X10 ¹	9.3X10 ²
Pm-148m (a)		8.0X10 ⁻¹	2.2X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	7.9X10 ²	2.1X10 ⁴
Pm-149		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.5X10 ⁴	4.0X10 ⁵
Pm-151		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.7X10 ⁴	7.3X10 ⁵

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
Po-210	Polonium (84)	4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	1.7X10 ²	4.5X10 ³
Pr-142	Praseodymium (59)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.3X10 ⁴	1.2X10 ⁶
Pr-143		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ³	6.7X10 ⁴
Pt-188 (a)	Platinum (78)	1.0	2.7X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	2.5X10 ³	6.8X10 ⁴
Pt-191		4.0	1.1X10 ²	3.0	8.1X10 ¹	8.7X10 ³	2.4X10 ⁵
Pt-193		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	1.4	3.7X10 ¹
Pt-193m		4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	5.8X10 ³	1.6X10 ⁵
Pt-195m		1.0X10 ¹	2.7X10 ²	5.0X10 ⁻¹	1.4X10 ¹	6.2X10 ³	1.7X10 ⁵
Pt-197		2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.2X10 ⁴	8.7X10 ⁵
Pt-197m		1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.7X10 ⁵	1.0X10 ⁷
Pu-236	Plutonium (94)	3.0X10 ¹	8.1X10 ²	3.0X10 ⁻³	8.1X10 ⁻²	2.0X10 ¹	5.3X10 ²
Pu-237		2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	4.5X10 ²	1.2X10 ⁴
Pu-238		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	6.3X10 ⁻¹	1.7X10 ¹
Pu-239		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	2.3X10 ⁻³	6.2X10 ⁻²
Pu-240		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	8.4X10 ⁻³	2.3X10 ⁻¹
Pu-241 (a)		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻²	1.6	3.8	1.0X10 ²
Pu-242		1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.5X10 ⁻⁴	3.9X10 ⁻³
Pu-244 (a)		4.0X10 ⁻¹	1.1X10 ¹	1.0X10 ⁻³	2.7X10 ⁻²	6.7X10 ⁻⁷	1.8X10 ⁻⁵
Ra-223 (a)	Radium (88)	4.0X10 ⁻¹	1.1X10 ¹	7.0X10 ⁻³	1.9X10 ⁻¹	1.9X10 ³	5.1X10 ⁴
Ra-224 (a)		4.0X10 ⁻¹	1.1X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	5.9X10 ³	1.6X10 ⁵
Ra-225 (a)		2.0X10 ⁻¹	5.4	4.0X10 ⁻³	1.1X10 ⁻¹	1.5X10 ³	3.9X10 ⁴
Ra-226 (a)		2.0X10 ⁻¹	5.4	3.0X10 ⁻³	8.1X10 ⁻²	3.7X10 ⁻²	1.0
Ra-228 (a)		6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	1.0X10 ¹	2.7X10 ²
Rb-81	Rubidium (37)	2.0	5.4X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	3.1X10 ⁵	8.4X10 ⁶
Rb-83 (a)		2.0	5.4X10 ¹	2.0	5.4X10 ¹	6.8X10 ²	1.8X10 ⁴
Rb-84		1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.8X10 ³	4.7X10 ⁴
Rb-86		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	3.0X10 ³	8.1X10 ⁴
Rb-87		Unlimited	Unlimited	Unlimited	Unlimited	3.2X10 ⁻⁹	8.6X10 ⁻⁸
Rb (nat)		Unlimited	Unlimited	Unlimited	Unlimited	6.7X10 ⁶	1.8X10 ⁸
Re-184	Rhenium (75)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.9X10 ²	1.9X10 ⁴
Re-184m		3.0	8.1X10 ¹	1.0	2.7X10 ¹	1.6X10 ²	4.3X10 ³
Re-186		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	6.9X10 ³	1.9X10 ⁵
Re-187		Unlimited	Unlimited	Unlimited	Unlimited	1.4X10 ⁻⁹	3.8X10 ⁻⁸
Re-188		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.6X10 ⁴	9.8X10 ⁵
Re-189 (a)		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁴	6.8X10 ⁵
Re (nat)		Unlimited	Unlimited	Unlimited	Unlimited	0.0	2.4X10 ⁻⁸
Rh-99	Rhodium (45)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.0X10 ³	8.2X10 ⁴
Rh-101		4.0	1.1X10 ²	3.0	8.1X10 ¹	4.1X10 ¹	1.1X10 ³
Rh-102		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	4.5X10 ¹	1.2X10 ³
Rh-102m		2.0	5.4X10 ¹	2.0	5.4X10 ¹	2.3X10 ²	6.2X10 ³
Rh-103m		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	1.2X10 ⁶	3.3X10 ⁷
Rh-105		1.0X10 ¹	2.7X10 ²	8.0X10 ⁻¹	2.2X10 ¹	3.1X10 ⁴	8.4X10 ⁵
Rn-222 (a)	Radon (86)	3.0X10 ⁻¹	8.1	4.0X10 ⁻³	1.1X10 ⁻¹	5.7X10 ³	1.5X10 ⁵
Ru-97	Ruthenium (44)	5.0	1.4X10 ²	5.0	1.4X10 ²	1.7X10 ⁴	4.6X10 ⁵
Ru-103 (a)		2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.2X10 ³	3.2X10 ⁴
Ru-105		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁵	6.7X10 ⁶
Ru-106 (a)		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.2X10 ²	3.3X10 ³

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
S-35	Sulphur (16)	4.0X10 ¹	1.1X10 ³	3.0	8.1X10 ¹	1.6X10 ³	4.3X10 ⁴
Sb-122	Antimony (51)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.5X10 ⁴	4.0X10 ⁵
Sb-124		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	6.5X10 ²	1.7X10 ⁴
Sb-125		2.0	5.4X10 ¹	1.0	2.7X10 ¹	3.9X10 ¹	1.0X10 ³
Sb-126		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.1X10 ³	8.4X10 ⁴
Sc-44	Scandium (21)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.7X10 ⁵	1.8X10 ⁷
Sc-46		5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.3X10 ³	3.4X10 ⁴
Sc-47		1.0X10 ¹	2.7X10 ²	7.0X10 ⁻¹	1.9X10 ¹	3.1X10 ⁴	8.3X10 ⁵
Sc-48		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.5X10 ⁴	1.5X10 ⁶
Se-75	Selenium (34)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	5.4X10 ²	1.5X10 ⁴
Se-79		4.0X10 ¹	1.1X10 ³	2.0	5.4X10 ¹	2.6X10 ⁻³	7.0X10 ⁻²
Si-31	Silicon (14)	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.4X10 ⁶	3.9X10 ⁷
Si-32		4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	3.9	1.1X10 ²
Sm-145	Samarium (62)	1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	9.8X10 ¹	2.6X10 ³
Sm-147		Unlimited	Unlimited	Unlimited	Unlimited	8.5X10 ⁻¹	2.3X10 ⁻⁸
Sm-151		4.0X10 ¹	1.1X10 ³	1.0X10 ¹	2.7X10 ²	9.7X10 ⁻¹	2.6X10 ¹
Sm-153		9.0	2.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.6X10 ⁴	4.4X10 ⁵
Sn-113 (a)	Tin (50)	4.0	1.1X10 ²	2.0	5.4X10 ¹	3.7X10 ²	1.0X10 ⁴
Sn-117m		7.0	1.9X10 ²	4.0X10 ⁻¹	1.1X10 ¹	3.0X10 ³	8.2X10 ⁴
Sn-119m		4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	1.4X10 ²	3.7X10 ³
Sn-121m (a)		4.0X10 ¹	1.1X10 ³	9.0X10 ⁻¹	2.4X10 ¹	2.0	5.4X10 ¹
Sn-123		8.0X10 ⁻¹	2.2X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ²	8.2X10 ³
Sn-125		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ³	1.1X10 ⁵
Sn-126 (a)		6.0X10 ⁻¹	1.6X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.0X10 ⁻³	2.8X10 ⁻²
Sr-82 (a)	Strontium (38)	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	2.3X10 ³	6.2X10 ⁴
Sr-85		2.0	5.4X10 ¹	2.0	5.4X10 ¹	8.8X10 ²	2.4X10 ⁴
Sr-85m		5.0	1.4X10 ²	5.0	1.4X10 ²	1.2X10 ⁶	3.3X10 ⁷
Sr-87m		3.0	8.1X10 ¹	3.0	8.1X10 ¹	4.8X10 ⁵	1.3X10 ⁷
Sr-89		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.1X10 ³	2.9X10 ⁴
Sr-90 (a)		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.1	1.4X10 ²
Sr-91 (a)		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.3X10 ⁵	3.6X10 ⁶
Sr-92 (a)		1.0	2.7X10 ¹	3.0X10 ⁻¹	8.1	4.7X10 ⁵	1.3X10 ⁷
T(H-3)	Tritium (1)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.6X10 ²	9.7X10 ³
Ta-178 (long-lived)	Tantalum (73)	1.0	2.7X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	4.2X10 ⁶	1.1X10 ⁸
Ta-179		3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	4.1X10 ¹	1.1X10 ³
Ta-182		9.0X10 ⁻¹	2.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.3X10 ²	6.2X10 ³
Tb-157	Terbium (65)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	5.6X10 ⁻¹	1.5X10 ¹
Tb-158		1.0	2.7X10 ¹	1.0	2.7X10 ¹	5.6X10 ⁻¹	1.5X10 ¹
Tb-160		1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ²	1.1X10 ⁴
Tc-95m (a)	Technetium (43)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	8.3X10 ²	2.2X10 ⁴
Tc-96		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.2X10 ⁴	3.2X10 ⁵
Tc-96m (a)		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.4X10 ⁶	3.8X10 ⁷
Tc-97		Unlimited	Unlimited	Unlimited	Unlimited	5.2X10 ⁻⁵	1.4X10 ⁻³
Tc-97m		4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	5.6X10 ²	1.5X10 ⁴
Tc-98		8.0X10 ⁻¹	2.2X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	3.2X10 ⁻⁵	8.7X10 ⁻⁴
Tc-99		4.0X10 ¹	1.1X10 ³	9.0X10 ⁻¹	2.4X10 ¹	6.3X10 ⁻⁴	1.7X10 ⁻²
Tc-99m		1.0X10 ¹	2.7X10 ²	4.0	1.1X10 ²	1.9X10 ⁵	5.3X10 ⁶

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

Symbol of radionuclide	Element and atomic number	A1 (TBq)	A1 (Ci) ^b	A2 (TBq)	A2 (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
U-235 (all lung absorption types) (a), (d), (e), (f)		Unlimited	Unlimited	Unlimited	Unlimited	8.0X10 ⁻⁸	2.2X10 ⁻⁶
U-236 (fast lung absorption) (d)		Unlimited	Unlimited	Unlimited	Unlimited	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-236 (medium lung absorption) (e)		4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-236 (slow lung absorption) (f)		4.0X10 ¹	1.1X10 ³	6.0X10 ⁻³	1.6X10 ⁻¹	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-238 (all lung absorption types) (d), (e), (f)		Unlimited	Unlimited	Unlimited	Unlimited	1.2X10 ⁻⁸	3.4X10 ⁻⁷
U (nat)		Unlimited	Unlimited	Unlimited	Unlimited	2.6X10 ⁻⁸	7.1X10 ⁻⁷
U (enriched to 20% or less) (g)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-4
U (dep)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-3
V-48	Vanadium (23)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	6.3X10 ³	1.7X10 ⁵
V-49		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.0X10 ²	8.1X10 ³
W-178 (a)	Tungsten (74)	9.0	2.4X10 ²	5.0	1.4X10 ²	1.3X10 ³	3.4X10 ⁴
W-181		3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	2.2X10 ²	6.0X10 ³
W-185		4.0X10 ¹	1.1X10 ³	8.0X10 ⁻¹	2.2X10 ¹	3.5X10 ²	9.4X10 ³
W-187		2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.6X10 ⁴	7.0X10 ⁵
W-188 (a)		4.0X10 ⁻¹	1.1X10 ¹	3.0X10 ⁻¹	8.1	3.7X10 ²	1.0X10 ⁴
Xe-122 (a)	Xenon (54)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.8X10 ⁴	1.3X10 ⁶
Xe-123		2.0	5.4X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.4X10 ⁵	1.2X10 ⁷
Xe-127		4.0	1.1X10 ²	2.0	5.4X10 ¹	1.0X10 ³	2.8X10 ⁴
Xe-131m		4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.1X10 ³	8.4X10 ⁴
Xe-133		2.0X10 ¹	5.4X10 ²	1.0X10 ¹	2.7X10 ²	6.9X10 ³	1.9X10 ⁵
Xe-135		3.0	8.1X10 ¹	2.0	5.4X10 ¹	9.5X10 ⁴	2.6X10 ⁶
Y-87 (a)	Yttrium (39)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.7X10 ⁴	4.5X10 ⁵
Y-88		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	5.2X10 ²	1.4X10 ⁴
Y-90		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.0X10 ⁴	5.4X10 ⁵
Y-91		6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.1X10 ²	2.5X10 ⁴
Y-91m		2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.5X10 ⁶	4.2X10 ⁷
Y-92		2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	3.6X10 ⁵	9.6X10 ⁶
Y-93		3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.2X10 ⁵	3.3X10 ⁶
Yb-169	Ytterbium (70)	4.0	1.1X10 ²	1.0	2.7X10 ¹	8.9X10 ²	2.4X10 ⁴
Yb-175		3.0X10 ¹	8.1X10 ²	9.0X10 ⁻¹	2.4X10 ¹	6.6X10 ³	1.8X10 ⁵
Zn-65	Zinc (30)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.0X10 ²	8.2X10 ³
Zn-69		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.8X10 ⁶	4.9X10 ⁷
Zn-69m (a)		3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁵	3.3X10 ⁶
Zr-88	Zirconium (40)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	6.6X10 ²	1.8X10 ⁴
Zr-93		Unlimited	Unlimited	Unlimited	Unlimited	9.3X10 ⁻⁵	2.5X10 ⁻³
Zr-95 (a)		2.0	5.4X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	7.9X10 ²	2.1X10 ⁴
Zr-97 (a)		4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	7.1X10 ⁴	1.9X10 ⁶

(a) A₁ (and/or) A₂ values include contributions from daughter nuclides with half-lives less than ten days.

(b) (Reserved.)

(c) The quantity may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.

(d) These values apply only to compounds of uranium that take the chemical form of UF₆, UO₂F₂ and UO₂(NO₃)₂ in both normal and accident conditions of transport.

(e) These values apply only to compounds of uranium that take the chemical form of UO₃, UF₄, UCl₄ and hexavalent compounds in both normal and accident conditions of transport.

- (f) These values apply to all compounds of uranium other than those specified in notes (d) and (e) of this table.
 (g) These values apply to unirradiated uranium only.
 (h) $A_1 = 0.1$ TBq (2.7 Ci) and $A_2 = 0.001$ TBq (0.027 Ci) for Cf-252 for domestic use.
 (i) $A_2 = 0.74$ TBq (20 Ci) for Mo-99 for domestic use.

Table A-2.—Exempt Material Activity Concentrations and Exempt Consignment Activity Limits for Radionuclides

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Ac-225	Actinium (89)	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Ac-227	-	1.0×10^{-1}	2.7×10^{-12}	1.0×10^3	2.7×10^{-8}
Ac-228	-	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ag-105	Silver (47)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ag-108m (b)	-	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ag-110m	-	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ag-111	-	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Al-26	Aluminum (13)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Am-241	Americium (95)	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Am-242m (b)	-	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Am-243 (b)	-	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Ar-37	Argon (18)	1.0×10^6	2.7×10^{-5}	1.0×10^8	2.7×10^{-3}
Ar-39	-	1.0×10^7	2.7×10^{-4}	1.0×10^4	2.7×10^{-7}
Ar-41	-	1.0×10^2	2.7×10^{-9}	1.0×10^9	2.7×10^{-2}
As-72	Arsenic (33)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
As-73	-	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
As-74	-	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
As-76	-	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
As-77	-	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
At-211	Astatine (85)	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Au-193	Gold (79)	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Au-194	-	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Au-195	-	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Au-198	-	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Au-199	-	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-131	Barium (56)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-133	-	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-133m	-	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-140 (b)	-	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Be-7	Beryllium (4)	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Be-10	-	1.0×10^4	2.7×10^{-7}	1.0×10^6	2.7×10^{-5}
Bi-205	Bismuth (83)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Bi-206	-	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Bi-207	-	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Bi-210	-	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Bi-210m	-	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Bi-212 (b)	-	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Bk-247	Berkelium (97)	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Bk-249	-	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Br-76	Bromine (35)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Br-77	-	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Br-82	-	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
C-11	Carbon (6)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
C-14	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Ca-41	Calcium (20)	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁷	2.7X10 ⁻⁴
Ca-45	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Ca-47	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-109	Cadmium (48)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-113m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-115	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Cd-115m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Ce-139	Cerium (58)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ce-141	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Ce-143	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ce-144 (b)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cf-248	Californium (98)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cf-249	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cf-250	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cf-251	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cf-252	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cf-253	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cf-254	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cl-36	Chlorine (17)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Cl-38	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cm-240	Curium (96)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cm-241	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Cm-242	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cm-243	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Cm-244	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cm-245	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cm-246	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Cm-247	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Cm-248	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Co-55	Cobalt (27)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Co-56	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Co-57	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Co-58	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Co-58m	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Co-60	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cr-51	Chromium (24)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Cs-129	Cesium (55)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-131	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Cs-132	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-134	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cs-134m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-135	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Cs-136	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Cs-137 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Cu-64	Copper (29)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Cu-67	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Dy-159	Dysprosium (66)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Dy-165	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Dy-166	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Er-169	Erbium (68)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Er-171	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-147	Europium (63)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-148	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-149	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Eu-150 (short lived)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-150 (long lived)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-152	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-152m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-154	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Eu-155	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Eu-156	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
F-18	Fluorine (9)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-52	Iron (26)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-55	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-59	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Fe-60	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ga-67	Gallium (31)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ga-68	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Ga-72	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Gd-146	Gadolinium (64)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Gd-148	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Gd-153	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Gd-159	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Ge-68	Germanium (32)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Ge-71	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Ge-77	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Hf-172	Hafnium (72)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Hf-175	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hf-181	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Hf-182	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-194	Mercury (80)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-195m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-197	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Hg-197m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Hg-203	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ho-166	Holmium (67)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Ho-166m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
I-123	Iodine (53)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
I-124	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
I-125	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
I-126	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
I-129	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
I-131	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
I-132	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
I-133	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
I-134	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
I-135	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
In-111	Indium (49)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
In-113m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
In-114m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
In-115m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ir-189	Iridium (77)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Ir-190	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ir-192	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Ir-194	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
K-40	Potassium (19)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
K-42	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
K-43	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Kr-81	Krypton (36)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Kr-85	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁴	2.7X10 ⁻⁷
Kr-85m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ¹⁰	2.7X10 ⁻¹
Kr-87	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
La-137	Lanthanum (57)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
La-140	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Lu-172	Lutetium (71)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Lu-173	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Lu-174	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Lu-174m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Lu-177	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Mg-28	Magnesium (12)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Mn-52	Manganese (25)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Mn-53	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁹	2.7X10 ⁻²
Mn-54	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Mn-56	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Mo-93	Molybdenum (42)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁸	2.7X10 ⁻³
Mo-99	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
N-13	Nitrogen (7)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
Na-22	Sodium (11)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Na-24	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Nb-93m	Niobium (41)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Nb-94	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Nb-95	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Nb-97	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Nd-147	Neodymium (60)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Nd-149	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ni-59	Nickel (28)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Ni-63	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Ni-65	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Np-235	Neptunium (93)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Np-236 (short-lived)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Np-236 (long-lived)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Np-237 (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Np-239	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Os-185	Osmium (76)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Os-191	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Os-191m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Os-193	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Os-194	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
P-32	Phosphorus (15)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
P-33	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Pa-230	Protactinium (91)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pa-231	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Pa-233	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Pb-201	Lead (82)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pb-202	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pb-203	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pb-205	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Pb-210 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Pb-212 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Pd-103	Palladium (46)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁸	2.7X10 ⁻³
Pd-107	-	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Pd-109	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-143	Promethium (61)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-144	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-145	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Pm-147	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Pm-148m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-149	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pm-151	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Po-210	Polonium (84)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Pr-142	Praseodymium (59)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Pr-143	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-188	Platinum (78)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-191	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-193	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Pt-193m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Pt-195m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-197	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Pt-197m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Pu-236	Plutonium (94)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Pu-237	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Pu-238	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Pu-239	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Pu-240	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Pu-241	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Pu-242	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Pu-244	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Ra-223 (b)	Radium (88)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ra-224 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Ra-225	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Ra-226 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Ra-228 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Rb-81	Rubidium (37)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rb-83	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Rb-84	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rb-86	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Rb-87	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Rb (nat)	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Re-184	Rhenium (75)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Re-184m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Re-186	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Re-187	-	1.0X10 ⁶	2.7X10 ⁻⁵	1.0X10 ⁹	2.7X10 ⁻²
Re-188	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Re-189	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Re (nat)	-	1.0X10 ⁶	2.7X10 ⁻⁵	1.0X10 ⁹	2.7X10 ⁻²
Rh-99	Rhodium (45)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rh-101	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Rh-102	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Rh-102m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Rh-103m	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Rh-105	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Rn-222 (b)	Radon (86)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁸	2.7X10 ⁻³
Ru-97	Ruthenium (44)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Ru-103	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Ru-105	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ru-106 (b)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
S-35	Sulphur (16)	1.0X10 ⁵	2.7X10 ⁻⁶	1.0X10 ⁸	2.7X10 ⁻³
Sb-122	Antimony (51)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁴	2.7X10 ⁻⁷
Sb-124	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Sb-125	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sb-126	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sc-44	Scandium (21)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sc-46	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Sc-47	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sc-48	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Se-75	Selenium (34)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Se-79	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Si-31	Silicon (14)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Si-32	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Sm-145	Samarium (62)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Sm-147	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Sm-151	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
Sm-153	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Sn-113	Tin (50)	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Sn-117m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sn-119m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Sn-121m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Sn-123	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Sn-125	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Sn-126	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sr-82	Strontium (38)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sr-85	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sr-85m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Sr-87m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Sr-89	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Sr-90 (b)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁴	2.7X10 ⁻⁷
Sr-91	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Sr-92	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
T(H-3)	Tritium (1)	1.0X10 ⁶	2.7X10 ⁻⁵	1.0X10 ⁹	2.7X10 ⁻²
Ta-178 (long-lived)	Tantalum (73)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Ta-179	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Ta-182	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Tb-157	Terbium (65)	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Tb-158	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tb-160	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-95m	Technetium (43)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-96	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-96m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Tc-97	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁸	2.7X10 ⁻³
Tc-97m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Tc-98	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tc-99	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
Tc-99m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Te-121	Tellurium (52)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Te-121m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Te-123m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Te-125m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Te-127	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Te-127m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Te-129	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Te-129m	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Te-131m	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Te-132	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Th-227	Thorium (90)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Th-228 (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Th-229 (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Th-230	-	1.0	2.7X10 ⁻¹¹	1.0X10 ⁴	2.7X10 ⁻⁷
Th-231	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Th-232	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
Th-234 (b)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Th (nat) (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
Ti-44	Titanium (22)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
Tl-200	Thallium (81)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Tl-201	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Tl-202	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Tl-204	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁴	2.7X10 ⁻⁷
Tm-167	Thulium (69)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Tm-170	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Tm-171	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁸	2.7X10 ⁻³
U-230 (fast lung absorption) (b), (d)	Uranium (92)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
U-230 (medium lung absorption) (e)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-230 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-232 (fast lung absorption) (b), (d)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
U-232 (medium lung absorption) (e)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-232 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-233 (fast lung absorption) (d)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-233 (medium lung absorption) (e)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
U-233 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
U-234 (fast lung absorption) (d)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-234 (medium lung absorption) (e)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
U-234 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
U-235 (all lung absorption types) (b), (d), (e), (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-236 (fast lung absorption) (d)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-236 (medium lung absorption) (e)	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
U-236 (slow lung absorption) (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U-238 (all lung absorption types) (b), (d), (e), (f)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁴	2.7X10 ⁻⁷
U (nat) (b)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
U (enriched to 20% or less) (g)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
U (dep)	-	1.0	2.7X10 ⁻¹¹	1.0X10 ³	2.7X10 ⁻⁸
V-48	Vanadium (23)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶
V-49	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
W-178	Tungsten (74)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
W-181	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
W-185	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁷	2.7X10 ⁻⁴
W-187	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
W-188	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Xe-122	Xenon (54)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
Xe-123	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁹	2.7X10 ⁻²
Xe-127	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶
Xe-131m	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁴	2.7X10 ⁻⁷
Xe-133	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁴	2.7X10 ⁻⁷
Xe-135	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ¹⁰	2.7X10 ⁻¹
Y-87	Yttrium (39)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Y-88	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Y-90	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁵	2.7X10 ⁻⁶

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Y-91	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁶	2.7X10 ⁻⁵
Y-91m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Y-92	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Y-93	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁵	2.7X10 ⁻⁶
Yb-169	Ytterbium (70)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁷	2.7X10 ⁻⁴
Yb-175	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Zn-65	Zinc (30)	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Zn-69	-	1.0X10 ⁴	2.7X10 ⁻⁷	1.0X10 ⁶	2.7X10 ⁻⁵
Zn-69m	-	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Zr-88	Zirconium (40)	1.0X10 ²	2.7X10 ⁻⁹	1.0X10 ⁶	2.7X10 ⁻⁵
Zr-93 (b)	-	1.0X10 ³	2.7X10 ⁻⁸	1.0X10 ⁷	2.7X10 ⁻⁴
Zr-95	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁶	2.7X10 ⁻⁵
Zr-97 (b)	-	1.0X10 ¹	2.7X10 ⁻¹⁰	1.0X10 ⁵	2.7X10 ⁻⁶

(a) (Reserved)

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

Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
Cs-137	Ba-137m
Ce-134	La-134
Ce-144	Pr-144
Ba-140	La-140
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
Rn-220	Po-216
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
Th-226	Ra-222, Rn-218, Po-214
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-nat	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-234	Pa-234m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234m
U-nat	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
U-240	Np-240m
Np-237	Pa-233
Am-242m	Am-242
Am-243	Np-239

(c) (Reserved)

(d) These values apply only to compounds of uranium that take the chemical form of UF₆, UO₂F₂ and UO₂(NO₃)₂ in both normal and accident conditions of transport.

(e) These values apply only to compounds of uranium that take the chemical form of UO₃, UF₄, UCl₄ and hexavalent compounds in both normal and accident conditions of transport.

(f) These values apply to all compounds of uranium other than those specified in notes (d) and (e) of this table.

(g) These values apply to unirradiated uranium only.

Table A-3. General Values for A1 and A2

Contents	A ₁		A ₂		Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limits for exempt consignments (Bq)	Activity limits for exempt consignments (Ci)
	(TBq)	(Ci)	(TBq)	(Ci)				
Only beta or gamma emitting radionuclides are known to be present	1 x 10 ⁻¹	2.7 x 10 ⁰	2 x 10 ⁻²	5.4 x 10 ⁻¹	1 x 10 ¹	2.7 x 10 ⁻¹⁰	1 x 10 ⁴	2.7 x 10 ⁻⁷
Only alpha emitting radionuclides are known to be present	2 x 10 ⁻¹	5.4 x 10 ⁰	9 x 10 ⁻⁵	2.4 x 10 ⁻³	1 x 10 ⁻¹	2.7 x 10 ⁻¹²	1 x 10 ³	2.7 x 10 ⁻⁸
No relevant data are available	1 x 10 ⁻³	2.7 x 10 ⁻²	9 x 10 ⁻⁵	2.4 x 10 ⁻³	1 x 10 ⁻¹	2.7 x 10 ⁻¹²	1 x 10 ³	2.7 x 10 ⁻⁸

Table A-4. Activity-Mass Relationships for Uranium

Uranium Enrichment ¹ wt % U-235 present	Specific Activity	
	TBq/g	Ci/g
0.45	1.8 x 10 ⁻⁸	5.0 x 10 ⁻⁷
0.72	2.6 x 10 ⁻⁸	7.1 x 10 ⁻⁷
1	2.8 x 10 ⁻⁸	7.6 x 10 ⁻⁷
1.5	3.7 x 10 ⁻⁸	1.0 x 10 ⁻⁶
5	1.0 x 10 ⁻⁷	2.7 x 10 ⁻⁶
10	1.8 x 10 ⁻⁷	4.8 x 10 ⁻⁶
20	3.7 x 10 ⁻⁷	1.0 x 10 ⁻⁵
35	7.4 x 10 ⁻⁷	2.0 x 10 ⁻⁵
50	9.3 x 10 ⁻⁷	2.5 x 10 ⁻⁵
90	2.2 x 10 ⁻⁶	5.8 x 10 ⁻⁵
93	2.6 x 10 ⁻⁶	7.0 x 10 ⁻⁵
95	3.4 x 10 ⁻⁶	9.1 x 10 ⁻⁵

¹ The figures for uranium include representative values for the activity of the uranium-234 that is concentrated during the enrichment process.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-231-080 General license—DOT specification container.

AMENDATORY SECTION (Amending WSR 13-11-021, filed 5/7/13, effective 6/7/13)

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. (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 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 hours of training and experience as described in subsection (2) of this section. Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or Royal College of Physicians and Surgeons of Canada or the Committee on Postgraduate Training of the American Osteopathic Association; 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 material(~~and~~

~~(c) Obtain written attestation that the individual has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under WAC 246-240-201. The written attestation must be signed by a preceptor authorized user who meets the requirements in WAC 246-240-078, 246-240-210, or equivalent NRC or agreement state requirements. The preceptor authorized user, who meets the requirements in WAC 246-240-078 or 246-240-210 must have experience in administering dosages in the same dosage category or categories (i.e., this section) as the individual requesting authorized user status); or~~

(2) Has completed seven hundred hours of training and experience, including a minimum of two hundred 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) Classroom and laboratory training in the following areas:

- (i) Radiation physics and instrumentation;
- (ii) Radiation protection;

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

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in 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 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) ~~((Eluting generator systems, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and~~

~~(vii))~~ Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

(A) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131 for which a written directive is required;

(B) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131. Experience with at least three cases in this also satisfies the requirement in ~~(b)((vii))~~ (vi)(A) of this subsection;

(C) Parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV for which a written directive is required; or

(D) Parenteral administration of any other radionuclide for which a written directive is required; and

(E) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsection (1)(a) and ~~(2)(b)((vii))~~ (vi) of this section, ~~((WAC 246-240-078,))~~ and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under WAC 246-240-201. The written attestation must be signed by a preceptor authorized user who meets the requirements in this section, WAC 246-240-078, or equivalent NRC or agreement state requirements. The preceptor authorized user, who meets the requirements in this subsection ~~((2))~~, must also have experience in administering dosages in the same dosage category or categories (i.e., this section) as the individual requesting authorized user status.

WSR 14-09-024
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Division of Credit Unions)

[Filed April 9, 2014, 9:23 a.m., effective May 10, 2014]

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

Purpose: To address and provide standards for Washington State Chartered Credit Unions for when the director of credit unions will require credit union board directors to meet on a more frequent basis than the minimum of six times in a calendar year and at least once a quarter.

Statutory Authority for Adoption: RCW 31.12.225.

Other Authority: Chapter 34, Laws of 2013.

Adopted under notice filed as WSR 14-04-127 on February 5, 2014.

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 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, 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 1, 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: April 8, 2014.

Linda Jekel, Director
Division of Credit Unions

NEW SECTION

WAC 208-400-020 Definitions. Unless the context clearly requires otherwise, as used in this chapter:

"Board" has the same meaning as ascribed in RCW 31.12.005(1).

"Board chair" means the serving chairperson of the board of directors of a credit union, who has been duly appointed by the board of directors to serve as its chair.

"CAMEL" means the rating system used to measure the safety and soundness of credit unions that are insured by the National Credit Union Share Insurance Fund (as defined in 12 U.S.C. Sec. 1783) and which scores a credit union's capital adequacy, asset quality, management, earnings, and asset/liability management (liquidity), both individually and on a composite basis.

"Credit union" has the same meaning as ascribed in RCW 31.12.005(5).

"Director" has the same meaning as ascribed to that term in RCW 31.12.005(8).

"Manager" means the duly appointed and serving chief executive officer of a credit union.

"**Troubled condition**" has the same meaning ascribed to that term in the rules of the National Credit Union Administration, at 12 C.F.R. Sec. 701.14 (b)(3).

"**Unsafe or unsound practice**" has the same definition as ascribed to that term in RCW 31.12.005(26).

NEW SECTION

WAC 208-400-030 Frequency of board meetings. (1) Authority to determine the frequency of board of directors meetings. Subject to the provisions of this section, a board may determine the frequency of its meetings and must specify such frequency in its bylaws.

(2) **Minimum meeting requirement.** A board of directors must meet a minimum of six times in each calendar year and at least once per calendar quarter.

(3) **Director's authority to require more frequent meetings.** The director may require that a board meet more frequently if he or she finds that it is necessary for the board to meet more frequently to address examination matters, including without limitation, evidence of any of the following:

- (a) The credit union's current composite CAMEL rating issued by the director is a 3, 4, or 5;
- (b) The credit union's current management component CAMEL rating issued by the director is a 3, 4, or 5;
- (c) The credit union's net worth ratio is less than seven percent;
- (d) The credit union is currently in a troubled condition;
- (e) In the judgment of the director, the credit union has committed an unsafe or unsound practice that has not been corrected to the satisfaction of the director and that continues to be a concern to the director, or the credit union is about to commit an unsafe or unsound practice; or
- (f) The credit union has been notified in writing by the director of a significant supervisory or financial concern.

(4) **Notification to the board.** If the director determines as set forth in subsection (3) of this section, that a board of directors must meet more frequently than as set forth in subsection (2) of this section, the director will send written notice to the board chair, with a copy to the credit union's manager, setting forth the director's findings underlying the determination and the required frequency of the board of directors' meetings. This notice will remain in effect until rescinded in writing by the director.

- For adoption of increased flexible thresholds for minor new construction, more specific requirements regarding cultural resources and an increase in notice to sixty days.
- Expanded minor new construction exemptions for installation or removal of tanks and solar energy projects.
- New exemption for small maintenance dredging projects.
- Update of exemption for land use decisions to provide that most land use decisions will be exempt for otherwise exempt projects, with some limited exceptions.
- New exemption for formation of special districts.
- New exemption for text amendments of ordinances or codes that do not change environmental standards.
- Update of utility exemption for water pipe size to align with industry standards.
- Allow department of natural resource (DNR) rock sales on state owned land.
- Clarified and expanded Washington state department of transportation (WSDOT) maintenance exemptions.
- Environmental checklist updates.
- Other minor updates, clarifications and technical corrections.

Ecology is repealing chapter 173-806 WAC, Model ordinance, in response to changes being made in chapter 197-11 WAC and will make the model ordinance available as guidance rather than rule.

Ecology is repealing chapter 197-06 WAC, Public records, this rule is being repealed because (1) a number of the provisions are specific to the council on environmental policy that was established in the 1970s and no longer exists; (2) the sections of the rule related to public records have been superseded by chapter 173-03 WAC.

Citation of Existing Rules Affected by this Order: Repealing chapters 173-806, 197-06 WAC; and amending chapter 197-11 WAC.

Statutory Authority for Adoption: State Environmental Policy Act, RCW 43.21C.110, see also RCW 43.21C.100 which abolished the council of environmental policy as of June 30, 1976.

Adopted under notice filed as WSR 14-01-078 on December 16, 2013.

Changes Other than Editing from Proposed to Adopted Version:

**WSR 14-09-026
PERMANENT RULES
DEPARTMENT OF ECOLOGY**

[Order 13-01—Filed April 9, 2014, 11:13 a.m., effective May 10, 2014]

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

Purpose: Ecology is adopting amendments to chapter 197-11 WAC, State Environmental Policy Act (SEPA). The rule changes include, but are not limited to the following:

- Expanded use of National Environmental Policy Act (NEPA) documentation by lead agencies.
- Update of definition for "lands covered by water."

WAC Section	Description of Change
197-11-610	Added a clarification that a NEPA environmental assessment is to support a determination not replace it.
197-11-800 (1)(c)(ii)	Provided clarification that notice is to include public, affected tribes and agencies.

WAC Section	Description of Change
197-11-800 (1)(c)(iii)	For clarification - identified "agency" instead of "local government."
197-11-800 (1)(c)(iv)	Section has been reworded and clarification added to address cultural resource concerns, the intent remains the same.
197-11-800 (2)(a)(i)-(iv)	Reorganized the beginning of WAC 197-11-800(2) and corrected a typographical error – intent is the same.
197-11-800(26)	Section was moved from WAC 197-11-860 to 197-11-800(26). If left in WAC 197-11-860 the exemption would not be applicable to the permits issued by other agencies for WSDOT repair, replace or retrofit projects. This was moved to clarify intent - certain WSDOT projects are intended to be exempt from SEPA.
197-11-800 (2)(h)	Added "total" to capacity for clarity.
197-11-800(5)	Improved clarity of section in response to comments. The intent of this section is to exempt the sale of public property from SEPA only if the property is not specifically designated and authorized for public use.
197-11-800(6)	There was confusion from stakeholders about ecology's intent. Changes have been made in response to add clarity and also identify that boundary line adjustments are exempt from SEPA.
197-11-830	Clarified in response to comments – the intent is to exempt the sale of rock from Washington department of natural resources (DNR) rock pits regulated under a forest practices permit.
197-11-860	Moved language in this section to WAC 197-11-800(26).

WAC Section	Description of Change
197-11-875(19)	Technical correction - added in the "pollution control hearings board" which replaced the "forest practices appeals board."
197-11-936	Clarified section and inserted "local agency" instead of "county/city" as other types of local governments (ports, special districts, etc...) can be lead agency.
197-11-938(12)	Technical correction – section should refer to department of health for uranium milling, not department of social and health services.
197-11-960	Provided corrections and clarifications to questions on the checklist in response to comments. No new questions or topics have been added.

A final cost-benefit analysis is available by contacting Fran Sant, Department of Ecology, P.O. Box 47703, Olympia, WA 98504, phone (360) 407-6004, fax (360) 407-6904, e-mail separulemaking@ecy.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 1, Repealed 0.

Number of Sections Adopted at 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 45, Repealed 48.

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: April 9, 2014.

Maia Bellon
Director
by Polly Zehm

AMENDATORY SECTION (Amending WSR 97-21-030, filed 10/10/97, effective 11/10/97)

WAC 197-11-158 SEPA/GMA project review—Reliance on existing plans, laws, and regulations. (1) In reviewing the environmental impacts of a project and making a threshold determination, a GMA county/city may, at its option, determine that the requirements for environmental analysis, protection, and mitigation measures in the GMA county/city's development regulations and comprehensive

plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, provide adequate analysis of and mitigation for some or all of the specific adverse environmental impacts of the project.

(2) In making the determination under subsection (1) of this section, the GMA county/city shall:

(a) Review the environmental checklist and other information about the project;

(b) Identify the specific probable adverse environmental impacts of the project and determine whether the impacts have been:

(i) Identified in the comprehensive plan, subarea plan, or applicable development regulations through the planning and environmental review process under chapter 36.70A RCW or this chapter, or in other local, state, or federal rules or laws; and

(ii) Adequately addressed in the comprehensive plan, subarea plan, applicable development regulations, or other local, state, or federal rules or laws by:

(A) Avoiding or otherwise mitigating the impacts; or

(B) The legislative body of the GMA county/city designating as acceptable the impacts associated with certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW;

(c) Base or condition approval of the project on compliance with the requirements or mitigation measures in the comprehensive plan, subarea plan, applicable development regulations, or other local, state, or federal rules or laws; and

(d) Place the following statement in the threshold determination if all of a project's impacts are addressed by other applicable laws and no conditions will be required under SEPA: "The lead agency has determined that the requirements for environmental analysis, protection, and mitigation measures have been adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, as provided by RCW 43.21C.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA."

(3) Project specific impacts that have not been adequately addressed as described in subsection (2) of this section might be probable significant adverse environmental impacts requiring additional environmental review. Examples of project specific impacts that may not have been adequately addressed include, but are not limited to, impacts resulting from changed conditions, impacts indicated by new information, impacts not reasonably foreseeable in the GMA planning process, or impacts specifically reserved in a plan EIS for project review.

(4) In deciding whether a project specific adverse environmental impact has been adequately addressed by an existing rule or law of another agency with jurisdiction, the GMA county/city shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the GMA county/city shall base or condition its project approval on compliance with these other existing rules or laws.

(5) If a GMA county/city's comprehensive plan, subarea plan, or development regulations adequately address some or

all of a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the GMA county/city shall not require additional mitigation under this chapter for those impacts.

(6) In making the determination in subsection (1) of this section, nothing in this section requires review of the adequacy of the environmental analysis associated with the comprehensive plans and development regulations that are being relied upon to make that determination.

AMENDATORY SECTION (Amending WSR 97-21-030, filed 10/10/97, effective 11/10/97)

WAC 197-11-164 Planned actions—Definition and criteria. (1) Under RCW ((43.21C.031)) 43.21C.440, GMA counties/cities may designate a planned action. A planned action means one or more types of project action that:

(a) Are designated planned actions by an ordinance or resolution adopted by a GMA county/city;

(b) Have had the significant environmental impacts adequately addressed in an EIS prepared in conjunction with:

(i) A comprehensive plan or subarea plan adopted under chapter 36.70A RCW; or

(ii) A fully contained community, a master planned resort, a master planned development, or a phased project;

(c) Are subsequent or implementing projects for the proposals listed in (b) of this subsection;

(d) Are located within an urban growth area, as defined in RCW 36.70A.030, or are located within a master planned resort;

(e) Are not essential public facilities, as defined in RCW 36.70A.200; and

(f) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.

(2) A GMA county/city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the GMA county/city.

(3) A GMA county/city may limit a planned action to a time period identified in the EIS or the designating ordinance or resolution adopted under WAC 197-11-168.

AMENDATORY SECTION (Amending WSR 95-07-023, filed 3/6/95, effective 4/6/95)

WAC 197-11-235 SEPA/GMA integration documents. (1) "Integrating documents." Formal SEPA documents may be prepared as companion documents to accompany proposed GMA actions or may be integrated into the documentation of GMA actions. This section clarifies how WAC 197-11-640 (all SEPA documents) and WAC 197-11-425 through 197-11-442 (EISs) apply to integrated SEPA/GMA documents. The overriding consideration is the quality of information and analysis at the appropriate scope and level of detail for the particular GMA document, and not the format, length or bulk of the document.

(2) "Document format."

(a) There is no standard format for an integrated GMA document. For example an integrated comprehensive plan may look more like a plan preceded by an environmental summary (see WAC 197-11-235(5)), in contrast to a format

described in WAC 197-11-430. Any separately bound supporting documents shall be clearly identified in the integrated document.

(b) An integrated GMA document is not required to contain a separate section on affected environment, significant impacts, and mitigation measures under WAC 197-11-440(6), as long as this information is summarized as required by this section, and the basis for this information can be readily found in the document and the supporting record.

(3) "Integrated non-EIS documents."

(a) If a proposed GMA action is not likely to have a significant adverse environmental impact, an integrated GMA document shall be prepared that combines the formal SEPA document (such as an environmental checklist/DNS, a notice of adoption or addendum) with the GMA document. The provisions of WAC 197-11-235 (1) and (2) apply to these integrated documents.

(b) If an environmental checklist is used and a DNS issued, only Parts A (which serves as a fact sheet), C (responsible official's signature), and D (nonproject checklist) need be prepared, plus an environmental summary as specified in WAC 197-11-235(5). Part D and the summary may be combined.

(c) If an addendum is to accompany or be incorporated into an integrated GMA document, it shall contain the information specified in WAC 197-11-235(5) for an environmental summary.

(4) "Plan/EIS documents." Because these documents need to contain sufficient environmental analysis for GMA actions, the same documents that meet GMA planning needs should constitute the SEPA documents for GMA actions and should provide a basis for future decisions on projects. An integrated document will constitute the necessary formal SEPA document, if accompanied by the following (as further specified by subsections (5) through (7) of this section):

- (a) Environmental summary and fact sheet;
 - (b) Concise analysis of alternatives;
 - (c) Comments and responses; and
 - (d) Appropriate technical and other materials.
- (5) "Environmental summary and fact sheet."

(a) The environmental summary includes the contents required in WAC 197-11-440(4). It should emphasize the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made and the effectiveness of mitigation measures. The summary is not to be a summary of the GMA action.

(b) The summary should highlight from an environmental perspective the main options that would be preserved or foreclosed by the proposed GMA action. It should reflect SEPA's substantive policies and focus on any significant irreversible or irretrievable commitments of natural resources that would be likely to harm long-term environmental productivity, taking into account cumulative impacts. A summary of the principal environmental impacts may be presented in chart or matrix form, summarizing the relevant elements of the environment and impact assessment required by WAC 197-11-440 (6)(b) through (e). The summary may discuss nonenvironmental factors and should do so if relevant to

resolving issues concerning the main environmental choices facing decision makers.

(c) The summary should be no longer than necessary (generally fifteen to thirty pages for a plan/EIS, less for other integrated documents) and include tables or graphics to assist readability.

(d) At a minimum the fact sheet shall contain the information required in WAC 197-11-440(2). The fact sheet shall precede the summary in the integrated GMA document.

(6) "Concise analysis of alternatives."

(a) This analysis focuses on a comparative evaluation of the environmental consequences of the principal alternative courses of action that are or have been under consideration in the GMA planning process, as provided by WAC 197-11-440(5). The alternatives analysis shall evaluate the proposed GMA action compared to the principal alternative concepts and plan elements or regulatory options that were considered. This analysis allows decision makers, other agencies and the public to determine if the proposed GMA action can or should be revised before adoption to avoid or reduce environmental or other impacts. These alternatives may be:

- (i) Those which are actively being considered; or
- (ii) Those considered and screened earlier as part of a public GMA planning process.

(b) Descriptive material on the features of the alternatives (in contrast to comparing their impacts) should be kept to the minimum necessary to understand the comparative evaluation. If more description is necessary, it should be cited or located in the supporting record. Depending on the scope of the GMA action, the text of the alternatives analysis should be less than forty pages.

(7) "Comments and responses." The inclusion of comments and responses is not required for a draft integrated GMA document. For a final integrated document, comments (or a summary of comments) shall be compiled and response prepared as provided in WAC 197-11-560(3). A jurisdiction may include comments (or a summary of comments) received during the scoping process or on preliminary documents, as well as general or specific responses to these comments if any have been prepared, with the integrated GMA document on a proposed GMA action. If this approach is not used, these preliminary comments shall be included in the supporting record.

(8) "Supporting record, analyses, and materials."

(a) The integrated GMA document shall contain a list of the principal analytical documents and other materials (such as meeting minutes, maps, models, tapes or videos) that have been prepared, received, or used in developing the GMA action (see WAC 197-11-090). These materials shall be considered to be incorporated by reference under SEPA and part of the supporting record for SEPA compliance, and their contents need not be further described as required in WAC 197-11-635. Annotated lists are encouraged, but not required, to assist current and future reviewers.

(b) Materials in the supporting record should enable agencies and members of the public to identify and review the planning basis for the conclusions and analysis presented in the integrated GMA document as provided in the "procedural criteria" for preparing plan documents.

AMENDATORY SECTION (Amending WSR 97-21-030, filed 10/10/97, effective 11/10/97)

WAC 197-11-238 SEPA/GMA integration monitoring. Monitoring information is important to maintain the usefulness of the environmental analysis in plans and development regulations for project-level review and to update plans under chapter 36.70A RCW. GMA counties/cities are encouraged to establish a process for monitoring the cumulative impacts of permit decisions and conditions, and to use that data to update the information about existing conditions for the built and natural environment. If a monitoring process is developed, it should be established at the time information on existing conditions is developed. Annual or periodic reports summarizing the data and documenting trends are encouraged.

AMENDATORY SECTION (Amending WSR 97-21-030, filed 10/10/97, effective 11/10/97)

WAC 197-11-508 SEPA register. (1) The department of ecology shall prepare a SEPA register (~~(at least weekly)~~) that is web-based and updated daily, giving notice of all environmental documents required to be sent to the department of ecology under these rules, specifically:

- (a) DNSs under WAC 197-11-340(2);
- (b) DSs (scoping notices) under WAC 197-11-408;
- (c) EISs under WAC 197-11-455, 197-11-460, 197-11-620, and 197-11-630;
- (d) Notices of action under RCW 43.21C.080 and 43.21C.087; and
- (e) Notices in the optional DNS process under WAC 197-11-355 (2)(d)(i) and (5).

(2) All agencies shall submit the environmental documents listed in subsection (1) of this section to the department promptly and in accordance with procedures established by the department.

(3) Agencies are encouraged to refer to the SEPA register for notice of SEPA documents which may affect them.

(4) The department:

(a) Shall establish the method for distributing the SEPA register, which may include listing on internet, publishing and mailing to interested persons, or any other method deemed appropriate by the department~~(-)~~;

(b) May establish a reasonable format for the SEPA register;

(c) May charge a reasonable fee for the SEPA register as allowed by law, in at least the amount allowed by chapter 42.17 RCW, from agencies, members of the public, and interested organizations.

(5) Members of the public, citizen and community groups, and educational institutions are encouraged to refer to the SEPA register for notice of SEPA actions which may affect them.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-510 Public notice. (1) When these rules require notice to be given under this section, the lead agency must use reasonable methods to inform the public and other

agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held. The agency may use its existing notice procedures.

Examples of reasonable methods to inform the public are:

- (a) Posting the property, for site-specific proposals;
- (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- (d) Notifying the news media;
- (e) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; ~~((and/or))~~
- (f) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals or subject areas); and/or
- (g) Mailing or e-mailing notice to any person, group or agency who has requested notice.

(2) Each agency shall specify its method of public notice in its SEPA procedures, WAC 197-11-904 and 197-11-906. If an agency does not specify its method of public notice or does not adopt SEPA procedures, the agency shall use methods (a) and (b) in subsection (1).

(3) Documents which are required to be sent to the department of ecology under these rules will be published in the SEPA register, which will also constitute a form of public notice. However, publication in the SEPA register shall not, in itself, meet compliance with this section.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-610 Use of NEPA documents. (1) An agency may adopt any environmental analysis prepared under the National Environmental Policy Act (NEPA) by following WAC 197-11-600 and 197-11-630.

(2) A NEPA environmental assessment (EA) or documented categorical exclusion may be adopted to ~~((satisfy requirements for))~~ support a determination of nonsignificance ~~((or EIS))~~ instead of preparing an environmental checklist, if the requirements of WAC 197-11-340, 197-11-600, and 197-11-630 ~~(and WAC 197-11-350 and 197-11-355 as applicable)~~, are met and elements of the environment in WAC 197-11-444 are adequately addressed.

(3) An agency may adopt a NEPA EIS as a substitute for preparing a SEPA EIS if:

(a) The requirements of WAC 197-11-360, 197-11-600, and 197-11-630 are met (in which case the procedures in Parts Three ~~((through))~~, Four, and Five of these rules for preparing an EIS shall not apply); and

(b) The federal EA or EIS is not found inadequate: (i) By a court; (ii) by the council on environmental quality (CEQ) (or is at issue in a predecision referral to CEQ) under the NEPA regulations; or (iii) by the administrator of the United States Environmental Protection Agency under section 309 of the Clean Air Act, 42 U.S.C. 1857.

(4) Subsequent use by another agency of a federal EIS, adopted under subsection (3) of this section, for the same (or

substantially the same) proposal does not require adoption, unless the criteria in WAC 197-11-600(3) are met.

(5) If the lead agency has not held a public hearing within its jurisdiction to obtain comments on the adequacy of adopting a federal environmental document as a substitute for preparing a SEPA EIS, a public hearing for such comments shall be held if, within thirty days of circulating its statement of adoption, a written request is received from at least fifty persons who reside within the agency's jurisdiction or are adversely affected by the environmental impact of the proposal. The agency shall reconsider its adoption of the federal document in light of public hearing comments.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-756 Lands covered by water. (1) "Lands covered by water" means lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, ~~((marshes, and swamps))~~ and wetlands. As specified in Part Nine certain categorical exemptions do not apply ~~((to))~~ when a portion or all of a project or proposal is undertaken on lands covered by water ~~((, as specified in Part Nine))~~.

(2) Wetlands - Wetlands are defined as areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.

(3) "Lands covered by water" does not include adjacent lands and designated buffers above the ordinary high water mark.

AMENDATORY SECTION (Amending WSR 13-02-065, filed 12/28/12, effective 1/28/13)

WAC 197-11-800 Categorical exemptions. The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305.

Note: The statutory exemptions contained in chapter 43.21C RCW are not included in Part Nine. Chapter 43.21C RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

(1) Minor new construction - Flexible thresholds.

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question(~~(~~

~~except when a rezone or any license governing emissions to the air or discharges to water is required)).~~ To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency. The exemptions in this subsection apply except when the project:

(i) Is undertaken wholly or partly on lands covered by water;

(ii) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;

(iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or

(iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(b) The following types of construction shall be exempt(~~(, except when undertaken wholly or partly on lands covered by water)~~):

(i) The construction or location of four detached single family residential units.

(ii) The construction or location of four multifamily residential units.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles. This exemption includes ~~((stand alone))~~ parking lots for twenty or fewer automobiles not associated with a structure.

(v) Any ~~((landfill))~~ fill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation ~~((not associated with an exempt project in subsection (b)(i), (ii), (iii), or (iv); and any fill or excavation classified as a Class I, H, or III forest practice under RCW 76.09.050 or regulations thereunder))~~ and any excavation, fill or grading necessary for an exempt project in (i), (ii), (iii), or (iv) of this subsection shall be exempt.

(c) Cities, towns or counties may raise the exempt levels up to the maximum specified in (d) of this subsection by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC 197-11-904). Separate maximum optional thresholds are established in (d) of this subsection applying to both incorporated areas and unincorporated urban growth areas in fully planning jurisdictions under RCW 36.70A.040; other unincorporated areas in fully planning counties; and jurisdictions in all other counties. Agencies may adopt the maximum level or a level between the minimum and maximum level. An agency may adopt a system of several exempt levels ~~((f)),~~ such as differ-

ent levels for different geographic areas~~(3)~~, and mixed use projects.

At a minimum, the following process shall be met in order to raise the exempt levels.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations.

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established ~~((project-level public))~~ notice and comment opportunities ~~((that are provided for proposals))~~ for the public, affected tribes, and agencies regarding permitting of development projects included in these increased exemption levels.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the ~~((local government))~~ agency shall provide a minimum of ~~((twenty-one))~~ sixty days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

(iv) The city, town, or county must document how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised. The requirements for notice and opportunity to comment for the public, affected tribes, and agencies in (c)(i) and (ii) of this subsection and the requirements for protection and mitigation in (c)(i) of this subsection must be specifically documented. The local ordinance or resolution shall include, but not be limited to, the following:

- Use of available data and other project review tools regarding known and likely cultural and historic resources, such as inventories and predictive models provided by the Washington department of archaeology and historic preservation, other agencies, and tribal governments.

- Planning and permitting processes that ensure compliance with applicable laws including chapters 27.44, 27.53, 68.50, and 68.60 RCW.

- Local development regulations that include at minimum preproject cultural resource review where warranted, and standard inadvertent discovery language (SIDL) for all projects.

(d) The maximum exemption levels applicable to (c) of this subsection are:

Project types	Fully planning GMA counties		All other counties
	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential	30 units	20 units	20 units
Multifamily residential	60 units	25 units	25 units
Barn, loafing shed, farm equipment storage, produce storage or packing structure	40,000 square feet	40,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	30,000 square feet and 90 parking spaces	12,000 square feet and 40 parking spaces	12,000 square feet and 40 parking spaces
((Landfill)) Fill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards

~~(2) Other minor new construction. ((The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing emissions to the air or discharges to water is required:))~~

~~(a) The exemptions in this subsection apply to all licenses required to undertake the following types of proposals except when the project:~~

~~(i) Is undertaken wholly or partly on lands covered by water;~~

~~(ii) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;~~

~~(iii) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); or~~

~~(iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).~~

(b) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

~~((b))~~ (c) The construction and/or installation of commercial on-premise signs, and public signs and signals.

~~((e))~~ (d) The construction or installation of minor road and street improvements by any agency or private party that include the following:

(i) Safety structures and equipment: Such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators(5);

(ii) Transportation corridor landscaping (including the application of state of Washington ((state department of agriculture)) approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660)((5);

(iii) Temporary traffic controls and detours(5);

(iv) Correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required;

(v) Adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required;

(vi) Channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation;

(vii) Installation of catch basins and culverts for the purposes of road and street improvements;

(viii) Reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders where capacity is not increased and no new right of way is required;

(ix) Addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.

(e) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(f) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.

(g) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance such as listing in a historic register.

(h) The installation or removal of impervious underground or above-ground tanks, having a total capacity of 10,000 gallons or less except on agricultural and industrial lands. On agricultural and industrial lands, the installation or removal of impervious underground or above-ground tanks, having a total capacity of 60,000 gallons or less.

(i) The vacation of streets or roads.

(j) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(k) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(l) The installation of accessory solar energy generation equipment on or attached to existing structures and facilities whereby the existing footprint and size of the building is not increased.

(3) Repair, remodeling and maintenance activities. The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, recreation, and transportation facilities involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples

include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

(a) Dredging of over fifty cubic yards of material;

(b) Reconstruction or maintenance of groins and similar shoreline protection structures;

(c) Replacement of utility cables that must be buried under the surface of the bedlands; or

(d) Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

(4) Water rights. Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of groundwater, for any purpose. The exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation.

(5) Purchase or sale of real property. The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to a specifically designated and authorized public use established by the public landowner and used by the public for that purpose.

(c) Leasing, granting an easement for, or otherwise authorizing the use of real property when the property use will remain essentially the same as the existing use for the term of the agreement, or when the use under the lease, easement or other authorization is otherwise exempted by this chapter.

(6) Land use decisions. The following land use decisions shall be exempt:

(a) Land use decisions for exempt projects, except that rezones must comply with (c) of this subsection.

(b) Other land use decisions not qualified for exemption under subsection (a) (such as a home occupation or change of use) are exempt provided:

(i) The authorized activities will be conducted within an existing building or facility qualifying for exemption under WAC 197-11-800 (1) and (2); and

(ii) The activities will not change the character of the building or facility in a way that would remove it from an exempt class.

(c) Where an exempt project requires a rezone, the rezone is exempt only if:

(i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040;

(ii) The proposed rezone is consistent with and does not require an amendment to the comprehensive plan; and

(iii) The applicable comprehensive plan was previously subjected to environmental review and analysis through an EIS under the requirements of this chapter prior to adoption;

and the EIS adequately addressed the environmental impacts of the rezone.

~~(d) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, ((but not including further)) and short plats or short subdivisions ((or short platting within a plat or subdivision previously exempted under this subsection.~~

~~(b) Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.~~

~~(e) Classifications of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW)) within the original short subdivision boundaries provided the cumulative divisions do not exceed the total lots allowed to be created under RCW 58.17.020. This exemption includes binding site plans authorized by RCW 58.17.035 up to the same number of lots allowed by the jurisdiction as a short subdivision.~~

~~(e) Granting of variance based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.~~

~~(f) Alteration of property lines as authorized by RCW 58.17.040(6).~~

(7) **Open burning.** Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

(8) **Clean Air Act.** The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

(9) **Water quality certifications.** The granting or denial of water quality certifications under the Federal Clean Water Act (Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1341) shall be exempt.

(10) **Activities of the state legislature.** All actions of the state legislature are exempted. ~~((This subsection does not exempt the proposing of legislation by an agency (WAC 197-11-704).))~~

(11) **Judicial activity.** The following shall be exempt:

(a) All adjudicatory actions of the judicial branch.

(b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(12) **Enforcement and inspections.** The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of

any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by an agency of either private or public property for any purpose.

(c) All activities of fire departments and law enforcement agencies except physical construction activity.

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(13) **Business and other regulatory licenses.** The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities(;) including, but not limited to, cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above.

(d) All licenses to operate or engage in charitable or retail sales and service activities(;) including, but not limited to, peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) All licenses for private security services(;) including, but not limited to, detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) All licenses for vehicles for-hire and other vehicle related activities including, but not limited to, taxicabs, ambulances, and tow trucks: Provided, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(g) All licenses for food or drink services, sales, and distribution(;) including, but not limited to, restaurants, liquor, and meat.

(h) All animal control licenses(;) including, but not limited to, pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

(14) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: Provided, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.

(j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection.

(k) Classification of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.

(15) **Financial assistance grants.** The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

(16) Local improvement districts and special purpose districts. The formation of local improvement districts and special purpose districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-11-800 and 197-11-880. A special district or special purpose district is a local government entity designated by the Revised Code of Washington (RCW) and is not a city, town, township, or county.

(17) **Information collection and research.** Basic data collection, research, resource evaluation, requests for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see WAC 197-11-070.)

(18) **Acceptance of filings.** The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(19) **Procedural actions.** The proposal, amendment or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program shall be exempt if they are:

(a) Relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment ((shall be exempt)).

(b) Text amendments resulting in no substantive changes respecting use or modification of the environment.

(c) Agency SEPA procedures ((shall be exempt)).

(20) ~~((**Building codes.** The adoption by ordinance of all codes as required by the state Building Code Act (chapter 19.27 RCW-))~~ **Reserved.**

(21) **Adoption of noise ordinances.** The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology under chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations ~~((and thus requires approval of the department of ecology under RCW 70.107.060(4)))~~, SEPA compliance may be limited to those items which differ from state regulations.

(22) **Review and comment actions.** Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(23) **Utilities.** The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines ~~((eight))~~ twelve inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (up to and including 115,000 volts); within existing rights of way or developed utility corridors, all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station vault, pipe, or well: ~~((Provided, That))~~ Additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: Provided, ~~((That))~~ the chemicals used are approved by ~~((the))~~ the Washington state ~~((department of agriculture))~~ and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that

are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(h) All grants of franchises by agencies to utilities.

(i) All disposals of rights of way by utilities.

(24) **Natural resources management.** In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous ten years.

(b) Licenses or approvals to remove firewood.

(c) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(d) Issuance of leases for Christmas tree harvesting or brush picking.

(e) Issuance of leases for school sites.

(f) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(g) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(h) Periodic use of chemical or mechanical means to maintain public park and recreational land: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660.

(i) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.

(j) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter 79.70 RCW.

(25) ~~((Personal))~~ **Wireless service facilities.**

(a) The siting of ~~((personal))~~ wireless service facilities are exempt if ~~((the facility))~~:

(i) ~~((Is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school;~~

~~((ii) Includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agriculture zone; or~~

~~((iii)) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures that does not substantially change the physical dimensions of such structures; or~~

~~((ii) The siting project involves constructing a ((personal)) wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.~~

(b) For the purposes of this subsection:

(i) ~~((Personal))~~ Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(ii) ~~((Personal))~~ Wireless service facilities" means facilities for the provision of ((personal)) wireless services.

(iii) ~~((Microcell" means a wireless communication facility consisting of an antenna that is either:~~

~~(A) Four feet in height and with an area of not more than five hundred eighty square inches; or~~

~~(B) If a tubular antenna, no more than four inches in diameter and no more than six feet in length))~~ "Collocation" means the mounting or installation of equipment on an existing tower, building, structure for the purposes of either transmitting or receiving, or both, radio frequency signals for communication purposes.

~~((iv) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.~~

~~((v) "Substantially change the physical dimensions" means:~~

~~(A) The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or~~

~~(B) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.~~

(c) This exemption does not apply to projects within a critical area designated under GMA (RCW 36.70A.060).

(26) The following Washington department of transportation projects and activities shall be exempt: The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation, as long as the action:

(a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility.

AMENDATORY SECTION (Amending WSR 03-16-067, filed 8/1/03, effective 9/1/03)

WAC 197-11-820 Department of licensing. All licenses ~~((required under programs administered by the department of licensing as of December 12, 1975))~~ issued by the department of licensing are exempted, except the following:

(1) Camping club promotional permits under chapter 19.105 RCW.

(2) Motor vehicle wrecker licenses under chapter 46.80 RCW; WAC 197-11-800 (13)(i) shall apply to allow possible exemption of renewals of camping club promotional permits and motor vehicle wrecker licenses.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-825 Department of labor and industries. All licenses ~~((required under programs administered by the department of labor and industries as of December 12, 1975))~~ issued by the department of labor and industries are exempted, except the issuance of any license for the manufacture of explosives or the adoption or amendment by the department of any regulations incorporating general standards respecting the issuance of licenses authorizing the storage of explosives under chapter 70.74 RCW. The adoption of any industrial health or safety regulations containing noise standards shall be considered a major action under this chapter.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-830 Department of natural resources. The following actions and licenses of the department of natural resources are exempted:

- (1) Forest closures, shutdowns and permit suspensions due to extreme unusual fire hazards.
- (2) Operating permits to use power equipment on forest land.
- (3) Permits to use fuse on forest land.
- (4) Log patrol licenses.
- (5) Permits for drilling for which no public hearing is required under RCW 79.76.070 (geothermal test drilling).
- (6) Permits for the dumping of forest debris and wood waste in forested areas.
- (7) Those sales of timber from public lands that the department of natural resources determines, by rules adopted pursuant to RCW 43.21C.120 do not have potential for a substantial impact on the environment.
- (8) Except on aquatic lands under state control, leases for mineral prospecting under RCW 79.01.616 or 79.01.652, but not including issuance of subsequent contracts for mining.
- (9) Sales of rock from public lands involving rock pits less than three acres in size that are used for activities regulated under a forest practices application that is exempt under RCW 43.21C.037.

AMENDATORY SECTION (Amending WSR 03-16-067, filed 8/1/03, effective 9/1/03)

WAC 197-11-835 Department of ((fisheries)) fish and wildlife. The following activities of the department of ~~((fisheries))~~ fish and wildlife are exempted:

- (1) The establishment of seasons, catch limits or geographical areas for fishing or shellfish removal.
- (2) ~~((All hydraulic project approvals (RCW 75.20.100) for activities incidental to a Class I, II, III forest practice as defined in RCW 76.09.050 or regulations thereunder.~~

~~((3)))~~ Hydraulic project approvals where there is no other agency with jurisdiction (besides the department of ~~((game))~~ fish and wildlife) requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials or involving realignment into a new channel. For purposes of this paragraph, the term new channel shall not include existing channels which have been naturally abandoned within the twelve months previous to the hydraulic permit application.

~~((4)))~~ (3) All clam farm licenses and oyster farm licenses, except where cultural practices include structures occupying the water column or where a hatchery or other physical facility is proposed for construction on adjoining uplands.

~~((5)))~~ (4) All other licenses (other than those excepted in (2) and (3) above) authorized to be issued by the department as of December 12, 1975 except the following:

- (a) Fish farming license, or other licenses allowing the cultivation of aquatic animals for commercial purposes;
- (b) Licenses for the mechanical and/or hydraulic removal of clams, including geoducks; and((5))
- (c) Any license authorizing the discharge of explosives in water. WAC 197-11-800 (13)(i) shall apply to allow possible exemption of renewals of the above licenses.

~~((6)))~~ (5) The routine release of hatchery fish or the reintroduction of endemic or native species into their historical habitat where only minor documented effects on other species will occur.

(6) The establishment of hunting, trapping or fishing seasons, bag or catch limits, and geographical areas where such activities are permitted.

(7) The issuance of falconry permits.

(8) The issuance of all hunting or fishing licenses, permits, or tags.

(9) Artificial wildlife feeding.

(10) The issuance of scientific collector permits.

(11) Minor repair work to be done by hand tools. Examples include:

- (a) Maintenance of fish screen or intake structures; or
- (b) Silt and debris removal from boat launches, docks, and piers.

(12) Collection of fish and wildlife for research.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-845 Department of social and health services and department of health. All department of social and health services and department of health actions ~~((under programs administered by the department of social and health services as of December 12, 1975;))~~ are exempted, except the following:

- (1) The adoption or amendment by the department of any regulations incorporating general standards for issuance of licenses authorizing the possession, use and transfer of radioactive source material under RCW 70.98.080, except that the issuance, revocation or suspension of individual licenses thereto shall be exempt. However, licenses to operate low level burial facilities or licenses to operate or expand beyond design capacity, mineral processing facilities or their tailings

areas whose products or byproducts have concentrations of naturally occurring radioactive materials in excess of exempt concentrations, as specified in WAC 402-20-250, shall not be exempt.

(2) The approval of a comprehensive plan for public water supply systems servicing one thousand or more units under WAC 248-54-065.

(3) The approval of engineering reports or plans and specifications under WAC 248-54-085 and 248-54-095, for all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet located in new rights of way and major extensions to existing water distribution systems.

(4) The approval of an application for a certificate of need under RCW 70.38.120 for construction of a new hospital or medical facility or for major additions to existing service capacity of such institutions.

(5) The approval of an application for any system of sewerage and/or water general plan or amendments under RCW 36.94.100.

(6) The approval of any plans and specifications for new sewage treatment works or major extensions to existing sewer treatment works submitted to the department under WAC 248-92-040.

(7) The construction of any building, facility or other installation not exempt by WAC 197-11-800 for the purpose of housing department personnel, or fulfilling statutorily directed or authorized functions ((e.g.)) for example, prisons).

(8) The approval of any final plans for construction of a nursing home pursuant to WAC 248-14-100, construction of a private psychiatric hospital pursuant to WAC 248-22-005 or construction of an alcoholism treatment center pursuant to WAC 248-22-510.

AMENDATORY SECTION (Amending WSR 03-16-067, filed 8/1/03, effective 9/1/03)

WAC 197-11-850 Department of agriculture. All department of agriculture actions ((~~under programs administered by the department of agriculture as of December 12, 1975~~)) are exempted, except for the following:

(1) The approval of any application for a commercial registered feedlot, quarantined registered feedlot under chapter 16.36 RCW, or chapters 16-28 and 16-30 WAC.

(2) The issuance or amendment of any regulation respecting restricted-use pesticides under chapter 15.58 RCW that would have the effect of allowing the use of a pesticide previously prohibited by Washington state.

(3) The removal of any pesticide from the list of restricted-use pesticides established in WAC 16-228-155 so as to permit sale of such pesticides to home and garden users, unless the pesticide is no longer manufactured and is not available.

(4) The removal of any pesticide from the list of highly toxic and restricted-use pesticides established under WAC 16-228-165 so as to authorize sale of such pesticides to persons not holding an annual user permit, an applicator certifi-

cate, or an applicator operator license, unless the pesticide is no longer manufactured and is not available.

(5) The removal of any pesticide from the category of highly toxic pesticide formulations established in WAC 16-228-165 so as to permit the sale of such pesticides by persons not possessing a pesticide dealer's license, unless the pesticide is no longer manufactured and is not available.

(6) The approval of any use of the pesticide DDT or DDD except for those uses approved by the centers for disease control of the United States Department of Health and Human Services (such as control of rabid bats).

(7) The issuance of a license to operate a public livestock market under RCW 16.65.030.

(8) The provisions of WAC 197-11-800 (13)(i) shall apply to allow possible exemption of renewals of the licenses in (1) through (7) above.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-860 Department of transportation. The following activities of the department of transportation shall be exempt:

(1) Approval of the annual highway safety work program involving the highway-related safety standards pursuant to 23 U.S.C. 402;

(2) Issuance of road approach permits and right of way rental agreements;

(3) Establishment and changing of speed limits of 55 miles per hour or less;

(4) Revisions of existing access control involving a single property owner;

(5) Issuance of a "motorist information signing permit," granting a private business person the privilege of having a sign on highway right of way which informs the public of the availability of his or her services;

(6) Issuance of permits for special units relative to state highways;

(7) Issuance of permits for the movement of over-legal size and weight vehicles on state highways;

(8) Issuance of encroachment permits for road approaches, fences and landfills on highway right of way; ((and))

(9) Issuance of permits for utility occupancy of highway rights of way for use for distribution (as opposed to transmission).

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-865 Utilities and transportation commission. All utilities and transportation commission actions ((~~of the utilities and transportation commission under statutes administered as of December 12, 1975~~)) are exempted, except the following:

(1) Issuance of common carrier motor freight authority under chapter 81.80 RCW that would authorize a new service, or extend an existing transportation service in the fields of petroleum and petroleum products in bulk in tank type vehicles, radioactive substances, explosives, or corrosives;

(2) Authorization of the openings or closing of any highway/railroad grade crossing, or the direction of physical connection of the line of one railroad with that of another;

(3) Regulation of oil and gas pipelines under chapter 81.88 RCW; and

(4) The approval of utility and transportation rates where the funds realized as a result of such approved rates will or are intended to finance construction of a project, approval of which would not be otherwise exempt under WAC 197-11-800, and where at the time of such rate approval no responsible official of any state or federal agency has conducted the environmental analysis prescribed by this chapter or the appropriate provisions of NEPA, whichever is applicable.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-870 Department of commerce (~~and economic development~~). The following activities of the department of commerce (~~and economic development~~) shall be exempt:

(1) The provisions of business consulting and advisory services that include tourist promotion under RCW 43.31.050.

(2) The promotion and development of foreign trade under RCW 43.31.370.

(3) The furnishing of technical and information services under RCW 43.31.060.

(4) The provision of technical assistance to applicants for loans and aid and/or grants by the community of economic revitalization board under chapter 43.160 RCW.

(5) The conduct of research and economic analysis under RCW 43.31.070, including the provision of consulting and advisory services and recommendations to state and local officials, agencies and governmental bodies as authorized under RCW 43.31.160, 43.31.200 and 43.31.210.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-875 Other agencies. Except for building construction (the majority of which is undertaken through the department of (~~general administration~~) enterprise services), all activities of the following state agencies (~~under programs they administer as of December 12, 1975;~~) are exempted:

(1) Office of the attorney general.

(2) Office of the auditor.

(3) Department of employment security.

(4) Office of the insurance commissioner (~~and state fire marshal~~).

(5) Department of (~~personnel~~) enterprise services.

(6) (~~Department of printing~~) Office of financial management.

(7) Department of revenue.

(8) Office of the secretary of state.

(9) Office of the treasurer.

(10) Arts commission.

(11) Washington state patrol.

(12) (~~Interagency committee for outdoor recreation~~) Recreation and conservation office.

(13) (~~Department of emergency services~~) Emergency management division.

(14) Department of (~~general administration, division of banking and division of savings and loan associations~~).

(15) (~~Forest practices appeals board~~) financial institutions.

(~~(16)~~) (15) Public employees' retirement system.

(~~(17)~~) (16) Law enforcement officers' and firefighters' retirement board.

(~~(18)~~) (17) Board for volunteer (~~fireman's retirement system board~~) firefighters and reserve officers.

(~~(19)~~) (18) State department of retirement systems.

(~~(20)~~) (~~Teachers' retirement system board~~).

(21) Higher education personnel board.

(~~(22)~~) Commission for vocational education.

(~~(23)~~) State energy office.)

(19) Pollution control hearings board.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-920 Agencies with environmental expertise. The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

(1) Air quality.

(a) Department of ecology.

(b) Department of natural resources (only for burning in forest areas).

(c) Department of (~~social and~~) health (~~(services)~~).

(d) Regional air pollution control authority or agency.

(2) Water resources and water quality.

(a) Department of (~~game~~) fish and wildlife.

(b) Department of ecology.

(c) Department of natural resources (state-owned tidelands, shorelands, harbor areas or beds of navigable waters).

(d) Department of (~~social and~~) health (~~(services)~~) (public water supplies, sewer systems, shellfish habitats).

(~~(e) Department of fisheries~~.)

(3) Hazardous and toxic substances (including radiation).

(a) Department of ecology.

(b) Department of (~~social and~~) health (~~(services)~~).

(c) Department of agriculture (foods or pesticides).

(d) Department of (~~fisheries~~) fish and wildlife (introduction into waters).

(~~(e) Department of game (introduction into waters)~~.)

(4) Solid and hazardous waste.

(a) Department of ecology.

(b) Department of (~~fisheries~~) fish and wildlife (dredge spoils).

(c) Department of (~~social and~~) health (~~(services)~~).

(~~(d) Department of game (dredge spoils)~~.)

(5) Fish and wildlife.

(~~(a)~~) Department of (~~game~~) fish and wildlife.

(~~(b) Department of fisheries~~.)

(6) Natural resources development.

(a) (~~Department of commerce and economic development~~).

(~~(b)~~) Department of ecology.

- ~~((e))~~ (b) Department of natural resources.
~~((d))~~ (c) Department of ~~((fisheries))~~ fish and wildlife.
~~((e) Department of game.)~~
 (7) Energy production, transmission and consumption.
 (a) Department of ecology.
 (b) Department of natural resources (geothermal, coal, uranium).
 (c) ~~((State energy office.))~~ Department of commerce.
 (d) Energy facility site evaluation council.
 (e) Utilities and transportation commission.
 (8) Land use and management.
 (a) Department of commerce ~~((and economic development)).~~
 (b) Department of ecology.
 (c) Department of ~~((fisheries))~~ fish and wildlife (affecting surface or marine waters).
 (d) Department of natural resources (tidelands, shorelands, or state-owned or managed lands).
~~((e) Planning and community affairs agency.~~
~~(f) Department of game.)~~
 (9) Noise.
 (a) Department of ecology.
 (b) Department of ~~((social and))~~ health ~~((services)).~~
 (10) Recreation.
 (a) Department of commerce ~~((and economic development)).~~
 (b) Department of ~~((game))~~ fish and wildlife.
 (c) ~~((Department of fisheries.~~
~~(d))~~ Parks and recreation commission.
~~((e))~~ (d) Department of natural resources.
 (11) Archaeological/historical.
~~((a) Office))~~ Department of archaeology and historic preservation.
~~((b) Washington State University at Pullman (Washington archaeological research center.))~~
 (12) Transportation.
 (a) Department of transportation.
 (b) Utilities and transportation commission.

AMENDATORY SECTION (Amending WSR 84-05-020, filed 2/10/84, effective 4/4/84)

WAC 197-11-936 Lead agency for private projects requiring licenses from more than one state agency. (1) For private projects which require licenses from more than one state agency, but require no license from a ~~((county/city))~~ local agency, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

- (a) Department of ecology.
 (b) Department of ~~((social and))~~ health ~~((services)).~~
 (c) Department of natural resources.
 (d) Department of ~~((fisheries))~~ fish and wildlife.
 (e) ~~((Department of game.~~
~~(f))~~ Utilities and transportation commission.
~~((g))~~ (f) Department of ~~((motor vehicles))~~ licensing.
~~((h))~~ (g) Department of labor and industries.
 (2) When none of the state agencies requiring a license is on the above list, the lead agency shall be the licensing agency that has the largest biennial appropriation.

(3) When, under subsection (1), an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program.

AMENDATORY SECTION (Amending WSR 97-21-030, filed 10/10/97, effective 11/10/97)

WAC 197-11-938 Lead agencies for specific proposals. Notwithstanding the lead agency designation criteria contained in WAC 197-11-926 through 197-11-936, the lead agency for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to energy facilities for which certification is required under chapter 80.50 RCW, the lead agency shall be the energy facility site evaluation council (EFSEC); however, for any public project requiring such certification and for which the study under RCW 80.50.175 will not be made, the lead agency shall be the agency initiating the project.

(2) For all private projects relating to the use of geothermal resources under chapter 79.76 RCW, the lead agency shall be the department of natural resources.

(3) For all private projects requiring a license or other approval from the oil and gas conservation committee under chapter 78.52 RCW, the lead agency shall be the department of natural resources; however, for projects under RCW 78.52.125, the EIS shall be prepared in accordance with that section.

(4) For private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be either the department of natural resources or the city/county where the project is located, as set forth below:

(a) The interagency agreements authorized by WAC 222-50-030 between the department of natural resources and other governmental agencies may be used to identify SEPA lead agency status for forest practice applications. If used, this agreement shall meet the requirements for a lead agency agreement in WAC 197-11-942.

(b) If no interagency agreement exists, the SEPA lead agency determination shall be based on information in the environmental checklist required as part of the forest practice application requiring SEPA review. The applicant shall, as part of the checklist, submit all information on future plans for conversion, and shall identify any known future license requirements.

(c) For any proposal involving forest practices (i) ~~((on lands platted after January 1, 1960, (ii))~~ on lands being ~~((s))~~ converted to another use, or ~~((iii))~~ (ii) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, the applicable county or city is the lead agency if the county or city will require a license for the proposal. Upon receipt of a forest practice application and environmental checklist, natural resources shall determine lead agency for the proposal. If insufficient information is available to identify necessary permits, natural resources

shall ask the applicant for additional information. If a permit is not required from the city/county, natural resources shall be lead agency. If a city/county permit is required, natural resources shall send copies of the environmental checklist and forest practice application together with the determination of the lead agency to the city/county.

(d) Upon receipt and review of the environmental checklist and forest practice application, the city/county shall within ten business days:

(i) Agree that a city/county license is required, either now or at a future point, and proceed with environmental review as lead agency.

(ii) Determine that a license is not required from the city/county, and notify natural resources that the city/county is not lead agency; or

(iii) Determine there is insufficient information in the environmental checklist to identify the need for a license, and either:

(A) Assume lead agency status and conduct appropriate environmental analysis for the total proposal;

(B) Request additional information from the applicant; or

(C) Notify natural resources of the specific additional information needed to determine permit requirements, who shall request the information from the applicant.

(5) For all private projects requiring a license or lease to use or affect state lands, the lead agency shall be the state agency managing the lands in question; however, this subsection shall not apply to the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required.

(6) For a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology, when a National Pollutant Discharge Elimination System (NPDES) permit is required under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).

(7) For proposals to construct a pipeline greater than six inches in diameter and fifty miles in length, used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under pressure not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(8) For proposals that will result in an impoundment of water with a water surface in excess of forty acres, the lead agency shall be the department of ecology.

(9) For proposals to construct facilities on a single site designed for, or capable of, storing a total of one million or more gallons of any liquid fuel not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(10) For proposals to construct any new oil refinery, or an expansion of an existing refinery that shall increase capacity by ten thousand barrels per day or more not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(11) For proposed metal mining and milling operations regulated by chapter 78.56 RCW, except for uranium and thorium operations regulated under Title 70 RCW, the lead agency shall be the department of ecology.

(12) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of ((social and)) health ((services)).

AMENDATORY SECTION (Amending WSR 13-02-065, filed 12/28/12, effective 1/28/13)

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

For nonproject proposals complete this checklist and the supplemental sheet for nonproject actions (Part D). The lead agency may exclude any question for the environmental elements (Part B) which they determine do not contribute meaningfully to the analysis of the proposal.

1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

e. Water runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

2) Could waste materials enter ground or surface waters? If so, generally describe.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4. Plants

a. Check or circle types of vegetation found on the site:

- Deciduous tree: Alder, maple, aspen, other
- Evergreen tree: Fir, cedar, pine, other
- Shrubs
- Grass
- Pasture
- Crop or grain
- Wet soil plants: Cattail, buttereup, bullrush, skunk cabbage, other
- Water plants: Water lily, eelgrass, milfoil, other
- Other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

e. List threatened or endangered species known to be on or near the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

- Birds: Hawk, heron, eagle, songbirds, other:
- Mammals: Deer, bear, elk, beaver, other:
- Fish: Bass, salmon, trout, herring, shellfish, other:

b. List any threatened or endangered species known to be on or near the site.

e. Is the site part of a migration route? If so, explain.

d. Proposed measures to preserve or enhance wildlife, if any:

6. Energy and natural resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

e. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. Environmental health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

1) Describe special emergency services that might be required.

2) Proposed measures to reduce or control environmental health hazards, if any:

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

3) Proposed measures to reduce or control noise impacts, if any:

8. Land and shoreline use

a. What is the current use of the site and adjacent properties?

b. Has the site been used for agriculture? If so, describe.

e. Describe any structures on the site.

d. Will any structures be demolished? If so, what?

e. What is the current zoning classification of the site?

f. What is the current comprehensive plan designation of the site?

g. If applicable, what is the current shoreline master program designation of the site?

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

- i. Approximately how many people would reside or work in the completed project?
- j. Approximately how many people would the completed project?
- k. Proposed measures to avoid or reduce displacement impacts, if any:
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
- e. Proposed measures to reduce or control housing impacts, if any:

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
- b. What views in the immediate vicinity would be altered or obstructed?
- e. Proposed measures to reduce or control aesthetic impacts, if any:

11. Light and glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
- e. What existing offsite sources of light or glare may affect your proposal?
- d. Proposed measures to reduce or control light and glare impacts, if any:

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?
- b. Would the proposed project displace any existing recreational uses? If so, describe.
- e. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13. Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.
- e. Proposed measures to reduce or control impacts, if any:

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
- e. How many parking spaces would the completed project have? How many would the project eliminate?
- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).
- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.
- g. Proposed measures to reduce or control transportation impacts, if any:

15. Public services

- a. Would the project result in an increased need for public services (for example: Fire protection, police protection, health care, schools, other)? If so, generally describe.
- b. Proposed measures to reduce or control direct impacts on public services, if any.

16. Utilities

- a. Circle utilities currently available at the site: Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

Date Submitted:

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment:

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms:

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? Proposed measures to avoid or reduce such increases are:
2. How would the proposal be likely to affect plants, animals, fish, or marine life? Proposed measures to protect or conserve plants, animals, fish, or marine life are:
3. How would the proposal be likely to deplete energy or natural resources? Proposed measures to protect or conserve energy and natural resources are:
4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands? Proposed measures to protect such resources or to avoid or reduce impacts are:
5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? Proposed measures to avoid or reduce shoreline and land use impacts are:
6. How would the proposal be likely to increase demands on transportation or public services and utilities? Proposed measures to reduce or respond to such demand(s) are:
7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.))

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other.....

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agri-

cultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

b. Are there any offsite sources of emissions or odor that may affect your proposal? If so, generally describe.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

b. Ground:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well? Will water be discharged to groundwa-

ter? Give general description, purpose, and approximate quantities if known.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

c. Water runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

2) Could waste materials enter ground or surface waters? If so, generally describe.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

d. Proposed measures to reduce or control surface, ground, runoff water, and drainage pattern impacts, if any:

4. **Plants**

a. Check the types of vegetation found on the site:

— Deciduous tree: Alder, maple, aspen, other

— Evergreen tree: Fir, cedar, pine, other

— Shrubs

— Grass

— Pasture

— Crop or grain

— Orchards, vineyards or other permanent crops.

— Wet soil plants: Cattail, buttercup, bullrush, skunk cabbage, other

— Water plants: Water lily, eelgrass, milfoil, other

— Other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

c. List threatened and endangered species known to be on or near the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

e. List all noxious weeds and invasive species known to be on or near the site.

5. **Animals**

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include:

Birds: Hawk, heron, eagle, songbirds, other:

Mammals: Deer, bear, elk, beaver, other:

Fish: Bass, salmon, trout, herring, shellfish, other:

b. List any threatened and endangered species known to be on or near the site.

c. Is the site part of a migration route? If so, explain.

d. Proposed measures to preserve or enhance wildlife, if any:

e. List any invasive animal species known to be on or near the site.

6. **Energy and natural resources**

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. **Environmental health**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

1) Describe any known or possible contamination at the site from present or past uses.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

4) Describe special emergency services that might be required.

5) Proposed measures to reduce or control environmental health hazards, if any:

b. **Noise**

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

3) Proposed measures to reduce or control noise impacts, if any:

8. **Land and shoreline use**

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If

resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to non-farm or nonforest use?

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

c. Describe any structures on the site.

d. Will any structures be demolished? If so, what?

e. What is the current zoning classification of the site?

f. What is the current comprehensive plan designation of the site?

g. If applicable, what is the current shoreline master program designation of the site?

h. Has any part of the site been classified critical area by the city or county? If so, specify.

i. Approximately how many people would reside or work in the completed project?

j. Approximately how many people would the completed project displace?

k. Proposed measures to avoid or reduce displacement impacts, if any:

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

c. Proposed measures to reduce or control housing impacts, if any:

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

b. What views in the immediate vicinity would be altered or obstructed?

c. Proposed measures to reduce or control aesthetic impacts, if any:

11. Light and glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

b. Could light or glare from the finished project be a safety hazard or interfere with views?

c. What existing offsite sources of light or glare may affect your proposal?

d. Proposed measures to reduce or control light and glare impacts, if any:

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

b. Would the proposed project displace any existing recreational uses? If so, describe.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation. This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area, and describe proposed access to the existing street system. Show on site plans, if any.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

c. How many additional parking spaces would the completed project or nonproject proposal have? How many would the project or proposal eliminate?

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the vol-

ume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

h. Proposed measures to reduce or control transportation impacts, if any:

15. Public services

a. Would the project result in an increased need for public services (for example: Fire protection, police protection, public transit health care, schools, other)? If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16. Utilities

a. Circle utilities currently available at the site: Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

Date Submitted:

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 197-11-840 Department of game.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-806-010 Authority.
- WAC 173-806-020 Purpose of this part and adoption by reference.
- WAC 173-806-030 Additional definitions.
- WAC 173-806-040 Designation of responsible official.
- WAC 173-806-050 Lead agency determination and responsibilities.
- WAC 173-806-053 Transfer of lead agency status to a state agency.
- WAC 173-806-058 Additional timing considerations.
- WAC 173-806-065 Purpose of this part and adoption by reference.
- WAC 173-806-070 Flexible thresholds for categorical exemptions.
- WAC 173-806-080 Use of exemptions.
- WAC 173-806-090 Environmental checklist.
- WAC 173-806-100 Mitigated DNS.

WAC 173-806-110	Purpose of this part and adoption by reference.
WAC 173-806-120	Preparation of EIS—Additional considerations.
WAC 173-806-125	Additional elements to be covered in an EIS.
WAC 173-806-128	Adoption by reference.
WAC 173-806-130	Public notice.
WAC 173-806-132	Public notice.
WAC 173-806-140	Designation of official to perform consulted agency responsibilities for the city/county.
WAC 173-806-150	Purpose of this part and adoption by reference.
WAC 173-806-155	Purpose of this part and adoption by reference.
WAC 173-806-160	Substantive authority.
WAC 173-806-170	Appeals.
WAC 173-806-173	Notice/statute of limitations.
WAC 173-806-175	Purpose of this part and adoption by reference.
WAC 173-806-180	Adoption by reference.
WAC 173-806-185	Purpose of this part and adoption by reference.
WAC 173-806-190	Critical areas.
WAC 173-806-200	Fees.
WAC 173-806-205	Effective date.
WAC 173-806-220	Severability.
WAC 173-806-230	Adoption by reference.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 197-06-010	Purpose.
WAC 197-06-020	Definitions.
WAC 197-06-030	Public records available.
WAC 197-06-040	Membership, officers, quorum, administrative offices, function.
WAC 197-06-050	Meetings.
WAC 197-06-060	Public records officer.
WAC 197-06-070	Office hours.
WAC 197-06-080	Requests for public records.
WAC 197-06-090	Copying.
WAC 197-06-100	Exemptions.
WAC 197-06-110	Review of denials of public records requests.

WAC 197-06-120	Protection of public records.
WAC 197-06-130	Records index.
WAC 197-06-140	Communications.
WAC 197-06-150	Adoption of form.
WAC 197-06-990	Form—Council on environmental policy—Request for public records.

WSR 14-09-027**PERMANENT RULES****MILITARY DEPARTMENT**

(Emergency Management Division)

[Filed April 9, 2014, 12:00 p.m., effective May 10, 2014]

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

Purpose: To establish eligibility and allocation criteria to be applied in allocating emergency management assistance funds to emergency management organizations.

Citation of Existing Rules Affected by this Order: Amending chapter 118-09 WAC.

Statutory Authority for Adoption: RCW 38.52.005.

Adopted under notice filed as WSR 13-22-027 on October 30, 2013.

Changes Other than Editing from Proposed to Adopted Version: Differences between the text of the proposed rule as published in the Washington State Register and the text of the rule as adopted are identified below with an explanation of why the change was made.

WAC 118-09-020 Definitions.

(1) "Advisory group" means a group comprised of local, tribal, and state emergency management professionals that shall advise the director.

(2) "Comprehensive emergency management plan (CEMP)" means a current, verified emergency plan as required by chapter 118-30 WAC.

(3) "Director" means the director of the emergency management division (EMD) of the Washington state military department.

(4) "Emergency management functions" means the governmental function that coordinates and integrates activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual emergencies or disasters whether natural, technological, acts of terrorism, or other human caused.

(5) "Emergency management organization (EMO)" means the local organization for emergency management established pursuant to RCW 38.52.070(1). EMO also means organizations established by a federally recognized Indian tribe located within the boundaries of the state of Washington that perform emergency management functions as part of that tribe.

(6) "Emergency operations center (EOC)" means the central location or facility responsible for coordinating multi-jurisdictional or multidisciplinary response activities related to an emergency or disaster, and may also be

referred to by other names such as an emergency coordination center (ECC).

(7) "Emergency or disaster" means an event or set of circumstances which:

(a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or

(b) Reaches such a dimension or degree of destructiveness as to warrant the governor proclaiming a state of emergency pursuant to RCW 43.06.010.

Reason for the Change: The military department intended this definition to be consistent with the statutory definition in RCW 38.52.010 (6)(a), and addition of the word "disaster" is consistent with this intent.

(8) "Emergency management assistance funds" or "EMA funds" means:

(a) Emergency Management Performance Grant (EMPG) funds administered by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.;

(b) Any successor/supplemental federal emergency management assistance funds available for allocation to EMOs to both sustain and enhance emergency management capabilities statewide; and

(c) State funds provided to the Department by the legislature solely for the purposes of allocation under this chapter to EMOs for both sustaining and enhancing emergency management capabilities statewide.

Reason for the Change: The military department added the terms "to the department" and "under this chapter." Addition of these terms clarifies the original intent that state EMA funds subject to this chapter are only those appropriated to the department by the legislature for this purpose. There is no change in the effect of this rule.

WAC 118-09-040 Allocation of funds.

(1) EMPG funds and successor/supplemental federal emergency management assistance funds: EMPG and successor/supplemental federal emergency management assistance funds shall be allocated to eligible EMOs on a per capita basis modified by the allocation methodology set forth in this subsection. Per capita determinations for county and city EMOs shall be based on the official population estimates annually established by the Washington state office of financial management (OFM) under RCW 43.62.020. Per capita determinations for tribal EMOs shall be based on the population estimates established by the OFM Small Area Estimates Program for tribal areas.

(a) EMD is to retain the federally authorized percentage of these funds for Management and Administration (M&A). From the remaining amount, the director shall determine the amount of funding available for EMD operational costs and allocation to EMOs in consultation with the advisory group.

(b) The process for determining allocations to EMOs is a two-step process. First, the amount of funding allocated to least populated counties is to be determined in accordance with ~~(d)(i)~~ of this subsection. Second, the amount of funding allocated for the least populated counties is to be subtracted from the total amount of funding available for allocation to EMOs. The remainder is the amount of funding available for

allocation to the remaining ~~nonleast populated~~ counties, and cities in those counties and to tribes, which will be allocated on a per capita basis ~~in accordance with (d)(i) and (ii) of this subsection.~~

Reason for the Change: The military department deleted the term "nonleast populated" and replaced it with "the remaining." The military department agrees the new term adds to the clarity of the paragraph and doesn't alter the intent of the sentence.

The military department also recognized that the subsections of WAC 118-09-040 (1)(d) had been erroneously numbered. Accordingly, solely for purposes of clarity and with no intent to change the operative language or effect of the provisions of this section, the subsections of WAC 118-09-040 (1)(d) have been renumbered and citations to those provisions in WAC 118-09-040 (1)(b) have been deleted.

(c) ~~Minimum amount that will be awarded.~~ Under the allocation methodology set forth in this subsection:

(i) No county or city EMO will receive an award of these funds unless it qualifies for an award of at least ten thousand dollars;

(ii) No county or city EMO will receive an award of these funds unless it can provide a fifty percent match of at least ten thousand dollars; and

(iii) No city located in a least populated county will receive an award of these funds.

These limitations do not apply to tribal EMOs.

(d) ~~Allocation methodology.~~ The amount of funding available to EMOs will be allocated to least populated counties as follows:

~~(i) Least populated counties.~~ Special consideration is to be given to least populated counties due to the diverse population range of counties in the state. These counties would not benefit from a per capita allocation. Except as provided in ~~(d)(iv)~~ ~~(E)~~ of this subsection, least populated counties are those counties that will not receive at least eighteen thousand dollars in funding using a per capita allocation.

~~(ii) Least populated counties shall receive an allocation of EMPG and successor/supplemental federal funding in an amount to be determined by the director consistent with this subsection. These counties meeting eligibility requirements need assurance of a reliable level of such funding, with the target amount of funding being at least eighteen thousand dollars.~~ The intent is for the award amount combined with the fifty percent match requirement to allow for employment of a half-time dedicated emergency management professional.

~~(iii) The amount selected for allocation to least populated counties beyond the target amount is to be commensurate with the amount of these funds available for statewide county and city EMO funding, except as limited by (d)(vii) (D) of this subsection. For example, if the amount of these funds available for allocation to county and city EMOs increases, allocations to the least populated counties will be proportionately increased, except as limited by (d)(vii) of this subsection.~~

~~(iv) If the amount selected for allocation to least populated counties is greater than eighteen thousand dollars, that amount shall be used for determining what counties are designated as a least populated county for purposes of this subsection.~~

(vD) *These counties shall not receive awards greater than counties that do not fall into this category.*

(viE) *To preserve the minimal amount of funding available to these counties, cities located within these counties shall not be allocated EMPG or successor/supplemental federal funds. These cities shall collaborate with their county to sustain and improve emergency management programs and capabilities.*

Reason for the Change: The military department recognized that the subsections of WAC 118-09-040 (1)(d) had been erroneously numbered. Accordingly, solely for purposes of clarity and with no intent to change the operative language or effect of the provisions of this section, the subsections of WAC 118-09-040 (1)(d) have been renumbered, internal citations corrected, the term "least populated counties" moved to the introductory sentence of WAC 118-09-040 (1)(d), and the word "dollars" inserted in WAC 118-09-040 (1)(d)(ii).

(e) *Match requirements:*

(i) *The EMO shall meet all matching fund requirements associated with receipt of the funds only through a hard, dollar-for-dollar, match from a dedicated EMO emergency management budgeted fund;*

(ii) *The match shall not include any funds otherwise prohibited for such use by federal funding requirements; and*

(iii) *If an EMO is unable to meet the matching fund requirements, its award will be reduced to the amount it is able to meet, but no award shall be made to a county or city EMO unless it can provide a fifty percent match of at least ten thousand dollars.*

(iv) *Examples:*

(A) *If an EMO allocation is eighteen thousand dollars but only a match of eleven thousand dollars can be met, the award will be reduced to eleven thousand dollars.*

(B) *If a county or city EMO allocation is eighteen thousand dollars but a match of only nine thousand five hundred dollars can be met, the award will be zero.*

(f) *Phase-in of funding methodology: During each of the first three years following the effective date of this rule, application of this allocation methodology shall create no more than a thirty-three percent incremental change each year from the federal fiscal year 2012 EMPG allocation until fully implemented in the third year, at which time this subsection shall cease to apply. The 2012 allocation is to be used as the base year for purposes of the phase-in calculations. EMOs that received one-time funding increases in 2012 will have their implementation base reduced by that amount for purposes of calculating the thirty-three percent incremental change each year.*

(2) *Other EMO funding: To the extent consistent with state law establishing, authorizing, and appropriating state funds available for allocation to EMOs for both sustaining and enhancing emergency management capabilities statewide, such funds shall be allocated by applying the methodology in subsection (1)(a) through (e) of this section, as applicable.*

Reason for the Change: The military department made the adjustments for better clarity and easier reading of WAC 118-09-040 (1)(d) with no intended change in effect.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, Repealed 0.

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

Date Adopted: April 9, 2014.

Bret D. Daugherty
Major General
Director

Chapter 118-09 WAC

CRITERIA FOR ELIGIBILITY AND ALLOCATION OF EMERGENCY MANAGEMENT ASSISTANCE FUNDS

AMENDATORY SECTION (Amending WSR 84-01-022, filed 12/9/83)

WAC 118-09-010 Purpose. The purpose of this (~~regulation~~) chapter is to establish eligibility and allocation criteria to be applied by the director (~~of the Washington state department of emergency services~~) in allocating emergency management assistance (EMA) funds to (~~local~~) emergency (~~services~~) management organizations (~~of this state for the purpose of carrying out emergency services programs~~) (EMOs). The EMA funds (will be allocated in accordance with the federal Civil Defense Act of 1950 and other applicable parts of the Code of Federal Regulations) are to supplement and enhance, not supplant, existing EMO dedicated emergency management budgeted funding. EMA funds will be used to both sustain and enhance emergency management capabilities of an EMO.

AMENDATORY SECTION (Amending WSR 84-01-022, filed 12/9/83)

WAC 118-09-020 Definitions. (~~(1) Administrative expenses mean necessary emergency management expenses required for the proper and efficient administration of the emergency management program of a local government emergency services organization.~~

(2) ~~Personnel expenses mean necessary emergency management expenses for personnel on the staffing pattern of a local emergency services organization including but not limited to salaries, wages, and supplementary compensation and fringe benefits for such personnel. Such expenses must be supported by job descriptions, payroll records, and time dis-~~

tribution records to be kept on file by the local emergency services organization.

(3) ~~Program paper means the same as "program paper" as defined by WAC 118-08-030.~~

(4) ~~Comprehensive emergency operations plan means the same as "comprehensive emergency operation plan" as defined by WAC 118-02-030.~~

(5) ~~State director means the director of the Washington state department of emergency services.~~

(6) ~~Emergency services organization means the same as emergency services organization as defined by WAC 118-06-030.~~

(7) ~~Review board shall mean a committee of four persons appointed by the director, three persons from the state department of emergency services and the president of the Washington state association of emergency services directors.)~~ (1) "Advisory group" means a group comprised of local, tribal, and state emergency management professionals that shall advise the director.

(2) "Comprehensive emergency management plan (CEMP)" means a current, verified emergency plan as required by chapter 118-30 WAC.

(3) "Director" means the director of the emergency management division (EMD) of the Washington state military department.

(4) "Emergency management functions" means the governmental function that coordinates and integrates activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual emergencies or disasters whether natural, technological, acts of terrorism, or other human caused.

(5) "Emergency management organization (EMO)" means the local organization for emergency management established pursuant to RCW 38.52.070(1). EMO also means organizations established by a federally recognized Indian tribe located within the boundaries of the state of Washington that perform emergency management functions as part of that tribe.

(6) "Emergency operations center (EOC)" means the central location or facility responsible for coordinating multi-jurisdictional or multidisciplinary response activities related to an emergency or disaster, and may also be referred to by other names such as an emergency coordination center (ECC).

(7) "Emergency" or "disaster" means an event or set of circumstances which:

(a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or

(b) Reaches such a dimension or degree of destructiveness as to warrant the governor proclaiming a state of emergency pursuant to RCW 43.06.010.

(8) "Emergency management assistance funds" or "EMA funds" means:

(a) Emergency Management Performance Grant (EMPG) funds administered by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.;

(b) Any successor/supplemental federal emergency management assistance funds available for allocation to EMOs to both sustain and enhance emergency management capabilities statewide; and

(c) State funds provided to the department by the legislature solely for the purposes of allocation under this chapter to EMOs for both sustaining and enhancing emergency management capabilities statewide.

AMENDATORY SECTION (Amending WSR 84-01-022, filed 12/9/83)

WAC 118-09-030 ((EMA funds)) Eligibility criteria. ~~((Local emergency services organizations in the state of Washington will be))~~ An EMO is eligible ((for)) to receive EMA funds if the following criteria ((are)) is met by the EMO prior to the beginning of the ((one-year)) application period for which the EMA funds are sought:

(1) ~~((The local emergency services organization for which EMA funds are sought shall))~~ Have a current ((comprehensive emergency operations plan)) CEMP, or schedule for plan development or maintenance ((approved)), verified by the ((state)) director.

(2) ~~((The director/coordinator of the emergency services organization for which EMA funds are sought shall be a full-time or part-time))~~ Have at least a half-time employee ((of the organization)) whose job duties are specifically dedicated to performing emergency management functions.

(3) ~~((The emergency services organization shall have an approved program paper in accordance with WAC 118-08-060.~~

(4) ~~Local emergency services organization personnel must be hired and appointed in accordance with local merit system rules and regulations that are commensurate with federal guidelines.~~

(5) ~~))~~ Have a designated emergency management agency, department, division, or office established with a dedicated budget to perform emergency management functions.

(4) Have adopted an ordinance, code, or resolution establishing the EMO. Additionally, an EMO that consists of two or more political subdivisions (cities/towns) shall have an executed interlocal agreement establishing the multijurisdictional EMO.

(5) Hire and appoint personnel in accordance with applicable employment laws, rules, regulations, and policies.

(6) Comply with all federal and state emergency management program requirements.

(7) Demonstrate that EMA funds will only be used to both sustain and enhance the EMO's existing emergency management program and capabilities.

(8) Demonstrate that EMA funds will not be used to supplant or replace EMO existing dedicated emergency management budgeted funding.

(9) Meet all applicable matching fund requirements for receipt of EMA funding.

(10) ~~If ((a local emergency services organization receiving EMA funds))~~ an EMO fails to meet each of the ((requirements of)) criteria in subsections (1) through ((4)) (9) of this section, the ((state)) director ((shall)) may withhold from the ((recipient)) EMO any EMA funds for the balance of the

((federal fiscal year. The funds thus withheld shall be reallocated on a percentage basis to those emergency services organizations that have met the requirements of subsections (1) through (4) of this section)) funding period and future funding cycles to the extent the director determines will encourage sustained and enhanced statewide emergency management functions consistent with federal and state emergency management program requirements.

AMENDATORY SECTION (Amending WSR 84-01-022, filed 12/9/83)

WAC 118-09-040 ((Distribution)) Allocation of ((EMA)) funds. ~~((1) From the total amount of EMA funds allocated for distribution to local emergency services organizations, the director may withhold up to five percent of the funds for discretionary distribution to emergency services organizations that meet EMA funds eligibility criteria after the beginning of the one-year period for which EMA funds are available. These discretionary moneys will be distributed on a percentage basis to local emergency services organizations that became eligible during the one-year period for which EMA funds are available. If such discretionary funds are exhausted, local emergency services organizations that become eligible for such funds will not receive funds.~~

~~(2) Any portion of the withheld percentage of the total EMA fund allocation to local emergency services organizations that has not been distributed by the end of a nine-month period, measured from the beginning of the one-year period for which EMA funds are available, shall be distributed on a percentage basis to those emergency services organizations that have achieved and maintained eligibility in accordance with WAC 118-09-030.~~

~~(3) The director shall decide upon and publish by September 1 each year, the beginning and ending dates of the next one-year period for which EMA funds will be available to local emergency services organizations.~~

~~(4) The total amount of EMA funds allocated for distribution to local emergency services organizations, less the percentage withheld by the director (net funds), shall be distributed to eligible local emergency services organizations on a percentage basis up to and including fifty percent of eligible costs. The percentage amount will be determined by the amount of federal funds available each federal fiscal year. The percentage shall be derived by dividing the amount of net funds available by the total of all EMA funds requested by eligible local emergency services organizations. An eligible local emergency services organization shall receive an amount of EMA funds equal to the percentage multiplied by the amount of EMA funds requested.)~~ EMA funds shall be allocated to eligible EMOs as prescribed in this section.

(1) **EMPG funds and successor/supplemental federal emergency management assistance funds:** EMPG and successor/supplemental federal emergency management assistance funds shall be allocated to eligible EMOs on a per capita basis modified by the allocation methodology set forth in this subsection. Per capita determinations for county and city EMOs shall be based on the official population estimates annually established by the Washington state office of financial management (OFM) under RCW 43.62.020. Per capita

determinations for tribal EMOs shall be based on the population estimates established by the OFM Small Area Estimates Program for tribal areas.

(a) EMD is to retain the federally authorized percentage of these funds for Management and Administration (M&A). From the remaining amount, the director shall determine the amount of funding available for EMD operational costs and allocation to EMOs in consultation with the advisory group.

(b) The process for determining allocations to EMOs is a two-step process. First, the amount of funding allocated to least populated counties is to be determined in accordance with this subsection. Second, the amount of funding allocated for the least populated counties is to be subtracted from the total amount of funding available for allocation to EMOs. The remainder is the amount of funding available for allocation to the remaining counties, cities in those counties and to tribes, which will be allocated on a per capita basis.

(c) Minimum amount that will be awarded. Under the allocation methodology set forth in this subsection:

(i) No county or city EMO will receive an award of these funds unless it qualifies for an award of at least ten thousand dollars:

(ii) No county or city EMO will receive an award of these funds unless it can provide a fifty percent match of at least ten thousand dollars; and

(iii) No city located in a least populated county will receive an award of these funds.

These limitations do not apply to tribal EMOs.

(d) Allocation methodology. The amount of funding available to EMOs will be allocated to least populated counties as follows:

(i) Special consideration is to be given to least populated counties due to the diverse population range of counties in the state. These counties would not benefit from a per capita allocation. Except as provided in (d)(iv) of this subsection, least populated counties are those counties that will not receive at least eighteen thousand dollars in funding using a per capita allocation.

(ii) Least populated counties shall receive an allocation of EMPG and successor/supplemental federal funding in an amount to be determined by the director consistent with this subsection. These counties meeting eligibility requirements need assurance of a reliable level of such funding, with the target amount of funding being at least eighteen thousand dollars. The intent is for the award amount combined with the fifty percent match requirement to allow for employment of a half-time dedicated emergency management professional.

(iii) The amount selected for allocation to least populated counties beyond the target amount is to be commensurate with the amount of these funds available for statewide county and city EMO funding, except as limited by (d)(v) of this subsection. For example, if the amount of these funds available for allocation to county and city EMOs increases, allocations to the least populated counties will be proportionately increased, except as limited by (d)(v) of this subsection.

(iv) If the amount selected for allocation to least populated counties is greater than eighteen thousand dollars, that amount shall be used for determining what counties are designated as a least populated county for purposes of this subsection.

(v) These counties shall not receive awards greater than counties that do not fall into this category.

(vi) To preserve the minimal amount of funding available to these counties, cities located within these counties shall not be allocated EMPG or successor/supplemental federal funds. These cities shall collaborate with their county to sustain and improve emergency management programs and capabilities.

(e) Match requirements:

(i) The EMO shall meet all matching fund requirements associated with receipt of the funds only through a hard, dollar-for-dollar, match from a dedicated EMO emergency management budgeted fund;

(ii) The match shall not include any funds otherwise prohibited for such use by federal funding requirements; and

(iii) If an EMO is unable to meet the matching fund requirements, its award will be reduced to the amount it is able to meet, but no award shall be made to a county or city EMO unless it can provide a fifty percent match of at least ten thousand dollars.

(iv) Examples:

(A) If an EMO allocation is eighteen thousand dollars but only a match of eleven thousand dollars can be met, the award will be reduced to eleven thousand dollars.

(B) If a county or city EMO allocation is eighteen thousand dollars but a match of only nine thousand five hundred dollars can be met, the award will be zero.

(f) Phase-in of funding methodology: During each of the first three years following the effective date of this rule, application of this allocation methodology shall create no more than a thirty-three percent incremental change each year from the federal fiscal year 2012 EMPG allocation until fully implemented in the third year, at which time this subsection shall cease to apply. The 2012 allocation is to be used as the base year for purposes of the phase-in calculations. EMOs that received one-time funding increases in 2012 will have their implementation base reduced by that amount for purposes of calculating the thirty-three percent incremental change each year.

(2) **Other EMA funding:** To the extent consistent with state law establishing, authorizing, and appropriating state funds available for allocation to EMOs for both sustaining and enhancing emergency management capabilities statewide, such funds shall be allocated by applying the methodology in subsection (1) of this section, as applicable.

(3) **Unspent funding:** Any allocated EMA funds not expended by, or accepted by, an EMO shall be reallocated among remaining eligible EMOs as the director determines will best sustain and enhance statewide emergency management capabilities.

(4) **Review:** The EMPG allocation methodology shall be reviewed at least every five years.

AMENDATORY SECTION (Amending WSR 84-01-022, filed 12/9/83)

WAC 118-09-050 Appeal and review ~~((of EMA funds distribution))~~. (1) ~~((A local emergency services organization))~~ **Appeal:** An EMO may appeal to the director to reconsider eligibility determinations and the amount of EMA funds

~~((distributed to it))~~ allocated if ~~((the emergency services organization))~~ it believes ~~((that the amount of EMA funds distributed to it))~~ the determination is inconsistent with the ~~((eligibility))~~ criteria. Such appeal ~~((shall))~~ must be made in writing ~~((to))~~ setting forth the specific reasons for the appeal and be received by the director within fifteen calendar days following receipt by the EMO of notification of the EMA fund allocation ~~((by the local emergency services organization))~~.

~~((2) The appeal shall set forth the local emergency services organization's reasons for the appeal.~~

~~((3))~~ (2) **Review and response:** The director shall respond to the ~~((local emergency services organization))~~ EMO in writing **within fifteen calendar days** of receipt of the written appeal. The director's response shall uphold or modify the ~~((distribution of))~~ eligibility determination or allocation for EMA funds and ~~((set forth in writing))~~ describe the reasons for ~~((his))~~ the decision. The decision of the director shall be final.

~~((4) The director may appoint a review board of four persons to review and recommend a response to an appeal.))~~

NEW SECTION

WAC 118-09-060 Advisory group. The director shall consult with the advisory group on the following:

(1) Activities that will both sustain and enhance statewide emergency management capabilities for purposes of reallocating EMA funds;

(2) Potential changes to the percentage of EMA funds EMD retains for M&A costs and operational costs;

(3) Potential changes to the percentage of EMA funds available to pass through to EMOs;

(4) The amount of EMA funding available for allocation for least populated counties and additional funding for tribal EMOs;

(5) Review of the allocation methodology at least every five years; and

(6) Other related issues at the request of the director.

WSR 14-09-031

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed April 9, 2014, 3:27 p.m., effective September 1, 2014]

Effective Date of Rule: September 1, 2014.

Purpose: New definitions and revisions to the definitions sections were made to provide clarification on a lapsed, suspended and revoked school bus driver's authorization. In addition, the reference to "serious behavioral problem" was replaced with "professional misconduct."

Minor changes were made to the initial and continuing requirements to be a school bus driver. The disqualifying conditions concerning speeding tickets was revised from "speeding ten mph or more" to "speeding." The law enforcement agencies are not providing the department of licensing the details of how many miles over the speed limit a driver

was cited for. Also added to this section "driving too fast for conditions."

Clarified the school districts[] responsibility when obtaining a copy of the driving record when the school bus driver resides out-of-state.

Citation of Existing Rules Affected by this Order: Amending WAC 392-144-005, 392-144-020, 392-144-030, 392-144-040, 392-144-101, 392-144-102, 392-144-103, 392-144-110, 392-144-120, 392-144-130, 392-144-140, 392-144-150, and 392-144-160,

Statutory Authority for Adoption: RCW 28A.160.210.

Adopted under notice filed as WSR 14-04-116 on February 4, 2014.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 13, 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 1, Amended 13, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 25, 2014.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 06-15-010, filed 7/6/06, effective 8/6/06)

WAC 392-144-005 Purpose and authority. (1) The purpose of this chapter is to set the minimum standards and qualifications for ~~((public))~~ school district or contracted employees ~~((and contractors))~~ operating school buses for the transportation of public school children.

(2) The authority for this chapter is RCW 28A.160.210.

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Superintendent" means the Washington state superintendent of public instruction or designee.

(2) "School bus driver" means a person, who is employed by a school district including contracted drivers under WAC 392-144-040 (1) and (2) and as part of that employment or contract, operates a school bus as defined in WAC 392-143-010, or other motor vehicles for the regularly scheduled transportation of students between home and school. School buses shall be operated by authorized school bus drivers when transporting students. An authorized school

bus driver may also transport students on field trips and other school related activities.

~~((2))~~ (3) "A school bus driver's authorization" means an authorization issued by the superintendent ~~((of public instruction))~~ indicating that the person has met the requirements to operate a school bus or other motor vehicle for the purpose of transporting students to and from school routinely on scheduled routes and/or school activities. A school bus driver must ~~((be authorized))~~ have a valid authorization prior to transporting students and such authorization shall continue in effect as long as the person continues to meet the requirements of this chapter. A school bus driver authorization is not valid if suspended, revoked or lapsed.

~~((3))~~ (4) "A lapsed school bus driver's authorization" means the driver does not have a valid driver's license, current first-aid training, a current medical examiner's certificate (including any required intrastate medical waiver) or current in-service training. A school bus driver shall not operate a school bus with passengers on board until they meet all requirements. There is no requirement for a lapse in authorization to be reported to the superintendent of public instruction.

(5) "A suspended school bus driver's authorization" means the superintendent has suspended the school bus driver's authorization for a specific period of time. The superintendent will not remove the driver from the district's list of authorized drivers. This action does not prevent the school district from taking independent actions to terminate the employment of the driver. In that case, the school district would remove the driver from the list of their authorized drivers.

(6) "A revoked school bus driver's authorization" means the superintendent has determined the school bus driver no longer meets the minimum requirements of this chapter and the driver's name is removed from the list of authorized drivers at the employing school districts. The driver will not be eligible to be an authorized school bus driver at any school district until the disqualifying conditions are no longer present. In those rare situations where the disqualifying conditions are particularly grievous including, but not limited to, crimes against children and falsification of records, the revocation may be permanent.

(7) An "authorized school bus driver ~~((instructor's authorization))~~ instructor" means an ~~((authorization issued))~~ individual authorized by the superintendent ~~((of public instruction to a person successfully completing the superintendent of public instruction approved school bus driver instructor course. This authorization qualifies a person to train and))~~ to verify the training of school bus drivers. ~~((This authorization shall lapse unless the holder successfully completes an annual school bus driver instructor's in-service course.~~

~~((4))~~ (8) "School bus driver training course" means a course established by the superintendent ~~((of public instruction))~~ and taught or overseen by an authorized school bus driver instructor. This course shall be successfully completed by all applicants for a school bus driver's authorization.

~~((5))~~ (9) "School bus driver annual in-service training ~~((course))~~" means ~~((an))~~ annual ~~((course))~~ training taught by an authorized school bus driver instructor. The content and minimum time requirements of such ~~((course))~~ training shall

be annually determined by the superintendent ~~((of public instruction))~~ and shall be ~~((required to be))~~ completed no earlier than August 1st and no later than November 1st by all authorized school bus drivers.

~~((6))~~ (10) "School bus driver instructor's course" means a training program ~~((authorized))~~ established by the superintendent ~~((of public instruction))~~ to qualify a person as a school bus driver instructor.

~~((7))~~ (11) "School bus driver instructor's annual in-service ~~((course))~~ training" means ~~((an))~~ annual required ~~((course))~~ training, the content of which shall be determined by the superintendent ~~((of public instruction))~~. Successful completion of this course prevents the instructor's authorization from lapsing.

~~((8))~~ "Serious behavioral problem" includes, but is not limited to, conduct which indicates unfitness to carry out the responsibilities related to the occupation or job performance of transporting children, such as: Dishonesty; immorality; or misuse of alcohol, a controlled substance, or a prescription drug; or furnishing alcohol or controlled substances to a minor or student. It does not include the orderly exercise during off-duty hours of any rights guaranteed under the law to citizens generally, except where such conduct indicates a safety risk for the transportation of students.

~~((9))~~ (12) "Professional misconduct" means a documented instance of an authorized school bus driver failing to comply with the provisions of this chapter, the provisions of chapter 392-145 WAC, or the provisions of chapter 46.61 RCW while operating a school bus.

(13) "Medical examiner's certificate" means a written verification of passing a medical examination in accordance with the standards established in 49 C.F.R. 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations.

(a) School bus drivers must provide verification of passing a medical examination at a minimum of every twenty-four months.

(b) School bus drivers must continue to meet these medical requirements during the time between examinations.

(c) A school district may require more frequent examinations of any school bus driver. If a school district requires a school bus driver to be examined by a district selected physician, the school district must pay for the cost of such exam. If the driver objects to the district selected physician, a physician must be selected that is mutually acceptable.

(d) An individual who is a diabetic being treated with insulin may hold a school bus driver authorization if they meet the following requirements:

(i) Possess a valid commercial driver license intrastate medical waiver for diabetes from the Washington state department of licensing or a valid interstate exemption certificate for diabetes issued by the Federal Motor Carrier Safety Administration;

(ii) Provide at a minimum of every twenty-four months to the authorizing school district(s) or employer a completed, signed copy of Form SPI 1643 (Part A), Application Section, and a completed, signed copy of Form SPI 1643 (Part B), Physician Evaluation Section indicating the driver's medical condition allows them to safely operate a school bus while using insulin. The Physician Evaluation Section must indicate that within the past three years, the driver has completed

instruction including diabetes management and driving safety; the signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications arise. Physician verification of participation in a diabetes education program covering these topics is required at least every three years in order to remain qualified for a school bus driver authorization;

(iii) Provide at a minimum of every twelve months to the authorizing school district(s) or employer a completed, signed copy of Form SPI 1643 (Part C), Vision Evaluation Section indicating the driver does not have any vision problems that might impair safe driving;

(iv) Provide at a minimum of every six months to the authorizing school district(s) or employer a completed, signed copy of Form SPI 1643 (Part D), HbA1c Report Section indicating values more than 5.9 and less than 9.6 (unless accompanied by the signed medical opinion that the event was incidental and not an indication of failure to control glucose levels);

(v) Self-monitor blood glucose using an FDA approved device and demonstrate conformance with requirements (more than 100 mg/dl and less than 300 mg/dl):

(A) Within one hour before driving vehicles transporting students; and

(B) Approximately every four hours while on duty;

(vi) Maintain a daily log of all glucose test results for the previous six-month period and provide copies to the authorizing school district(s) or employer, and the medical examiner or physician upon request;

(vii) Carry a source of readily absorbable/fast-acting glucose while on duty;

(viii) Report immediately to their employer, any failure to comply with specific glucose level requirements as listed in (d)(iv) or (v) of this subsection, or loss of consciousness or control;

(ix) Individuals who have had a loss of consciousness or loss of control (cognitive function) due to a diabetic event do not qualify for a school bus driver authorization for one year, provided there has not been a recurrent hypoglycemic reaction requiring assistance of another person within the previous five years;

(x) A school bus driver is no longer authorized to operate a school bus and must be immediately removed from driving duties for any of the following:

(A) Results of the most recent HbA1c test indicating values less than 6.0 or greater than 9.5 unless accompanied by the signed medical opinion that the event was incidental and not an indication of failure to control glucose levels;

(B) Results of self-monitoring indicate glucose levels less than 100 mg/dl or greater than 300 mg/dl, until self-monitoring indicates compliance with specifications;

(C) Experiencing a loss of consciousness or control relating to diabetic condition;

(D) Failing to maintain or falsifying the required records, including self-monitoring records and any section of Form SPI 1643;

(xi) The authorizing school district or employer may request medical review of any or all signed, completed sections of Form SPI 1643 (Parts A-D), Washington State Authorized School Bus Driver Diabetes Exemption Program,

and the driver's daily glucose test logs by a medical examiner or physician of their choice. The cost of this review shall be paid by the school district or employer.

AMENDATORY SECTION (Amending WSR 06-15-010, filed 7/6/06, effective 8/6/06)

WAC 392-144-030 Training and qualifications of school bus driver instructors—Administration. The superintendent (~~(of public instruction)~~) shall determine the qualifications necessary for applicants for the school bus driver instructor course and qualifications necessary for continuation of the school bus driver instructor authorization. Each school bus driver instructor shall verify annually that they continue to meet ~~((said))~~ the qualifications. ~~((Intentional falsification of school bus driver training records shall result in permanent revocation of the school bus driver instructor authorization.))~~ In the case of denial of authorization or disqualification, the superintendent (~~(of public instruction)~~) shall provide an appeal process consistent with the provisions of this chapter.

(1) A school bus driver instructor's authorization shall lapse effective the first day of September of any school year, unless the driver instructor has successfully completed the school bus driver instructor's in-service training for that school year. A school bus driver instructor is not required to notify the superintendent when the instructor's authorization is lapsed. A school bus driver instructor with a lapsed authorization cannot verify the successful completion of the school bus driver training course or the school bus driver in-service training. Reinstatement of the school bus driver instructor's authorization that has lapsed for failure to complete the annual in-service training occurs automatically upon completion of the required training, provided the authorization has not expired.

(2) A school bus driver instructor's authorization shall expire effective the first day of September of the second school year without successful completion of the school bus driver instructor's annual in-service training. Reinstatement of a school bus driver instructor's authorization that has expired requires another successful completion of the school bus driver instructor training course. A school bus driver instructor with an expired authorization cannot verify the successful completion of the school bus driver training course or the school bus driver in-service training.

(3) Intentional falsification of school bus driver training records shall result in permanent revocation of the school bus driver instructor authorization. School bus driver training records include, but are not limited to:

- (a) Initial school bus driver training records;
- (b) School bus driver annual in-service training records;
- (c) School bus driver annual verification reports as required by this chapter.

AMENDATORY SECTION (Amending WSR 06-15-010, filed 7/6/06, effective 8/6/06)

WAC 392-144-040 Application to contractors. (1) Every contract between a school district and a ~~((private school bus))~~ contractor for ~~((pupil))~~ student transportation services shall provide for compliance with the requirements

of this chapter and establish the responsibility of the contractor or school district, or both, to assure compliance with such requirements.

(2) Each driver employed by a ~~((private school bus))~~ contractor ~~((under contract with a school district))~~ to provide ~~((pupil))~~ student transportation services shall meet the requirements of this chapter, and shall be subject to the denial, suspension, lapse, and revocation of their school bus driver authorization and the authority to operate a motor vehicle under this chapter.

~~((3) Every contract between a school district and a charter bus carrier or excursion carrier, or subcontracted carrier shall require a carrier profile report indicating a satisfactory rating from the Washington utilities and transportation commission before any service is provided. No driver under this subsection shall have unsupervised access to children. Supervision of children under this subsection shall be provided by a responsible employee of the school district.))~~

NEW SECTION

WAC 392-144-045 Use of charter bus companies.

Every contract between a school district and a charter bus carrier or excursion carrier, or subcontracted carrier shall require a carrier profile report indicating a satisfactory rating from the Washington utilities and transportation commission before any service is provided. Supervision of children on trips under this subsection shall be designated to a specific employee of the school district who shall ensure that the driver shall have not have unsupervised access to students during the trip.

AMENDATORY SECTION (Amending WSR 06-15-010, filed 7/6/06, effective 8/6/06)

WAC 392-144-101 Initial requirements for school bus drivers. Every authorized school bus driver must meet the following initial requirements:

- ~~((1))~~ ~~((Be at least twenty-one years of age.~~
- ~~((2)))~~ Have at least ~~((one year of experience as a driver of a truck or commercial vehicle requiring a special endorsement or, in the alternative, at least three))~~ five years of experience as a licensed driver of a passenger vehicle.

~~((3)))~~ (2) Submit to a criminal record check according to chapter 28A.400 RCW which shows that no offenses have been committed which would be grounds for ~~((denial))~~ disqualification of an authorization as listed in WAC 392-144-103.

~~((4)))~~ (3) Satisfactorily complete a school bus driver training course administered by an authorized school bus driver instructor.

~~((5)))~~ (4) Meet all applicable continuing school bus driver requirements in WAC 392-144-102.

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-102 Continuing requirements for authorized school bus drivers. Every authorized school bus driver must continue to meet the following requirements:

(1) Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.

(2) Satisfactorily complete the annual school bus driver in-service training course.

(3) ~~((Hold a))~~ Maintain current and valid training in a first-aid ~~((card which certifies that the applicant has completed a))~~ course ~~((in first aid))~~ accepted by the local school district.

(4) Submit annually to the school district a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and disclosure of all convictions which may be grounds for denial, suspension, or revocation of authorization under WAC 392-144-103.

(5) Every authorized school bus driver must continue to meet the following physical requirements:

(a) Is physically able to maneuver and control a school bus under all driving conditions; and

(b) Is physically able to use all controls and equipment found on state minimum specified school buses; and

(c) Is physically able to perform daily routine school bus vehicle safety inspections; and

(d) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds. A school district may develop and implement an alternative assessment of physical strength and agility. The alternate assessment must be submitted by the school district superintendent for review and approval by ~~((OSPI))~~ the superintendent; and

(e) Provide ~~((verification of holding))~~ a copy of a current and valid medical examiner's certificate to their employer.

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-103 Disqualifying conditions for authorized school bus drivers. A school bus driver's authorization will be denied, suspended, or revoked as a result of the following conditions:

(1) Misrepresenting or concealing a material fact in obtaining or maintaining a school bus driver's authorization or in reinstatement thereof in the previous five years.

(2) Having a driving license privilege suspended or revoked as a result of a moving violation as defined in WAC 308-104-160 within the preceding five years or having had their commercial driver's license disqualified, suspended, or revoked within the preceding five years; a certified copy of the disqualification, suspension, or revocation order issued by the department of licensing being conclusive evidence of the disqualification, suspension, or revocation.

(3) Having been convicted of ~~((three or more speeding tickets of ten miles per hour or more over the speed limit))~~

any of the following motor vehicle violations within the last five years;

(a) Three or more speeding tickets, including driving too fast for conditions;

(b) Hit and run driving;

(c) Vehicular assault;

(d) Vehicular homicide;

(e) Driving while intoxicated;

(f) Being in physical control of motor vehicle while intoxicated;

(g) Negligent driving in the first degree;

(h) Any motor vehicle violation agreed to during a court proceeding as a result of an alcohol related driving infraction.

(4) Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a lapsed, suspended, surrendered, or revoked school bus driver's authorization in a position for which authorization is required under this chapter.

(5) Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a suspended or revoked driver's license or a suspended, invalid, disqualified, or revoked commercial driver's license.

(6) Having refused to take a drug or alcohol test ~~((as required by))~~ in accordance with the provisions of 49 C.F.R. 382 within the preceding five years. ~~((Provided, That this requirement shall not apply to any refusal to take a drug or alcohol test prior to January 31, 2005.~~

~~((7) Having a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, school bus drivers, or other coworkers.~~

~~((8))~~ (7) Having been convicted of any misdemeanor, gross misdemeanor, or felony (including instances in which a plea of guilty or *nolo contendere* is the basis for the conviction) or being under a deferred prosecution under chapter 10.05 RCW where the conduct or alleged conduct is related to the occupation of a school bus driver, including, but not limited to, the following:

(a) The physical neglect of a child under chapter 9A.42 RCW;

(b) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, excepting motor vehicle violations under chapter 46.61 RCW;

(c) The sexual exploitation of a child under chapter 9.68A RCW;

(d) Sexual offenses where a child is the victim under chapter 9A.44 RCW;

(e) The promotion of prostitution of a child under chapter 9A.88 RCW;

(f) The sale or purchase of a child under RCW 9A.64-030;

(g) Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription drug within the last ten years;

~~((h) ((Any crime involving driving when a driver's license is suspended or revoked, hit and run driving, driving while intoxicated, being in physical control of motor vehicle while intoxicated, reckless driving, negligent driving of a serious nature, vehicular assault or vehicular homicide, within the last five years;~~

~~(h)~~) Provided, That the general classes of felony crimes referenced within this subsection shall include equivalent federal crimes and crimes committed in other states;

~~((h))~~) ~~(i)~~) Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;

~~((h))~~) ~~(j)~~) Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea.

~~((h))~~) ~~(8)~~) Having been convicted of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver, the following and any other relevant considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as an authorized school bus driver within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness;

(h) If this subsection is applied to a person currently authorized as a school bus driver in a suspension or revocation action, the effect on the school bus driving profession, including any chilling effect, shall be weighed; and

(i) In order to establish good moral character and personal fitness despite the criminal conviction, the applicant or authorized school bus driver has the duty to provide available evidence relative to the above considerations. The superintendent ~~((of public instruction))~~ has the right to gather and present additional evidence which may corroborate or negate that provided by the applicant or authorized school bus driver.

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-110 Temporary authorizations—Requirements and issuing procedures. (1) A temporary school bus driver authorization may be issued by the superintendent ~~((of public instruction))~~ upon application by an authorized representative of the employing school district when the following has been provided:

(a) Verification of successful completion of the school bus driver training course.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file an original, current and complete school bus driver's abstract, including departmental

actions, of the applicant's employment and nonemployment driving record obtained from the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days prior to the date the application is being submitted for temporary authorization.

(d) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC 392-144-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(e) Verification that it has requested a criminal record check as required under chapter 28A.400 RCW and the date of such request.

~~(f) ((Verification that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the education welfare or personal safety of students, teachers, bus drivers, or other colleagues.~~

~~(g))~~) Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter except for ~~((a))~~ first-aid ~~((and))~~ training in a first-aid course and/or the results of a criminal record check.

(2) Upon approval of the temporary authorization, notice will be provided to the employing school district.

(3) The temporary authorization shall be valid for a period of sixty calendar days. The temporary authorization may be renewed by approval of the superintendent ~~((of public instruction))~~ when the results of the criminal background check have not been received.

AMENDATORY SECTION (Amending WSR 07-13-067, filed 6/18/07, effective 7/19/07)

WAC 392-144-120 School bus driver authorization—Requirements and issuing procedures. A school bus driver authorization may be issued by the superintendent ~~((of public instruction))~~ upon application by an authorized representative of the employing school district subject to compliance with the following provisions:

(1) The employing school district shall forward to the superintendent ~~((of public instruction))~~ the following verifications relating to the applicant:

(a) Verification of successful completion of the school bus driver training course taught by an authorized school bus driver instructor.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file an original, current and complete school bus driver's abstract, including departmental actions, of the applicant's employment and nonemployment

driving record obtained from the department of licensing verifying compliance with all provisions of this chapter. For applicants that have an out-of-state license, the district is required to annually obtain a current driving record from the corresponding state. The issue date of this abstract must be within sixty calendar days prior to the date an application was submitted for temporary authorization. If no request for a temporary school bus authorization was submitted, the issue date must be within sixty calendar days prior to the date of application of the school bus driver authorization.

(d) Verification that the applicant has completed a current and valid first-aid ~~(card)~~ training course.

(e) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC 392-144-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(f) Verification that it has on file the results of a criminal record check as required under chapter 28A.400 RCW and that such results establish that the applicant has not committed any offense which constitutes grounds for denying, suspending, or revoking an authorization under this chapter and the date of such request.

~~(g) ((Verification that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the educational welfare or personal safety of students, teachers, school bus drivers, or other colleagues.~~

~~(h))~~ Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter.

(2) Upon approval of an application, the superintendent ~~((of public instruction))~~ shall issue a notice of school bus driver authorization to the employing school district.

(3) Subsequent authorizations for an individual driver with new or additional employing school districts must be issued from the superintendent ~~((of public instruction))~~ to such districts prior to the operation of any motor vehicle for the transportation of children.

(4) The superintendent ~~((of public instruction))~~ will provide each school district with a list of their authorized school bus drivers and each authorized school bus driver's status.

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-130 Discipline—Grounds for denial, suspension, or revocation of authorization—Emergency suspension—Appeals—Adjudicative proceedings. (1) A request for an authorization may be denied or an authorization issued under this chapter may be suspended or revoked

for failure to meet any of the minimum requirements set forth in WAC 392-144-101 and 392-144-102 or for disqualifying conditions set forth in WAC 392-144-103, established by a preponderance of the evidence.

~~(2) ((Conduct, which by a preponderance of the evidence, amounts to a serious behavioral problem)) Professional misconduct, which endangers the educational welfare or personal safety of students, teachers, school bus drivers, or other colleagues is grounds for denial, suspension, or revocation whether or not the conduct constitutes a crime. ((If the act constitutes a crime, conviction in a criminal proceeding)) The employing school district shall determine if the professional misconduct is ((not)) a condition precedent to denial, suspension, or revocation action. Upon ((such)) a conviction, however, the judgment and sentence is conclusive evidence at the ensuing hearing of the guilt of the authorized driver or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based.~~

(3)(a) Any person in a court-ordered treatment program for alcohol or other drug misuse shall have his or her authorization suspended until treatment is satisfactorily completed and the completion is confirmed by a state-approved alcohol or drug treatment program at which time the authorization will be reinstated.

(b) In all cases of deferred prosecution under chapter 10.05 RCW, the authorization shall be suspended until the court confirms successful completion of the court approved treatment program at which time the authorization will be reinstated.

(4) Emergency suspension. If the superintendent ~~((of public instruction))~~ finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, emergency suspension of an authorization may be ordered pending proceedings for revocation or other action. In such cases, the superintendent ~~((of public instruction))~~ shall expedite all due process actions as quickly as possible.

(5)(a) Appeals and adjudicative proceedings. Any person desiring to appeal a denial, suspension, or revocation of a school bus driver authorization may do so to the superintendent ~~((of public instruction))~~ or designee in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494, and the administrative practices and procedures of the superintendent ~~((of public instruction))~~ in chapter 392-101 WAC.

(b) The superintendent ~~((of public instruction))~~ may assign the adjudicative proceeding to the office of administrative hearings and may delegate final decision-making authority to the administrative law judge conducting the hearing.

(c) The superintendent ~~((of public instruction))~~ may appoint a person to review initial orders and to prepare and enter final agency orders in accordance with RCW 34.05.464.

(d) Any person who disagrees with the school district's determination of failure to meet any school bus driver authorization qualifications may request that the school district forward the pertinent records to the superintendent ~~((of public instruction))~~. After review or investigation, the superintendent

dent (~~(of public instruction)~~) shall grant, deny, suspend, or revoke the authorization.

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-140 School bus driver—Reporting.

(1) Every person authorized under this chapter to operate a motor vehicle to transport children shall, within twenty calendar days, notify his or her employer in writing of the filing of any criminal charge involving conduct listed in WAC 392-144-103. The authorized driver shall also notify his or her employer of any disqualifying traffic convictions, or license suspension, disqualification, or revocation orders issued by the department of licensing. In cases where the employer is providing transportation services through a contract with the school district, the contractor shall immediately notify the school district superintendent or designee.

(2) The notification in writing shall identify the name of the authorized driver, his or her (~~(authorization)~~) driver's license number, the court in which the action is commenced, and the case number assigned to the action.

(3) The failure of an authorized driver to comply with the provisions of this section is an act of (~~(unprofessional conduct)~~) professional misconduct and constitutes grounds for authorization suspension or revocation by the superintendent (~~(of public instruction)~~).

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-150 School district—Reporting. (1)

Every school district employing authorized school bus drivers to transport children or contracting with a private firm who provides such authorized drivers as a part of a contract shall, within twenty calendar days, notify the superintendent (~~(of public instruction)~~) in writing of knowledge it may have of any disqualifying (~~(traffic convictions)~~) conditions or the filing of any criminal charge involving the conduct listed in WAC 392-144-103 against any authorized school bus driver.

(2) The notification can be in writing (~~(shall be by certified)~~) or (~~(registered mail)~~) by e-mail to the superintendent or its designee and shall identify the name of the authorized school bus driver, his or her (~~(authorization)~~) driver's license number, the mailing address of the driver, the court in which the action is commenced, and the case number assigned to the action.

AMENDATORY SECTION (Amending WSR 08-19-017, filed 9/5/08, effective 10/6/08)

WAC 392-144-160 School district—Verification of driver's continuing compliance. (1) Every school district shall annually evaluate each authorized school bus driver for continuing compliance with the provisions of this chapter annually. The results of this evaluation of all drivers shall be (~~(included with the Annual Transportation Report)~~) submitted to the (~~(regional transportation coordinator on SPI Form 1799, School Bus Driver Compliance Report,)~~) superintendent or their designee no later than the last business day in October of each year.

(2) This (~~(report)~~) annual evaluation shall (~~(verify that each authorized school bus driver's medical examination certificate expiration date, first-aid expiration date, driver's license expiration date and most recent school bus driver in-service training date has been updated in compliance with OSPI procedures.~~

(3) This report shall verify that each authorized school bus driver has made an updated disclosure in writing and signed and sworn under penalty of perjury which updates the disclosure required in WAC 392-144-102(4).

(4) This report shall verify that a current and original school bus driver's abstract has been obtained from the department of licensing on each authorized school bus driver and the driving record is in compliance with WAC 392-144-103.

(5) This report shall verify that each authorized school bus driver remains in compliance with the physical requirements of WAC 392-144-102(5).

(6) This report shall be a written verification that the evaluation has been conducted in accordance with the requirements of this chapter and that all drivers are in compliance, or if all drivers are not in compliance, a list of drivers who are out of compliance and the reason for none compliance shall be provided.) certify that the district has verified the following:

(a) That each authorized school bus driver's medical examination certificate expiration date, first-aid expiration date, driver's license expiration date and most recent school bus driver in-service training date has been updated in compliance with procedures established by the superintendent;

(b) That each authorized school bus driver has made an updated disclosure in writing and signed and sworn under penalty of perjury which updates the disclosure required in WAC 392-144-102(4); and

(c) That each authorized school bus driver remains in compliance with the physical requirements of WAC 392-144-102(5).

WSR 14-09-036

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed April 10, 2014, 2:05 p.m., effective May 11, 2014]

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

Purpose: WAC 458-20-178 (Rule 178) Use tax, this rule explains who is responsible for remitting use tax, and when and how to remit the tax. It also explains the imposition of use tax as it applies to the use of tangible personal property within Washington when the property was not subject to retail sales tax at the time of acquisition.

Rule 178 has been revised to: Update and clarify information to conform to existing law; add examples; remove the incomplete and outdated listing of exemptions; reformat the presentation of information in a more useful manner; and provide references to other rules that may be helpful to readers.

Citation of Existing Rules Affected by this Order:
Amending WAC 458-20-178 Use tax.

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

Adopted under notice filed as WSR 13-24-112 on December 4, 2013.

Changes Other than Editing from Proposed to Adopted Version: **Description of differences between the text of the proposed Rule 178 and the text of the adopted rule are as follows:**

In subsection (3) "*Use*" defined, we have changed the verbiage from "any act" to "the first act." The following verbiage was also added: "It includes installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within the state."

In subsection (4) *Measure of tax – Value of article used*, we added a reference to subsection (7) which discusses exceptions. In subsection (4)(b) *When the purchase price does not represent true value*, we added a reference to subsection (4)(i)(i) which explains a formula for determining rental value when there is no similar product of like quality and character. We added clarifying language to (4)(i)(i) *Rental value*, to ensure readers realize the formula would only be used in limited situations.

In subsection (5)(a) *When tax liability arises*, references to subsections (4)(b) and (4)(i)(i) were added.

In subsection (7)(c) *Tangible personal property put to both an exempt and taxable use*, language was changed in one sentence from "...use tax is due when the property is used for the nonexempt or taxable purpose" to "... use tax is due on the value of the property when first used for the non-exempt or taxable purpose."

In subsection (7)(d) *Intervening use of property purchased for resale*, the following language was added "... and the buyer provides the seller with a completed reseller permit."

Subsection (9)(b) was added to refer readers to WAC 458-20-17401 for an exemption from use tax for motor vehicles, trailers, and parts used by motor carriers.

Throughout the rule, examples without numbers were given numbers and others were renumbered.

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 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 0, Repealed 0.

Date Adopted: April 10, 2014.

Dylan Waits
Rules Coordinator

AMENDATORY SECTION (Amending WSR 87-01-050, filed 12/16/86)

WAC 458-20-178 Use tax and the use of tangible personal property. ~~((1) Nature of the tax. The use tax supplements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any article of tangible personal property purchased at retail or acquired by lease, gift, repossession, or bailment, or extracted, produced or manufactured by the person so using the same, where the user, donor or bailor has not paid retail sales tax under chapter 82.08 RCW with respect to the property used.~~

~~(2) In general, the use tax applies upon the use of any tangible personal property, the sale or acquisition of which has not been subjected to the Washington retail sales tax. Conversely, it does not apply upon the use of any property if the sale to the present user or to the present user's donor or bailor has been subjected to the Washington retail sales tax, and such tax has been paid thereon. Thus, these two methods of taxation stand as complements to each other in the state revenue plan, and taken together, provide a uniform tax upon the sale or use of all tangible personal property, irrespective of where it may have been purchased or how acquired.~~

~~(3) When tax liability arises. Tax liability imposed under the use tax arises at the time the property purchased, received as a gift, acquired by bailment, or extracted or produced or manufactured by the person using the same is first put to use in this state. The terms "use," "used," "using," or "put to use" include any act by which a person takes or assumes dominion or control over the article and shall include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within the state. Tax liability arises as to that use only which first occurs within the state and no additional liability arises with respect to any subsequent use of the same article by the same person. As to lessees of tangible personal property who have not paid the retail sales tax to their lessors, liability for use tax arises as of the time rental payments fall due and is measured by the amount of such rental payments.~~

~~(4) Persons liable for the tax. The person liable for the tax is the purchaser, the extractor or manufacturer who commercially uses the articles extracted or manufactured, the bailor or donor and the bailee or donee if the tax is not paid by the bailor or donor, and the lessee (to the extent of the amount of rental payments to a lessor who has not collected the retail sales tax). A lessor who leases equipment with an operator is deemed a user and is liable for the tax on the full value of the equipment.~~

~~(5) The law provides that the term "sale at retail" means, among other things, every sale of tangible personal property to persons taxable under the classifications of public road construction, government contracting, and service and other business activities of the business and occupation tax. Hence, persons engaged in such businesses are liable for the payment of the use tax with respect to the use of materials purchased by them for the performance of those activities, when the Washington retail sales tax has not been paid on the purchase thereof, even though title to such property may be transferred to another either as personal or as real property. Persons engaged in the types of businesses referred to in this paragraph are expressly included within the statutory definition of~~

the word "consumer." (See RCW 82.04.190.) Also liable for tax is any person who distributes or displays or causes to be distributed or displayed any article of tangible personal property, the primary purpose of which is to promote the sale of products and services except newspapers and except printed materials over which the person has taken no direct dominion and control. (See RCW 82.12.010(5).)

(6) Lessors and lessees. Any use tax liability with respect to leased tangible personal property will be that of the lessee and is limited to the amount of rental payments paid or due the lessor. However, when boats, motor vehicles, equipment and similar property are rented under conditions whereby the lessor itself supplies an operator or crew, the lessor itself is the user and the use tax is applicable to the value of the property so used.

(7) Exemptions. Persons who purchase, produce, manufacture, or acquire by lease or gift tangible personal property for their own use or consumption in this state, are liable for the payment of the use tax, except as to the following uses which are exempt under RCW 82.12.0251 through 82.12.034 of the law:

(a) The use of tangible personal property brought into the state of Washington by a nonresident thereof for use or enjoyment while temporarily within the state, unless such property is used in conducting a nontransitory business activity within the state; or

(b) The use by a nonresident of a motor vehicle or trailer which is currently registered or licensed under the laws of the state of the nonresident's residence and which is not required to be registered or licensed under the laws of this state, including motor vehicles or trailers exempt pursuant to a declaration issued by the department of licensing under RCW 46.85.060; or

(c) The use of household goods, personal effects, and private automobiles by a bona fide resident of this state or nonresident members of the armed forces who are stationed in this state pursuant to military orders, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than ninety days prior to the time such person entered this state.

(i) Use by a nonresident. The exemptions set forth in (a) and (b) of this subsection, do not extend to the use of articles by a person residing in this state irrespective of whether or not such person claims a legal domicile elsewhere or intends to leave this state at some future time, nor do they extend to the use of property brought into this state by a nonresident for the purpose of conducting herein a nontransitory business activity.

(ii) The term "nontransitory business activity" means and includes the business of extracting, manufacturing, selling tangible and intangible property, printing, publishing, and performing contracts for the constructing or improving of real or personal property. It does not include the business of conducting a circus or other form of amusement when the personnel and property of such business regularly moves from one state into another, nor does it include casual or incidental business done by a nonresident lawyer, doctor or accountant.

(d) The use of any article of tangible personal property purchased at retail or acquired by lease, by bailment or by gift if the sale thereof to or the use thereof by the present user or its bailor or donor has already been subjected to retail sales tax or use tax and such tax has been paid by the present user or by its bailor or donor; or in respect to the use of property acquired by bailment when tax has been paid by the bailee or any previous bailee, based on reasonable rental value as provided by RCW 82.12.060, equal to the amount of tax multiplied by the value of the article used at the time of first use, at the tax rate then applicable, or in respect to the use by a bailee of property acquired prior to June 9, 1961, by a previous bailee from the same bailor for use in the same general activity.

(e) The use of any article of tangible personal property the sale of which is specifically taxable under the public utility tax.

(f) In respect to the use of any airplane, locomotive, railroad car, or water craft used primarily in conducting interstate or foreign commerce by transporting therein or there-with property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and;

(g) In respect to the use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or water craft, and in respect to the use by a nonresident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state; also in respect to the use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days when the user has furnished the department of revenue with a written statement containing the following information:

(i) Name of registered owner.

(ii) Name of the foreign state in which motor vehicle or trailer is registered.

(iii) License number.

(iv) Make and model.

(v) Purpose of use in Washington.

(vi) Date of first use in Washington.

(vii) Date last used in Washington.

(h) For reasons approved by the department of revenue, fifteen additional days may be granted consecutive to the original period of use. Application for such additional use must be made in writing in advance of the expiration of the original period of use and must set out the justification for and the reason why such additional time should be allowed.

(i) This exemption is not available to persons performing construction or service contracts in this state but is limited to casual or isolated use by a nonresident for servicing of its own facilities.

(j) For the purpose of this exemption the term "nonresident" shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced,

maintained, and operated from the user's place of business in another state, and;

(k) In respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce. Also in respect to use by subcontractors to such interstate carriers, (i.e., persons operating their own vehicles under leases with operator) and;

(l) In respect to the use of any motor vehicle or trailer while being operated under the authority of a trip permit issued by the department of motor vehicles pursuant to RCW 46.16.160 and moving upon the highways from the point of delivery in this state to a point outside this state, and;

(m) In respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state. Also in respect to use by subcontractors to such interstate carriers (i.e., persons operating their own vehicles under leases with operator);

(n) The use of any article of tangible personal property which the state is prohibited from taxing under the constitution of the state or under the constitution or laws of the United States;

(o) The use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes, and special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2), and motor vehicle and special fuel if:

(i) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(9); or

(ii) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(8); or

(iii) The fuel is taxable under chapter 82.36 or 82.38 RCW. Provided, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection, and the director of licensing shall deduct from the amount of such tax to be refunded the amount of use tax due and remit the same each month to the department of revenue.

(p) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or a complete operating integral section thereof by the state or a political subdivision thereof in conducting any business defined in RCW 82.16.010 (1) through (11).

(q) The use of tangible personal property (including household goods) which has been used in conducting a farm activity, but only when that property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise.

(r) The use of tangible personal property by corporations which have been incorporated under any act of the Congress

of the United States of America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities, and to devise and carry on measures for preventing the same. (The Red Cross is the only existing organization that qualifies for this exemption.)

(s) The use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association, and in respect to the use of cattle and milk cows used on the farm.

(t) The use of poultry in the production for sale of poultry or poultry products.

(u) The use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same.

(v) The use of motor vehicles, equipped with dual controls, which are loaned to accredited schools and used in connection with their driver training programs.

(w) The use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to sales or use tax.

(x) The use by residents of this state of motor vehicles and trailers acquired outside this state and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption does not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of such person from the armed services. This exemption is not permitted to persons called to active duty for training periods of less than six months.

(y) The use of sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (a) either stockpiled in said pit or quarry for placement or is placed on the street, road, place or highway of the county or city by the county or city itself (i.e., by its own employees), or (b) sold by the county or city to a county or a city at actual cost for placement on a publicly owned street, road, place, or highway. This exemption shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as here indicated.

(z) The use of form lumber by any person engaged in the construction, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: Provided, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

(aa) The use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(bb) The use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

(cc) The use of pollen.

(dd) The use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(ee) The use of prescription drugs, including the use by the state or a political subdivision or municipal corporation thereof of drugs to be dispensed to patients by prescription without charge.

(ff) The use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(gg) The use of insulin, prosthetic devices, or orthotic devices prescribed for an individual by a chiropractor, osteopath, or physician, ostomic items, medically prescribed oxygen, and hearing aids which are prescribed or are dispensed and fitted by a licensee under chapter 18.35 RCW.

(hh) The use of food products for human consumption (see WAC 458-20-244), including the use of livestock for personal consumption as food.

(ii) The use of ferry vessels of the state of Washington or of local governmental units in the state of Washington in transporting pedestrian or vehicular traffic within and outside the territorial waters of the state. Also, the use of tangible personal property which becomes a component part of any such ferry vessel.

(jj) Alcohol that is sold in this state for use solely as fuel in motor vehicles, farm implements and machines, or implements of husbandry. This exemption expires December 31, 1986.

(kk) The use of vans used regularly as ride sharing vehicles, as defined in RCW 46.74.010(3), by not less than seven persons, including passengers and driver, if the vans are exempt under the motor vehicle excise tax for thirty-six consecutive months beginning within thirty days of application for exemption under the use tax. This exemption expires January 1, 1988.

(ll) The use of used mobile homes as defined in RCW 82.45.032 and the use of mobile homes acquired by renting or leasing for more than thirty days, except for short term transient lodging.

(mm) The use of special fuel purchased in this state upon which a refund of special fuel tax is obtained as provided in RCW 82.38.180(2), by reason of such fuel having been purchased for use by interstate commerce carriers outside this state. Also, the use of motor vehicle fuel or special fuel by private, nonprofit transportation providers who are entitled to fuel tax refund or exemption under chapter 82.36 or 82.38 RCW.

(nn) The lease of irrigation equipment if:

(i) The irrigation equipment was purchased by the lessor for the purpose of irrigating land controlled by the lessor;

(ii) The lessor has paid tax under RCW 82.08.020 or 82.12.020 in respect to irrigation equipment;

(iii) The irrigation equipment is attached to the land in whole or in part; and

(iv) The irrigation equipment is leased to the lessee as an incidental part of the lease of the underlying land to the lessee and is used solely on such land.

(oo) The use of computers, computer components, computer accessories, or computer software irrevocably donated to any public or private school or college, as defined in chapter 84.36 RCW, in this state.

(pp) The use of semen in the artificial insemination of livestock.

(qq) The use of feed by persons for the cultivating or raising for sale of fish entirely within confined rearing areas on the persons own land or on land in which the person has a present right of possession.

(rr) The use by artistic or cultural organizations of:

(i) Objects of art;

(ii) Objects of cultural value;

(iii) Objects to be used in the creation of a work of art, other than tools; or

(iv) Objects to be used in displaying art objects or presenting artistic or cultural exhibitions or performances.

(ss) The use of used floating homes as defined in RCW 82.45.032 upon which sales tax or use tax has once been paid.

(tt) The use of feed, seed, fertilizer, and spray materials by persons raising agricultural or horticultural products for sale at wholesale including the use of feed in feeding animals at public livestock markets.

(uu) The use of prepared meals or food products used in prepared meals provided to senior citizens, disabled persons, or low income persons by not for profit organizations organized under chapter 24.03 or 24.12 RCW.

(vv) The use of property to produce ferrosilicon for further use in the production of magnesium for sale, where such property directly reacts chemically, with ingredients of the ferrosilicon.

(ww) In respect to lease payments by a seller/lessee to a purchaser/lessor after April 3, 1986, under a sale/leaseback agreement covering property used by the seller/lessee primarily in the business of canning, preserving, freezing, or dehydrating fresh fruits, vegetables, and fish; nor in respect to the purchase amount paid by the lessee pursuant to an option to purchase such property at the end of the lease term: Provided, That the seller/lessee paid the retail sales tax or use tax at the time of its original acquisition of the property.

(8) In addition to the exemptions listed earlier, the use tax does not apply to the value of tangible personal property traded in on the purchase of tangible personal property of like kind used in this state. (See WAC 458-20-247.) Also, the use tax does not apply to the use of precious metal bullion or monetized bullion acquired under such conditions that the retail sales tax would not apply to such things in this state. (See WAC 458-20-248.)

(9) See WAC 458-20-24001 and 458-20-24002 for provisions for certain use tax deferrals on materials, labor, and services rendered in the construction of qualified buildings, machinery, and equipment used in new manufacturing and research/development facilities.

(10) ~~RCW 82.08.0251 provides expressly that the exemption therein with respect to casual sales shall not be construed as exempting from the use tax the use of any article of tangible personal property acquired through a casual sale. Thus, while casual sales made by persons who are not registered with the department of revenue are exempt from the retail sales tax (for the obvious reason that the procedure for collection of that tax is impractical in those cases), the use of property acquired through such sales is not exempt from the use tax, except as provided in RCW 82.12.0251 through 82.12.034.~~

(11) See also WAC 458-20-106 regarding the use tax on the use of articles purchased at a casual sale.

(12) ~~Credit. When property purchased elsewhere is brought into this state for use or consumption the use tax will apply upon the use thereof, but a credit is allowed for the amount of sales or use tax paid by the user or its bailor or donor on such property to any other state or political subdivision thereof, the District of Columbia, or any foreign country, prior to the use of the property in this state.~~

(13) ~~Value of the article used. The tax is levied and collected on an amount equal to the value of the article used by the taxpayer. The term "value of the article used" is defined by the law as being the total of the consideration paid or given by the purchaser to the seller for the article used plus any additional amounts paid by the purchaser as tariff or duty with respect to the importation of the article used. In case the article used was extracted or produced or manufactured by the person using the same or was acquired by gift or was sold under conditions where the purchase price did not represent the true value thereof, the value of the article used must be determined as nearly as possible according to the retail selling price, at the place of use, of similar products of like quality, quantity and character. In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In case the articles used are acquired by lease or rental, use tax liability is measured by the amount of rental payments to a lessor who has not collected the retail sales tax.~~

(14) ~~In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used shall be determined by: (a) The retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale. See: RCW 82.04.450, WAC 458-20-112.~~

(15) ~~In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than ninety days in any period of three hundred sixty five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used shall be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used.~~

(16) ~~Returns and registration. Persons subject to the payment of the use tax, and who are not required to register or report under the provisions of chapters 82.04, 82.08, 82.16, or 82.28 RCW, are not required to secure a certificate of registration as provided under WAC 458-20-101. As to such persons, returns must be filed with the department of revenue on or before the fifteenth day of the month succeeding the end of the period in which the tax accrued. Forms and instructions for making returns will be furnished upon request made to the department at Olympia or to any of its branch offices.~~

(17) See WAC 458-20-221 for liability of certain selling agents for collection of use tax.) **(1) Introduction.** This rule provides general use tax-reporting information for consumers. It discusses who is responsible for remitting use tax, and when and how to remit the tax. The rule also explains the imposition of use tax as it applies to the use of tangible personal property within this state when the acquisition of the tangible personal property was not subject to retail sales or deferred sales tax.

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

(b) **Additional information available.** For information on use tax exemptions please refer to chapter 82.12 RCW. When appropriate, this rule refers the reader to applicable statutes and rules. In addition, the reader may wish to refer to the following:

(i) WAC 458-20-145, Local sales and use tax, provides information on sourcing local sales and use taxes.

(ii) WAC 458-20-15503, Digital products, provides information on sales and use tax liability on digital products such as: Digital goods, including digital audio works, digital audio-visual works, and digital books; digital automated services; digital codes used to obtain digital goods or digital automated services; and remote-access software.

(iii) WAC 458-20-169, Nonprofit organizations, provides information on a use tax exemption for donated items to a nonprofit charitable organization.

(iv) WAC 458-20-17803, Use tax on promotional material, provides information about the use tax reporting responsibilities of persons who distribute or cause the distribution of promotional material, except newspapers, the primary purpose of which is to promote the sale of products or services in Washington.

(v) WAC 458-20-190, Sales to and by the United States—Doing business on federal reservations—Sales to foreign governments, provides tax reporting information for businesses doing business with the United States.

(vi) WAC 458-20-192, Indians—Indian country, provides information on use tax pertaining to Indians and Indian tribes and use tax pertaining to non-Indians in Indian country.

(vii) WAC 458-20-257, Warranties and service contracts, provides information on tax responsibilities of persons selling or performing services covered by warranties, service contracts, and mixed agreements for tangible personal property.

(2) What is use tax? Use tax complements the retail sales tax, and in most cases mirrors the retail sales tax. Arti-

cles of tangible personal property used or certain services purchased in Washington are subject to use tax when the state's retail sales tax has not been paid, or where an exemption is not available. Tangible personal property or services used or purchased by the user in any manner are taxable including, but not limited to:

- Purchases directly from out-of-state sellers;
- Purchases through the internet, telemarketing, mail order; or
- Acquisitions at casual or isolated sales.

(a) **Example 1.** ABC Company (ABC) orders office supplies from out-of-state vendors and also through catalogs. In addition, ABC pays annual subscriptions for magazines for their own use. None of these vendors is required to collect Washington's retail sales tax. Use tax is due on all taxable items ordered including the annual subscriptions.

(b) **Example 2.** Mary is a music instructor that teaches adults how to play the piano. Mary does not charge her students retail sales tax on the costs of the weekly piano lessons. Use tax is not due on the lessons, as the lessons are not a retail sales taxable service. See WAC 458-20-224, Service and other business activities.

(3) **"Use" defined.** For purposes of this rule, "use," "used," "using," or "put to use" have their ordinary meaning and include the first act by which a person takes or assumes dominion or control over the article (as a consumer). It includes installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within the state. (See RCW 82.12.010.) Multiple uses of the same article by the same person do not generally result in multiple use tax liabilities.

(4) **Measure of tax – Value of article used.** Use tax generally is levied and collected on an amount equal to the value of the article used by the taxpayer. RCW 82.12.010 defines this value to generally be the purchase price of the article. There are a number of specific situations where this value may be different than the amount of consideration paid or given by the buyer to the seller. See subsection (7) of this rule for exceptions.

(a) **When the value is the purchase price.** The term "purchase price" has the same meaning as "selling price." The selling price is the total amount of consideration, except trade-in property of like kind, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise. The selling price, and therefore the "value of the article used" also includes delivery charges. Delivery charges are charges made by the seller for preparing and delivering tangible personal property to a location designated by the buyer and include, but is not limited to, charges for transportation, shipping, postage, handling, crating, and packing. (See RCW 82.08.010 and 82.12.010.)

(b) **When the purchase price does not represent true value.** When an article is sold under conditions in which the purchase price does not represent the true value, the "value of the article used" is to be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character. (See RCW 82.12.010.) This is frequently referred to as the fair market value of the property. For additional information regarding the measure

of tax for articles in these situations, refer to WAC 458-20-112, Value of products. Refer to subsection (4)(i)(i) of this rule for determining use tax when there is no similar article of like quality and character.

A comparison/examination of arm's length sales transactions is required when determining the value of the article used on the basis of the retail selling price of similar products. An arm's length sale generally involves a transaction negotiated by unrelated parties, each acting in his or her own self-interest.

(i) In an arm's length sales transaction, the value placed on the property by the parties to the transaction may be persuasive evidence of the true value of the property. Where there is a conflict regarding the true value of tangible personal property between sales documents, entries in the accounting records and/or value reported for use tax purposes, the department often looks to the person's accounting records as an indication of the minimum value of capitalized property. Neither the department nor the taxpayer is necessarily bound by this value if it is established that the entry in the books of account does not fairly represent the true value of the article used.

(ii) Some arm's length sales transactions involve multiple pieces of property or different types of property (such as when both real and personal property are sold). While the total sales price may represent a true value for the property in total, the values allocated to the specific components may not in and of themselves represent true values for those components. This is especially apparent when the values assigned by the parties to the sales transaction vary from those entered into the accounting records and/or reported for use tax purposes. In such cases, the value of the article used for the purpose of the use tax must be determined as nearly as possible according to the retail selling price, at the place of use, of similar products of like quality and character.

(c) **Property acquired and used outside Washington before use occurs in Washington.** The purchase price of property acquired and used outside Washington before being used in this state may not represent the property's true value. Under these circumstances, the value of article used is the retail selling price at place of use of similar products of like quality and character as of the time the article is first used in Washington.

(d) **Imported property.** When property is imported from outside the United States for use in Washington state, the value of the article used includes any amount of tariff or duty paid with respect to importation.

(e) **Articles produced for commercial or industrial use.** A person who extracts or manufactures products or by-products for commercial or industrial use is subject to use tax and the business and occupation (B&O) tax on the value of products or by-products used. "Commercial or industrial use" is the use of products, including by-products, as a consumer by the person who extracted or manufactured the products or by-products. See WAC 458-20-134, Commercial or industrial use and WAC 458-20-136, Manufacturing, processing for hire, fabricating.

Tax applies even if the person is not generally in the business of extracting, producing, or manufacturing the products, or the extracting or manufacturing activity is incidental

to the person's primary business activity. Thus, a clothing retailer who manufactures signs or other materials for display purposes incurs a liability even though the clothing retailer is not otherwise in the business of manufacturing signs and other display materials for sale.

(i) The extractor or manufacturer is responsible for remitting retail sales or use tax on all materials used while developing or producing an article for commercial or industrial use. This includes materials that are not components of the completed article.

(ii) The value of the extracted or manufactured article is subject to use tax when the article is completed and used. The measure of use tax due for the completed article may be reduced by the value of any materials actually incorporated into that article if the manufacturer or extractor previously paid sales or use tax on the materials. See subsection (4)(g) of this rule for an explanation of the measure of tax for a completed prototype.

(f) **Bailment.** For property acquired by bailment, the "value of the article used" for the bailee is an amount representing a reasonable rental for the use of the bailed article, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. (See RCW 82.12.010.) If the nature of the article is such that it can only be used once, the reasonable rental value is the full value of the article used. See also WAC 458-20-211, Leases or rentals of tangible personal property, bailments.

(g) **Prototypes.** The value of the article used with respect to an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product is:

- The retail selling price of such new or improved product when first offered for sale; or
- The value of materials incorporated into the prototype in cases where the new or improved product is not offered for sale. (See RCW 82.12.010.)

(h) **Articles manufactured and used in the production of products for the department of defense.** When articles are manufactured and used in the production of products for the department of defense, use tax is due except where there is an exemption. The value of the article used with respect to an article manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States is the value of the ingredients of the manufactured or produced article. (See RCW 82.12.010.) However, refer to WAC 458-20-13601, Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment to determine if such articles qualify for exemption under RCW 82.12.02565.

(i) **Property temporarily brought into Washington for business use.** In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used must be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under chapter 82.08 or 82.12 RCW upon the full value of the article used.

However, this measure of "value of article used" is a separate provision from RCW 82.12.0251 use tax exemption. The use tax exemption is provided to nonresidents bringing property into Washington for his or her use or enjoyment while temporarily within the state, unless the property is used in conducting a nontransitory business activity. The term "nontransitory business activity," for the purposes of this exemption, means and includes the business of extracting, manufacturing, selling tangible and intangible property, printing, publishing, and performing contracts for the constructing or improving of real or personal property. It does not include the business of conducting a circus or other form of amusement when the personnel and property of such business regularly moves from one state into another, nor does it include casual or incidental business done by a nonresident lawyer, doctor or accountant.

(i) **Reasonable rental value.** A reasonable rental value is normally determined by the rental price or using the fair market rental value of similar products of like quality and character if rental price is not reasonable. If a reasonable rental value cannot be determined because of the nature of property, such as it may not be possible to find similar products of like quality and character, monthly reasonable rental value may be determined based on depreciation plus one percent (per month) of the purchase price. For the purpose of this computation, depreciation should be computed on a straight-line basis with an assumption that there is no salvage value. The life of the asset must be based on "book" life rather than an accelerated life that might be used for federal tax purposes. This calculation applies even if the asset is fully depreciated.

(ii) **Example.** A piece of equipment that originally cost \$100,000 and has a book life of forty-eight months results in a monthly rental value of \$3,083 $((100,000/48) + (100,000 \times .01))$. This monthly value applies even if the asset is fully depreciated or is greater or less than the actual depreciation used for federal tax purposes. A lesser value can be used if the taxpayer retains documentation supporting the lesser value and that value is based on rental values.

(j) **Special provisions for vessel dealers and manufacturers.** The value of an article used for a vessel held in inventory and used by a vessel dealer or vessel manufacturer for personal use is the reasonable rental value of the vessel used. This value applies only if the vessel dealer or manufacturer can show that the vessel is truly held for sale and that the dealer or manufacturer is and has been making good faith efforts to sell the vessel. (See RCW 82.12.802.) This may result in a vessel manufacturer incurring multiple use tax liabilities with respect to multiple uses of the same vessel.

The use of a vessel by a vessel dealer or vessel manufacturer for certain purposes is not subject to use tax. For specific information on these exemptions see RCW 82.12.800 and 82.12.801.

(5) **Who is liable for the tax?** RCW 82.12.020 imposes use tax upon every person using tangible personal property or certain retail services as a consumer in the state of Washington. The law does not distinguish between persons using property (or certain retail services) for business or personal use. Thus, a Washington resident purchasing personal items via the internet or through a mail-order catalog has the same

legal responsibility to report and remit use tax as does a corporation purchasing office supplies. The rate of the use tax is the same as the retail sales tax rate in the location where the property is used. Refer to WAC 458-20-145, Local sales and use tax for further discussion about determining where use occurs.

(a) **When tax liability arises.** Use tax is owed at the time the tangible personal property is first put to use in this state, unless an exemption is available.

(b) **Reporting and remitting payment to the department of revenue.**

(i) **Registered taxpayers.** Persons registered with the department under RCW 82.32.030 to do business in Washington should use their excise tax return to report and remit use tax.

(ii) **Unregistered persons.** Persons not required to be registered with the department should use a Consumer Use Tax Return to report and remit use tax. The Consumer Use Tax Return is available by:

(A) Using the department's web site at dor.wa.gov;

(B) Calling the department's telephone information center at 1-800-647-7706; or

(C) Requesting the form at any of the department's local field offices.

The completed Consumer Use Tax Return, with payment, is due on or before the twenty-fifth day of the month following the month in which the tax liability occurs. For example, a person acquires clothing without payment of the retail sales tax during August. The Consumer Use Tax Return and the tax are due by September 25th.

The return and payment can be submitted electronically using the department's online system at dor.wa.gov, mailed, or delivered to any of the department's local field offices.

(6) **How does use tax differ from the retail sales tax?** There are circumstances where the law does not provide a use tax exemption to complement a retail sales tax exemption. For instance, RCW 82.08.02573 provides a retail sales tax exemption for certain fund-raising sales made by nonprofit organizations or, effective July 1, 2010, libraries (see chapter 106, section 214, Laws of 2010). Because there is no complementary use tax exemption, the buyer/user is still responsible for remitting use tax on his or her use of the purchased property.

Another instance where there is no complementary use tax exemption to the retail sales tax exemption is in RCW 82.08.0251. This exemption provides a retail sales tax exemption for articles acquired in casual sales transactions, if the seller is not required to be registered with the department. Because there is no complementary use tax exemption, the buyer/user is responsible for remitting the use tax on his or her use of the purchased property. For example, if a person purchases furniture through a classified ad from a homeowner, the buyer is responsible for reporting and paying the use tax although the sale is exempt from retail sales tax.

(7) **Exceptions.** The law provides certain exceptions to the imposition of tax on a single event. These exceptions occur when the law provides a method of determining the measure of tax different than the full value of the article being used.

(a) **Destroyed property.** The mere destruction or discarding of tangible personal property as unusable or worthless is usually not considered a taxable "use." The following examples identify a number of facts and then state a conclusion.

(i) **Example 4.** AA Computer Software (AA) has some obsolete inventory that will no longer sell as an updated version of the software is now available for purchase. AA decides to throw away this inventory even though it has never been used. As the software was never used, use tax is not owed on the destroyed inventory.

(ii) **Example 5.** WW Dealer purchases a used vehicle for resale. WW Dealer publicizes an upcoming sale by airing a television commercial in which WW Dealer destroys the vehicle. WW Dealer's destruction of the vehicle for publicity purposes is considered use by a consumer. The vehicle is subject to use tax sourced at the location where WW Dealer destroys the vehicle.

(b) **Tangible personal property acquired by gift or donation.** The use of property acquired by gift or donation is subject to the use tax, unless the person gifting or donating the property previously paid or remitted Washington retail sales or use tax on the purchase or use of the property. (See RCW 82.12.020.) However, a credit for tax paid in another jurisdiction is available if documentation of tax paid is provided. See subsection (8) of this rule for additional information.

Use tax does not apply when the same property is gifted or donated back to the original giftor or donor if the original giftor or donor previously paid the retail sales tax or use tax.

Example 6. John purchases a vehicle, pays retail sales tax on the purchase, and gifts the vehicle to Mary. Mary's use of the vehicle is not subject to use tax because John paid sales tax when he purchased the vehicle. After two years, Mary returns the vehicle to John. John's use of the vehicle is not subject to use tax because he paid sales tax when he originally purchased the vehicle. However, use tax is due if Mary gifts or donates the vehicle to a person other than John because Mary has not previously paid retail sales or use tax.

(c) **Tangible personal property put to both an exempt and taxable use.** If property is first used for an exempt or nontaxable purpose and is later used for a nonexempt or taxable purpose, use tax is due on the value of the property when first used for the nonexempt or taxable purpose. For instance, RCW 82.12.0251 provides a use tax exemption for the temporary use within Washington of watercraft brought in by certain nonresidents. (See WAC 458-20-238, Sales of watercraft to nonresidents—Use of watercraft in Washington by nonresidents for a detailed explanation of the exemption requirements.) However, use tax is due if the nonresident exceeds the temporary use threshold or the nonresident subsequently becomes a Washington resident.

(d) **Intervening use of property purchased for resale.** Persons purchasing tangible personal property for resale in the regular course of business may purchase the property at wholesale without paying retail sales tax provided the property is not put to intervening use, and the buyer provides the seller with a completed reseller permit. (See RCW 82.04.050 and 82.04.060.)

A buyer who purchases taxable property at wholesale and subsequently puts the property to intervening use is subject to either the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax, unless a specific use tax exemption applies to the intervening use. The tax applies even if the property is at all times held out for sale and is in fact later sold. Tax is due even if the intervening use is the result of an unforeseen circumstance, such as when property is purchased for resale, the customer fails to satisfy the terms of the sales agreement, and the property is used until another customer is found. See WAC 458-20-102 Reseller permits regarding tax-reporting requirements when a person purchases property for both resale and consumption.

(e) **Using inventory to promote sales.** Intervening use does not include the use of inventory for floor or window display purposes if that merchandise is subsequently sold as new merchandise. Likewise, intervening use does not include the use of inventory for demonstration purposes occurring with efforts to sell the same merchandise if that merchandise is subsequently sold as new merchandise. The fact that the selling price may be discounted because the property is shop worn from display or demonstration is not, by itself, controlling for the purposes of determining whether intervening use has occurred.

Evidence that property has been put to intervening use includes, but is not limited to, the following:

(i) **Property not sold as new merchandise.** Intervening use occurs if, after use of the property for display or demonstration purposes, the property can no longer be sold as new merchandise. An indication that intervening use has occurred is if property is without a new model warranty if the sale of the property normally includes such a warranty.

(ii) **Capitalizing demonstrator or display property.** The capitalization and depreciation of property is evidence of intervening use. Thus, there is a rebuttable presumption that intervening use occurs if the accounting records identify the property as a demonstrator or as display merchandise. The burden is on the person making such entries in the accounting records to substantiate any claims the property was not put to intervening use.

(iii) **Loaning property to promote sales.** Intervening use includes loaning property to a customer or potential customer for the purpose of promoting sales of other products. For example, intervening use occurs if a coffee manufacturer and/or distributor loans brewing equipment to a customer to promote coffee sales, even if the equipment is subsequently sold to the same or different customer. In this example, the coffee manufacturer and/or distributor loaning the equipment would owe use tax on the full value of the equipment. If the manufacturer and/or distributor had not paid use tax, the customer would owe use tax on the reasonable rental value as this is a bailment situation. See subsection (4)(f) of this section for the measure of tax on bailed articles.

(f) **Effect of the trade-in exclusion.** The exclusion for the value of trade-in property from the measure of tax applies only if the trade-in property is of the same general type or classification as the property for which it was traded-in. There is no requirement that Washington's retail sales or use tax be previously paid on the trade-in property. There is also no requirement that the property subject to use tax be

acquired in Washington, or that the user be a Washington resident at the time he or she acquired the property. For additional information refer to WAC 458-20-247, Trade-ins, selling price, sellers' tax measure.

(8) **Credit for taxes paid in other jurisdictions.** RCW 82.12.035 provides a credit against Washington's use tax for legally imposed retail sales or use taxes paid by the purchaser to: Any other state, possession, territory, or commonwealth of the United States, or any political subdivision of a state, the District of Columbia, or any foreign country or political subdivision of a foreign country. (See RCW 82.56.010.)

(a) This use tax credit is available only if the present user, or his or her bailor or donor, has documentation that shows the retail sales or use tax was paid with respect to such property, extended warranty, digital products, digital codes, or service defined as a retail sale in RCW 82.04.050 to the other taxing jurisdiction.

(b) This credit is not available for other types of taxes such as, but not limited to, value-added taxes (VATs).

(c) For the purposes of allocating state and local use taxes, the department first applies the credit against the amount of any use tax due the state. Any unused portion of the credit is then applied against the amount of any use tax due to local jurisdictions. RCW 82.56.010, Multistate Tax Compact, Article V, Elements of Sales and Use Tax Laws.

(9) **No apportionment of use tax liability.** Unless specifically provided by law, the value of the article or use tax liability may not be apportioned even though the user may use the property both within and without Washington, or use the property for both taxable and exempt purposes.

(a) **Example 7.** A construction company using an airplane for traveling to and from its Washington office and out-of-state job sites must remit use tax on the full value of the airplane, even if the airplane was purchased and delivery taken outside Washington. There is no apportionment of this value even though the airplane is used both within and outside of Washington.

(b) **Exemption.** For an exemption pertaining to use tax liability, see WAC 458-20-17401, Use tax liability for motor vehicles, trailers, and parts used by motor carriers operating in interstate or foreign commerce.

WSR 14-09-037

PERMANENT RULES

GAMBLING COMMISSION

[Order 696—Filed April 11, 2014, 8:51 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: The changes to **WAC 230-06-050** codifies agency practice of:

- Requiring the version of gambling equipment/software submitted for review to be identical or substantially similar to what is to be marketed and used in Washington state.
- Requiring all costs associated with the review of gambling equipment to be paid in full at the completion of the review.

- Including any security and surveillance requirements in our approval letter that must be met to operate the equipment.

It also clarifies that gambling equipment must be approved and the business licensed before selling or leasing may begin in Washington state.

The new rule **WAC 230-06-054** requires licensees to notify us within seventy-two hours of identifying or becoming aware of an electronic or mechanical gambling equipment malfunction.

Citation of Existing Rules Affected by this Order: Amending WAC 230-06-050.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 14-05-078 on February 18, 2014.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

Date Adopted: April 11, 2014.

Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-116, filed 10/22/07, effective 1/1/08)

WAC 230-06-050 Review of electronic or mechanical gambling equipment. ~~((1) Persons who wish to submit gambling equipment, supplies, services, or games for our review to verify compliance with chapter 9.46 RCW and Title 230 WAC must pay the application deposit before we perform the review. They must also reimburse us for any additional costs of the review.~~

~~(2) We may require manufacturers to submit certain electronic or mechanical gambling equipment for review. The equipment must meet technical standards for compliance, accuracy, security, and integrity. To allow for continued testing and training, staff may keep any equipment submitted for review for as long as the equipment remains in play in Washington. The manufacturers must reimburse us for any costs of the review. The commissioners and commission staff are not liable for any damage to equipment while in our possession.~~

~~(3) Licensees must operate equipment identical to the version the director or director's designee approved.~~

~~(4) If persons submitting equipment do not agree with the director or director's designee's decision, they may file a petition for declaratory order with the commission to be~~

~~heard as a full review (*de novo*) by an administrative law judge, according to RCW 34.05.240 and chapter 230-17 WAC.)~~ (1) When you submit gambling equipment, supplies, services, or games for our review to verify compliance with chapter 9.46 RCW and Title 230 WAC, you must pay the application deposit before we perform the review. You must also reimburse us for any additional costs of the review. All costs must be paid in full prior to the completion of the review.

(2) The gambling equipment submitted for review must be identical or substantially similar to what will be marketed, distributed, and deployed in Washington. If the equipment is not sufficient for testing and review, we may require additional equipment or information.

(3) If your application is incomplete or we request additional information, you must provide us with the required items within thirty days of notification or we may administratively close your application.

(4) You can begin selling or leasing the gambling equipment when you are licensed and the gambling equipment has been approved by the director or director's designee.

(5) We may include security or surveillance requirements as part of gambling equipment approval.

(6) Gambling equipment must operate as approved by the director or director's designee.

(7) We may keep equipment submitted for review to allow for continued testing and training as long as the equipment remains in play in Washington. We are not liable for any damage to equipment while in our possession.

(8) If you do not agree with the director or director's designee's decision, you may file a petition for declaratory order with the commission according to RCW 34.05.240 and chapter 230-17 WAC.

NEW SECTION

WAC 230-06-054 Notification of electronic or mechanical gambling equipment malfunctions. Licensees must notify us, in the format we require, within seventy-two hours of identifying or becoming aware of an electronic or mechanical gambling equipment malfunction.

WSR 14-09-038

PERMANENT RULES

GAMBLING COMMISSION

[Order 697—Filed April 11, 2014, 8:57 a.m., effective May 12, 2014]

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

Purpose: The current rule requires the agency to hold a stay hearing within seven days after we receive a request from a licensee or permittee. This change increases the length of time to hold a stay hearing from seven to fourteen days and clarifies stay hearings must be conducted as brief adjudicative proceedings as required by WAC 230-17-150.

Citation of Existing Rules Affected by this Order: Amending WAC 230-17-170.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 14-05-080 filed on February 18, 2014.

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 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 1, Repealed 0.

Date Adopted: April 11, 2014.

Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-156, filed 10/24/07, effective 1/1/08)

WAC 230-17-170 Petition and hearing for stay of the summary suspension. (1) When the director summarily suspends a license or permit, the affected licensee or permittee may petition for a "stay of suspension" as explained in RCW 34.05.467 and 34.05.550(1).

(2) We must receive the petition in writing within fifteen days of service of the summary suspension.

(3) Within ~~((seven))~~ fourteen days of receipt of the petition, the presiding officer holds a hearing. If an administrative law judge is not available, the chairperson of the commission designates a commissioner to be the presiding officer. If the parties agree, they may have a continuance of the seven-day period.

(4) The stay hearing must use brief adjudicative proceedings as set out in WAC 230-17-150. At the hearing, the only issues are whether the presiding officer:

- (a) Should grant a stay; or
- (b) Modify the terms of the suspension.

(5) Our argument at the hearing consists of the information we used to issue the summary suspension and we may add any information we find after we order the suspension.

(6) At the hearing, the licensee or permittee has the burden of demonstrating by clear and convincing evidence all of the following:

(a) The licensee or permittee is likely to prevail upon the merits of the evidence at hearing; and

(b) Without relief, the licensee or permittee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities must not be deemed irreparable injury; and

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public safety or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(7) The initial stay of the summary suspension order whether given orally or in writing takes effect immediately unless stated otherwise.

WSR 14-09-040
PERMANENT RULES
GAMBLING COMMISSION

[Order 698—Filed April 11, 2014, 2:05 p.m., effective May 12, 2014]

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

Purpose: This amendment is in response to a October 2013 Thurston County superior court decision, where the court directed the commission to allow a specific electronic video pull-tab dispenser, which permits the purchase of a pull-tab at the dispenser and allows pull-tab winnings of \$20 or less to be added onto a cash card at the dispenser. Language was added to WAC 230-14-047 to allow pull-tab prizes of \$20 or less to be added to cash cards used in electronic video pull-tab dispensers. Most prizes are below \$20.

Citation of Existing Rules Affected by this Order: Amending WAC 230-14-047.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.110.

Adopted under notice filed as WSR 13-23-054 on November 15, 2013.

Changes Other than Editing from Proposed to Adopted Version: (1) Language in the introduction was removed as noted in this filing;

(2) The word "gift cards" was not added to subsection (3)(a) as noted in the CR-102 filing; and

(3) Subsection (3)(c) was edited as noted in this filing.

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 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 1, Repealed 0.

Date Adopted: April 11, 2014.

Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-03-052, filed 1/11/08, effective 2/11/08)

WAC 230-14-047 Standards for electronic video pull-tab dispensers. Electronic video pull-tab dispensers must be approved by us prior to use(~~((, meet the requirements below, and may incorporate only the features below and not perform additional functions))~~).

(1) Electronic video pull-tab dispensers must dispense a paper pull-tab as defined in WAC 230-14-010 and follow the rules for:

- (a) Pull-tabs; and
- (b) Flares; and
- (c) Authorized pull-tab dispensers.

(2) Electronic video pull-tab dispensers that use a reading and displaying function must:

(a) Use a video monitor for entertainment purposes only; and

(b) Open all, or a portion of, the pull-tab in order to read encoded data that indicates the win or loss of the pull-tab if the dispenser is equipped to automatically open pull-tabs; and

(c) Dispense the pull-tab to the player and not retain any portion of the pull-tab; and

(d) Read the correct cash award from the pull-tab either when it is dispensed or when the pull-tab is reinserted into the dispenser; and

(e) Display the cash award from the pull-tab, one pull-tab at a time; and

(f) Provide:

(i) An electronic accounting of the number of pull-tabs dispensed; and

(ii) A way to identify the software version and name; and

(iii) A way to access and verify approved components; and

(iv) Security on the dispenser to prevent unauthorized access to graphic and prize amount displays.

(3) ~~((Gift certificates or gift))~~ Cash cards used in electronic video pull-tab dispensers must:

(a) Be purchased with cash, check, gift certificates, or electronic point-of-sale bank transfer before use in the dispenser; and

(b) Be convertible to cash at any time during business hours; and

(c) Subtract the ~~((cash value for the))~~ purchase price of the pull-tab one pull-tab at a time.

(4) Electronic video pull-tab dispensers that accept cash cards may award any pull-tab cash prize of twenty dollars or less onto the cash card.

WSR 14-09-053

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed April 15, 2014, 2:18 p.m., effective May 16, 2014]

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

Purpose: The department amended WAC 458-61A-208 to (1) make the documentation requirements discretionary for the counties and (2) edit certain rule language consistent with the statute.

Citation of Existing Rules Affected by this Order: Amending WAC 458-61A-208 Foreclosure—Deeds in lieu of foreclosure—Sales pursuant to court order.

Statutory Authority for Adoption: RCW 82.45.150, 82.32.300, and 82.01.060.

Adopted under notice filed as WSR 14-05-055 on February 14, 2014.

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 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 0, Repealed 0.

Date Adopted: April 15, 2014.

Dylan Waits
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-208 Foreclosure—Deeds in lieu of foreclosure—Sales pursuant to court order. (1) **Introduction.** The real estate excise tax does not apply to any transfer or conveyance made pursuant to an order of sale by a court in any mortgage or lien foreclosure proceeding or upon execution of a judgment. Real estate excise tax affidavits which state claims for this tax exemption must cite the cause number of the foreclosure proceeding on the affidavit and the ~~((conveyance))~~ transfer document. In order to claim this exemption, a copy of the court decision must be ((attached to the department's affidavit copy by the county treasurer)) available and provided to the county treasurer or the department upon request.

(2) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Joan and Sam are friends. They decide to jointly purchase real property worth \$100,000 as tenants in common. One year later, they decide to end their co-ownership of the property. Joan and Sam cannot agree on how the property should be divided. They both obtain legal counsel and go to court to resolve the issue. The court orders that Sam will deed his interest in the real property to Joan and Sam will be paid \$65,000 for his interest in the property. No real estate excise tax is due on the transfer since the transfer is pursuant to a court ordered sale.

(b) Rather than going to trial, Joan and Sam agree to a settlement during the course of their negotiations. The attorneys draft an agreeable settlement under which Sam will get the property and Joan will be paid \$75,000. The settlement agreement is presented to the court and the judge signs off on the agreement. Tax is due on the transfer because this is not a court ordered sale.

(3) **Foreclosure and contract forfeiture.** The real estate excise tax does not apply to the following transfers where no additional consideration passes:

(a) A transfer by deed in lieu of foreclosure to satisfy a mortgage or deed of trust;

(b) A transfer from a contract purchaser to the contract holder in lieu of forfeiture of a contract of sale upon default of the underlying obligation; or

(c) A transfer occurring through the cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, regardless of whether the contract contains a forfeiture clause, such as a declaration of forfeiture made under the provisions of RCW 61.30.070.

(d) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(i) Meg sells real property to Julie on a real estate contract. The contract price is \$65,000. Julie makes payments for one year and then loses her job and can't make payments on the contract. Julie feels that she has some equity in the property, but she and Meg disagree on how to resolve the issue. Eventually, they come to an agreement. Meg will pay Julie \$1,500; Julie will sign a deed in lieu of forfeiture and transfer the property to Meg. At the time of the deed in lieu of forfeiture, the outstanding balance of the contract was \$61,000. Even though the transfer was by a deed in lieu of forfeiture, there is additional consideration passing (the \$1,500). The transfer is subject to tax. The taxable selling price is \$62,500, which is the total of the outstanding contract balance that was canceled plus the \$1,500 paid to Julie.

(ii) Sally sells real property to Frank. Frank obtains a \$150,000 loan from Easy Bank. The bank secures the loan with a deed of trust on the real property. Frank is unable to make the payments on the loan. Frank transfers the property back to Easy Bank by deed in lieu of foreclosure to satisfy the deed of trust. No real estate excise tax is due on the transfer.

(iii) Mel sells real property to George. George obtains a \$100,000 loan from Zephyr Bank. The bank secures the loan with a deed of trust on the real property. George is unable to make the payments on the loan. George obtains a second loan of \$25,000 from Sam. Sam secures his loan with a second deed of trust on the real property. Sam's deed of trust is in junior position to Zephyr Bank's deed of trust. Later, George can't make payments to either the bank or Sam. At this time, George owes the Bank \$95,000 and Sam \$23,000. George transfers the real property to Sam by deed in lieu of foreclosure to satisfy Sam's junior deed of trust. The debt to Zephyr Bank (the senior position debt) remains unpaid on the property at the time of transfer. The transfer is partially exempt and partially taxable. The deed in lieu of the junior position debt is exempt. The senior position debt to the bank that remains outstanding on the property at the time of the transfer meets the definition of consideration and is subject to tax. Tax would be due on \$95,000.

(iv) Joe purchases a manufactured home and has it installed in a mobile home park. Joe signs a contract with the mobile home park owner to pay \$300 in monthly rent. If the

rent is not paid, the contract states that the park owner has a lien against the manufactured home. Joe is injured and moves in with relatives in another state. Joe does not pay rent for six months. The park owner, takes title to the mobile home under the authority of the rent contract, and puts it up for sale to recover his interest for back rent. The park owner sells the manufactured home to Mimi. No tax is due on the transfer to the park owner, since that transfer was to satisfy a lien on the property. Real estate excise tax is due on the sale to Mimi.

(4) **Deed of trust.** The real estate excise tax does not apply to the foreclosure sale of real property by the trustee under the terms of a deed of trust, whether to the beneficiary listed on that deed or to a third party.

(5) **Assignment of indebtedness.** A transfer from a servicing agent, who has acquired real property under this section, to the actual owner of the indebtedness that was foreclosed upon is not subject to real estate excise tax. In order to claim this exemption, a copy of the assignment of the indebtedness or a copy of the trustee's deed identifying the servicing agent as an agent for the actual owner must be ((attached to the real estate excise tax affidavit provided to the department for exemptions claimed under this subsection)) available and provided to the county treasurer or the department upon request.

For example, Gil sells real property to Max. Max obtains a \$125,000 loan from Zone Finance. The finance company secures the loan with a deed of trust on real property. Zone Finance sells the loan to Federal National Mortgage Association (Fannie Mae). The finance company becomes the servicing agent for the loan. Max can't make payments on the loan. Due to nonpayment on the debt, the Trustee (under the authority of the Deed of Trust) conducts a Trustee's sale of the real property. The Trustee transfers the property to the Zone Finance via a Trustee's Deed. No real estate excise tax is due on that transfer. Zone Finance Company transfers real property to Fannie Mae, the actual owner of the debt. No real estate excise tax is due on that transfer.

(6) **Sheriff's sale.**

(a) **Introduction.** The real estate excise tax does not apply to a transfer of real property made by a county sheriff pursuant to a court decree. A real estate excise tax affidavit must be filed with the county.

(b) The real estate excise tax applies to a subsequent sale or assignment of the right of redemption and the certificate of purchase that result from the sheriff's sale. The taxable consideration includes any payment given or promised to be given. It also includes the amount of underlying encumbrance, the payment of which is necessary for the exercise of the right of redemption.

(c) **Examples.**

(i) Bill sells property to Sam on a contract. After one year, Sam stops making payments on the contract. Bill obtains a judgment against Sam for nonpayment. At the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. Sam is unable to make payment to redeem the right of redemption during the redemption period. When the redemption period is over, Bill turns the certificate of purchase over to the Sheriff. The Sheriff issues a Sheriff's Deed to Bill. No real estate tax is due on the issuance of the Sheriff's deed to Bill.

(ii) Alternatively, at the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. To exercise the right of redemption, the holder must remit \$50,000 to the Sheriff. Sam sells the right of redemption to Jerry for \$10,000. Real estate excise tax is due on \$60,000 for the transfer of the right of redemption from Sam to Jerry. Jerry exercises the right of redemption by paying \$50,000 to the Sheriff. The Sheriff issues a Sheriff's Deed to Jerry. No real estate tax is due on the issuance of the Sheriff's deed to Jerry.

(7) **Documentation.** In addition to the documentation requirements set forth in subsections (1) and (5) of this section, a copy of the recorded original mortgage, deed of trust, contract of sale, or lien document must be ~~((presented with the real estate excise tax affidavit))~~ available and provided to the county treasurer or the department upon request.

WSR 14-09-061
PERMANENT RULES
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed April 16, 2014, 3:46 p.m., effective May 17, 2014]

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

Purpose: These revisions amend rule sections in the maternity support services (MSS) and infant case management (ICM) WACs that relate to program requirements and staff qualifications for MSS and ICM providers. The purpose of these amendments is to align the sections with existing licensing requirements in department of health WACs; and to update related rule sections, including changes from the health care authority merger. These amendments also include minor housekeeping changes that update cross references and clarify language.

Citation of Existing Rules Affected by this Order: Amending WAC 182-533-0315, 182-533-0320, 182-533-0325, 182-533-0330, 182-533-0340, 182-533-0345, 182-533-0360, 182-533-0365, 182-533-0370, 182-533-0375, 182-533-0380, 182-533-0385, and 182-533-0386.

Statutory Authority for Adoption: RCW 41.05.021.

Adopted under notice filed as WSR 14-01-027 on December 9, 2013.

Changes Other than Editing from Proposed to Adopted Version: WAC 182-533-0325 was changed to include federally qualified health centers and nonprofit organizations in the list of providers. Language was removed from WAC 182-533-0325(2) to allow services to occur in a wider range of community settings.

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 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 3, Amended 13, 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 13, Repealed 0.

Date Adopted: April 15, 2014.

Kevin M. Sullivan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0315 Maternity support services—Definitions. The following definitions and those found in WAC ~~((388-500-0005))~~ 182-500-0005 apply to maternity support services (MSS) and infant case management (ICM) (see WAC ~~((388-533-0360))~~ 182-533-0360 through ~~((388-533-0386))~~ 182-533-0386 for ICM rules).

"Basic health messages"~~((—))~~ — For ~~((the purposes of))~~ MSS, ~~((means))~~ the preventive health education messages designed to promote healthy pregnancies, healthy newborns and healthy parenting during the first year of life.

"Care coordination"~~((—))~~ — Professional collaboration and communication between the client's MSS provider and other medical and/or health and social services providers to address the individual client's needs as identified in the care plan.

"Care plan"~~((—))~~ — A written ~~((plan that must be))~~ statement developed ~~((and maintained throughout the eligibility period for each client in MSS and ICM))~~ for a person that continues throughout the eligibility period and outlines any medical, social, environmental or other interventions to achieve an improved quality of life, including health and social outcomes.

"Case conference" — A formal or informal consultation used by the MSS interdisciplinary team to consult with each other and, when needed, other pertinent providers and/or the client to optimize the client's care.

"Case management"~~((—))~~ — Services to ~~((assist))~~ help individuals ~~((to gain))~~ access ~~((to))~~ needed medical, social, educational, and other services.

"Childbirth education (CBE)"~~((—Established as))~~ — A component of the First Steps program to provide educational sessions offered in a group setting that prepares a pregnant woman and her support person(s) for an upcoming childbirth and healthy parenting.

"Department of health (DOH)"~~((—))~~ — The state agency that works to protect and improve the health of people in Washington state.

~~(("Department of social and health services (department)" — The state agency that administers social and health services programs for Washington state.))~~

"First Steps"~~((—))~~ — The program created under the 1989 Maternity Care Access Act.

"Infant case management (ICM)"~~((—Established as))~~ — A component of the First Steps program to provide parent(s) with information and assistance in accessing needed

medical, social, educational, and other services ~~((to))~~ that improve the welfare of infants.

"Infant case management (ICM) screening"~~((—))~~— A brief in-person evaluation provided by a qualified person, under WAC 182-533-0375, to determine whether an infant and the infant's parent(s) have a specific risk factor(s).

"Linking"~~((—Assisting))~~— Assistance to clients ~~((to identify))~~ for identifying and ~~((use))~~ using community resources to address specific medical, social and educational needs.

"Maternity cycle"~~((—))~~— An eligibility period for maternity support services that begins during pregnancy and continues to the end of the month in which the sixtieth-day post-pregnancy occurs.

"Maternity support services (MSS)"~~((—Established as))~~— A component of the First Steps program to provide screening, assessment, basic health messages, education, counseling, case management, care coordination, and other interventions delivered by an MSS interdisciplinary team during the maternity cycle.

"Maternity support services (MSS) interdisciplinary team"~~((—A group of providers))~~— A provider's group of qualified staff consisting of at least a community health nurse, a certified registered dietitian, a behavioral health specialist, and, at the discretion of the ~~((First Steps agency))~~ provider, a community health worker ~~((; who work together and communicate frequently to share specialized knowledge, skills, and experience in order to address risk factors identified in a client's care plan))~~. Based upon individual client need, each team member ~~((must be available to))~~ provides maternity support services and consultation. (See WAC 182-533-0327(3).)

"Medicaid agency" - The health care authority.

"Parent(s)"~~((—))~~— A person who resides with an infant ~~((and))~~, provides the infant's day-to-day care, and ~~((is:~~

- ~~The infant's natural or adoptive parent(s);~~
- ~~A person other than a foster parent who has been granted legal custody of the infant; or~~
- ~~A person who is legally obligated to support the infant))~~ meets the legal description under WAC 182-533-0370 (1)(c).

"Risk factors"~~((—))~~— The biopsychosocial factors that could lead to poor birth outcomes, infant morbidity, and/or infant mortality.

"Screening" - A method for systematically identifying and documenting risk factors and client need.

"Washington apple health (WAH)" - The public health insurance programs for eligible Washington residents. Washington apple health is the name used in Washington state for medicaid, the children's health insurance program (CHIP), and state-only funded health care programs. (See WAC 182-500-0120.)

AMENDATORY SECTION (Amending WSR 12-01-097, filed 12/20/11, effective 1/20/12)

WAC 182-533-0320 Maternity support services— Client eligibility. (1) To receive maternity support services (MSS), a client must:

(a) Be covered under ~~((one of the following medical assistance programs:~~

- ~~(i) Categorically needy (CN);~~
- ~~(ii) Children's health care as described in WAC 388-505-0210;~~
- ~~(iii) Medically needy program (MNP); or~~
- ~~(iv) A pregnancy medical program as described in WAC 388-462-0015.))~~ categorically needy, medically needy, or state-funded medical programs under Washington apple health; and

(b) Be within the eligibility period of a maternity cycle as defined in WAC 182-533-0315~~((; and~~

~~(e) Meet any other eligibility criteria as determined by the agency and published in the agency's current billing instructions and/or numbered memoranda.~~

~~(2) Clients who meet the eligibility criteria in this section may receive:~~

~~(a) An in-person screening by a provider who meets the criteria established in WAC 182-533-0325. Clients are screened for risk factors related to issues that may impact their birth outcomes.~~

~~(b) Up to the maximum number of MSS units of service allowed per client as determined by the agency and published in the agency's current billing instructions and/or numbered memoranda. The agency may determine the maximum number of units allowed per client when directed by the legislature to achieve targeted expenditure levels for payment of maternity support services for any specific biennium).~~

~~((3))~~ (2) Clients ~~((meeting))~~ who meet the eligibility criteria in this section ~~((who))~~ and are enrolled in an agency-contracted managed care organization (MCO)~~((;))~~ are eligible for MSS outside their plan.

~~((4) See chapter 182-534 WAC for clients eligible for coverage under the early periodic screening, diagnosis and treatment (EPSDT) program.~~

~~(5) Clients receiving MSS before March 1, 2011, are subject to the transition plan as determined and published by the agency in numbered memoranda.~~

~~((6))~~ (3) Clients who do not agree with an ~~((agency))~~ eligibility decision ~~((regarding eligibility))~~ for MSS have a right to a fair hearing under chapter ~~((388-02))~~ 182-526 WAC.

AMENDATORY SECTION (Amending WSR 12-01-097, filed 12/20/11, effective 1/20/12)

WAC 182-533-0325 Maternity support services— Provider requirements. Maternity support service providers may include community clinics, federally qualified health centers, local health departments, hospitals, nonprofit organizations, and private clinics.

(1) To be paid for providing maternity support services (MSS) and infant case management (ICM) services to eligible clients, ~~((an agency or entity))~~ a provider must:

(a) Be enrolled as an eligible provider with the medicaid agency (see WAC 182-502-0010).

~~(b) Be currently approved as an MSS/ICM provider by the medicaid agency(;~~

~~(b) Be enrolled as an eligible provider with the medicaid agency (see WAC 182-502-0010);))~~

(c) Meet the requirements in this chapter, chapter 182-502 WAC and the medicaid agency's current billing instructions.

(d) Ensure that professional staff providing services;

(i) Meet the minimum regulatory and educational qualifications for the scope of services provided under WAC 182-533-0327; and

~~((d) Meet))~~ (ii) Follow the requirements in this chapter (chapter 182-502 WAC) and the medicaid agency's current (published) billing instructions ((and numbered memoranda)).

~~((2))~~ (e) Screen each client for risk factors.

(f) Screen clients for ICM eligibility.

(g) Conduct case conferences under WAC 182-533-0327(2).

(h) Develop and implement an individualized care plan for each client.

(i) Initiate and participate in care coordination activities throughout the maternity cycle with at least MSS interdisciplinary team members, the client's prenatal care provider, and the Women, Infants, and Children (WIC) Nutrition Program.

(j) Comply with Section 1902 (a)(23) of the Social Security Act regarding the client's freedom to choose a provider.

(k) Comply with Section 1915 (g)(1) of the Social Security Act regarding the client's voluntary receipt of services.

(2) MSS providers may provide services in any of the following locations:

(a) A provider's office or clinic.

(b) The client's residence.

(c) An alternate site that is not the client's residence. (The reason for using an alternate site for visitation instead of the home must be documented in the client's record.)

(3) An individual or service organization that has a written contractual agreement with ((an agency or entity that meets the requirements in subsection (1) of this section)) a qualified MSS provider also may ((also)) provide MSS and ICM services to eligible clients.

(a) The ((medicaid agency requires the agency or entity to)) provider must:

(i) Keep a copy of the written subcontractor agreement on file;

(ii) Ensure that an individual or service organization staff member providing MSS/ICM services (the subcontractor) meets the minimum regulatory and educational qualifications required of an MSS/ICM provider;

(iii) ~~((Assure))~~ Ensure that the ((individual or service organization)) subcontractor provides MSS/ICM services under the requirements of this chapter; and

(iv) Maintain professional, financial, and administrative responsibility for the ((individual or service organization)) subcontractor.

(b) The ((agency or entity is responsible to)) provider must:

(i) Bill for services using the ((agency's or entity's)) provider's assigned ((provider)) billing number; and

(ii) Reimburse the ((individual or service organization)) subcontractor for MSS/ICM services provided under the written agreement.

NEW SECTION

WAC 182-533-0327 Maternity support services—Professional staff qualifications and interdisciplinary team. (1) MSS providers must use qualified professionals, as specified in this section.

(a) Behavioral health specialists who are currently credentialed or licensed in Washington by the department of health under chapters 246-809, 246-810, and 246-924 WAC as one of the following:

(i) Licensed mental health counselor.

(ii) Licensed independent clinical social worker.

(iii) Licensed social worker.

(iv) Licensed marriage and family therapist.

(v) Licensed psychologist.

(vi) Associate mental health counselor.

(vii) Associate independent clinical social worker.

(viii) Associate social worker.

(ix) Associate marriage and family therapist.

(x) Certified counselor.

(b) Certified dietitians who are currently registered with the commission on dietetic registration and certified by the Washington state department of health under chapter 246-822 WAC.

(c) Community health nurses who are currently licensed as registered nurses in the state of Washington by the department of health under chapter 246-840 WAC.

(d) Community health workers (CHWs) who have a high school diploma or the equivalent and:

(i) Have a minimum of one year of health care and/or social services experience.

(ii) Carry out all activities under the direction and supervision of a professional member or supervisor of the MSS interdisciplinary team.

(iii) Complete a training plan developed by their provider.

(2) The provider's qualified staff must participate in an MSS interdisciplinary team consisting of at least a community health nurse, a certified registered dietitian, a behavioral health specialist, and, at the discretion of the provider, a community health worker.

(a) The interdisciplinary team must work together to address risk factors identified in a client's care plan.

(b) Each qualified staff member acting within her/his area of expertise must address the variety of client needs identified during the maternity cycle.

(c) An MSS interdisciplinary team case conference is required at least once prenatally for clients who are entering MSS during pregnancy, and are eligible for the maximum level of service. Using clinical judgment and the client's risk factors, the provider may decide which interdisciplinary team members to include in case conferencing.

(3) All tribes and any county with fewer than fifty-five medicaid births per year are not required to have an MSS interdisciplinary team, although they must meet all the other requirements in this chapter. Instead of the interdisciplinary team, these counties and tribes must have at least one of the following qualified professionals, as described in subsection (1) of this section:

(a) A behavioral health specialist;

(b) A registered dietitian; or

- (c) A community health nurse.

NEW SECTION

WAC 182-533-0328 Maternity support services—Documentation requirements. Providers must fulfill the documentation requirements under WAC 182-502-0020 and the medicaid agency's current billing instructions including:

- (1) Required supervision records for community health workers;
- (2) Continued education verification and renewal of credentials for professional staff;
- (3) Subcontracting documents, as specified under WAC 182-533-0325(3); and
- (4) Client records, which include consent forms and documentation for screening, assessments, care plans, case conferences, case management, and care coordination for each client.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0330 Maternity support services—Covered services. (1) The ~~((department))~~ medicaid agency must cover((s)) these maternity support services (MSS) provided by an MSS interdisciplinary team ~~((, subject to the restrictions and limitations in this section and other applicable WAC.~~

~~((2) Covered services include)):~~

- ~~((a))~~ (a) In-person screening(s) for risk factors related to pregnancy and birth outcomes;
- ~~((b))~~ (b) Brief assessment when indicated;
- ~~((c))~~ (c) Brief counseling;
- ~~((d))~~ (d) Education that relates to improving pregnancy and parenting outcomes;
- ~~((e))~~ ~~((e))~~ (e) Interventions for risk factors identified on the care plan;
- ~~((f))~~ ~~((f))~~ (f) Basic health messages;
- ~~((g))~~ ~~((g))~~ (g) Case management services;
- ~~((h))~~ ~~((h))~~ (h) Care coordination;
- ~~((i))~~ ~~((i))~~ (i) Family planning screening and referral;
- ~~((j))~~ ~~((j))~~ (j) Screening and referral for tobacco usage and/or exposure;
- ~~((k))~~ ~~((k))~~ (k) Infant case management (ICM) screening ~~((, and~~
- ~~((l))~~ ~~((l))~~ (l) Additional services as determined and published in the maternity support services/infant case management (MSS/ICM) billing instructions).

(2) The medicaid agency must determine the maximum number of units of services allowed per client when directed by the legislature to achieve targeted expenditure levels for payment of maternity support services for any specific biennium. (The maximum number of MSS units allowed per client is published in the agency's current billing instructions.)

(3) The ~~((department))~~ medicaid agency must pay((s)) for covered maternity support services according to WAC ~~((388-533-0345))~~ 182-533-0345.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0340 Maternity support services—Noncovered services. (1) The ~~((department))~~ medicaid agency must cover((s)) only those services ~~((that are))~~ listed in WAC ~~((388-533-0330))~~ 182-533-0330.

(2) The ~~((department))~~ medicaid agency must evaluate((s)) a request for any noncovered service under the provisions of WAC ~~((388-501-0160. When early periodic screening, diagnosis and treatment (EPSDT) applies, the department evaluates a request for a noncovered service according to the process in WAC 388-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see chapter 388-534 WAC for EPSDT rules))~~ 182-501-0160.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0345 Maternity support services—Payment. The ~~((department))~~ medicaid agency must pay((s)) for the covered maternity support services (MSS) described in WAC ~~((388-533-0330))~~ 182-533-0330 on a fee-for-service basis, subject to the ~~((following))~~ requirements in this section:

- (1) MSS must be:
 - (a) Provided to a client who meets the eligibility requirements in WAC ~~((388-533-0320;))~~ 182-533-0320.
 - (b) Provided to a client on an individual basis in a face-to-face encounter ~~((;))~~.
 - (c) Provided by ~~((an agency or entity))~~ a provider that meets the criteria established in WAC ~~((388-533-0325;))~~ 182-533-0325.
 - (d) Provided according to the ~~((department's))~~ medicaid agency's current ~~((published maternity support services/infant case management (MSS/ICM))~~ billing instructions ~~((and/or numbered memoranda;))~~.
 - (e) Documented in the client's record or chart ~~((; and))~~.
 - (f) Billed using:
 - (i) The eligible client's ~~((department-assigned))~~ agency-assigned client identification number;
 - (ii) The appropriate procedure codes and modifiers identified in the ~~((department's))~~ agency's current ~~((published MSS/ICM))~~ billing instructions ~~((and/or numbered memoranda))~~; and
 - (iii) The ~~((agency's—department-assigned))~~ agency-assigned MSS/ICM provider number. ~~((The ((department)) medicaid agency pays the ((agency or entity)) provider for providing MSS services to eligible clients, not the ((individual or service organization that has a written agreement with the agency to provide MSS.)) provider's subcontractor who provides MSS services. See WAC 182-533-0325(3) about subcontracting for services.))~~

(2) The ~~((department))~~ medicaid agency:

- (a) Must pay((s)) MSS in units of time with one unit being equal to fifteen minutes of one-to-one service delivered face-to-face ~~((;))~~.
- (b) When directed by the legislature to achieve targeted expenditure levels for payment of maternity support services

for any specific biennium, may determine the maximum number of units allowed per client ~~((; and))~~.

(c) ~~((Publishes))~~ Must publish the maximum number of units allowed per client in the ~~((MSS/ICM))~~ agency's current billing instructions ~~((and/or numbered memoranda))~~.

(3) The provider may request authorization for a limitation extension to exceed the number of allowed MSS units of service under WAC 182-501-0169.

(4) For a client enrolled in a managed care plan who is eligible to receive MSS, the ~~((department))~~ medicaid agency must pay ~~((s))~~ for MSS ~~((;~~

~~((a)))~~ delivered outside the plan on a fee-for-service basis as described in this section ~~((; and~~

~~((b))~~ Subject to the same program rules that apply to a client who is not enrolled in a managed care plan.

~~((4))~~ Limitation extension requests to exceed the number of allowed MSS units of service may be authorized according to WAC 388-501-0169).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0360 Infant case management—Purpose. The purpose of infant case management (ICM) is to improve the welfare of infants by providing their parent(s) with information and assistance ~~((in order))~~ to access needed medical, social, educational, and other services ~~((SSA 1915(g)))~~.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0365 Infant case management—Definitions. The definitions in WAC ~~((388-533-0315, Maternity support services definitions;))~~ 182-533-0315 also apply to infant case management (ICM).

AMENDATORY SECTION (Amending WSR 12-01-097, filed 12/20/11, effective 1/20/12)

WAC 182-533-0370 Infant case management—Client eligibility. (1) To be eligible to receive infant case management (ICM), an infant must meet all the following criteria:

(a) Be covered under ~~((one of the medical assistance programs listed in WAC 182-533-0320(1);))~~ categorically needy, medically needy, or state-funded medical programs under Washington apple health.

(b) Meet the age requirement for ICM, which is the day after the maternity cycle (defined in WAC 182-533-0315) ends, through the last day of the month of the infant's first birthday ~~((;))~~.

(c) Reside with at least one parent ~~((see WAC 182-533-0315 for definition of parent;))~~ who provides the infant's day-to-day care and is:

(i) The infant's natural or adoptive parent(s);

(ii) A person other than a foster parent who has been granted legal custody of the infant; or

(iii) A person who is legally obligated to support the infant.

(d) Have a parent(s) who needs assistance in accessing medical, social, educational and/or other services to meet the infant's basic health and safety needs ~~((; and))~~.

(e) Not be receiving any case management services funded through Title XIX medicaid that duplicate ICM services.

(2) ~~((Infants who meet the eligibility criteria in subsection (1) of this section, and the infant's parent(s), are eligible to receive:~~

~~((a))~~ An in-person screening by a provider who meets the criteria established in WAC 182-533-0375. Infants and their parent(s) are screened for risk factors related to issues that may impact the infant's welfare, health, and/or safety.

~~((b))~~ Up to the maximum number of ICM units of service allowed per client as determined by the agency and published in the agency's current billing instructions and/or numbered memoranda. The agency may determine the maximum number of units allowed per client when directed by the legislature to achieve targeted expenditure levels for payment in any specific biennium.

~~((3))~~ Clients ~~((meeting))~~ who meet the eligibility criteria ~~((in subsection (1) of this section who))~~ and are enrolled in ~~((an))~~ a medicaid agency-contracted managed care organization (MCO) are eligible for ICM services outside their plan.

~~((4))~~ See chapter 182-534 WAC for clients eligible for coverage under the early periodic screening, diagnosis and treatment (EPSDT) program.

~~((5))~~ Clients receiving ICM before March 1, 2011, are subject to the transition plan as determined and published by the agency in numbered memoranda.

~~((6))~~ (3) If the infant's mother becomes pregnant during the ICM eligibility period and she is eligible for maternity support services (MSS), the infant and the infant's mother are no longer eligible to receive ICM services.

(4) Clients who do not agree with an ~~((agency))~~ eligibility decision ~~((regarding eligibility))~~ by the medicaid agency for ICM have a right to a fair hearing under chapter ~~((388-02))~~ 182-526 WAC.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0375 Infant case management—Provider requirements. (1) Infant case management (ICM) services ~~((can))~~ may be provided only by a qualified ~~((person))~~ infant case manager who is employed by ~~((an agency or entity that meets))~~ a provider meeting the requirements in WAC ~~((388-533-0325))~~ 182-533-0325. ~~((Additionally, to qualify as an ICM provider, the person))~~

(2) The infant case manager must meet at least one of the following qualifications under (a), (b), or (c) of this subsection:

~~((1))~~ (a) Be a current member of the maternity support services (MSS) interdisciplinary team ~~((;))~~ under WAC 182-533-0327.

~~((2))~~ (b) Have a bachelor of arts, bachelor of science, or higher degree in a social service-related field, such as social work, behavioral sciences, psychology, child development, or mental health, plus at least one year of full-time experience working in one or more of the following areas:

- ~~((a))~~ (i) Community (~~social~~) services;
- ~~((b))~~ (ii) Social services;
- (iii) Public health services;
- ~~((c))~~ (iv) Crisis intervention;
- ~~((d))~~ (v) Outreach and referral programs; or
- ~~((e))~~ (vi) Other (~~social services~~-)related fields.

~~((3))~~ (c) Have an associate of arts degree, or an associate's degree in a (~~closely allied~~) social service-related field, such as social work, behavioral sciences, psychology, child development, or mental health, plus at least two years of full-time experience (~~in an area listed in (1) of this section. In addition, at least once per calendar month, the department requires a provider qualifying under this subsection to be under the supervision of a clinical staff person who meets the criteria in (1) of this section.~~) working in one or more of the following areas:

- (i) Community services;
- (ii) Social services;
- (iii) Public health services;
- (iv) Crisis intervention;
- (v) Outreach and referral programs;
- (vi) Other related fields.

(3) The medicaid agency requires any staff person qualifying under subsection (2)(c) of this section to be under the supervision of a clinical staff person meeting the criteria in subsection (2)(a) or (b) of this section. Clinical supervision may include face-to-face meetings and/or chart reviews.

NEW SECTION

WAC 182-533-0378 Infant case management—Documentation requirements. Providers must fulfill the documentation requirements under WAC 182-502-0020 and the medicaid agency's current billing instructions including:

- (1) Required supervision records for infant case managers;
- (2) Continued education verification and renewal of credentials for professional staff; and
- (3) Client records that include consent forms and documentation for screening, assessments, care plans, case management, and care coordination for each client.

AMENDATORY SECTION (Amending WSR 12-01-097, filed 12/20/11, effective 1/20/12)

WAC 182-533-0380 Infant case management—Covered services. (1) The medicaid agency must cover((s)) infant case management (ICM) services subject to the restrictions and limitations in this section and other applicable WAC.

~~((2))~~ Covered services include:

- (a) An initial in-person screening for ICM services, which includes an assessment of risk factors(~~(s)~~) and the development of an individualized care plan;
- (b) Case management services and care coordination;
- (c) Referral and linking ((and referring)) the infant and parent(s) to other services or resources;
- (d) ~~((Advocating))~~ Advocacy for the infant and parent(s); and

(e) Follow-up contact(s) with the parent(s) to ensure the care plan continues to meet the needs of the infant and parent(s)(~~and~~

~~(f) Additional services as determined and published in the maternity support services/infant case management (MSS/ICM) billing instructions).~~

(2) The medicaid agency may determine the maximum number of units allowed per client when directed by the legislature to achieve targeted expenditure levels for payment in any specific biennium. (The maximum number of ICM units allowed per client is published in the agency's current billing instructions.)

(3) The medicaid agency must pay((s)) for covered ICM services according to WAC 182-533-0386.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0385 Infant case management—Non-covered services. (1) The ~~((department))~~ medicaid agency must cover((s)) only those services that are listed in WAC ~~((388-533-0380))~~ 182-533-0380.

(2) The ~~((department))~~ medicaid agency must evaluate((s)) a request for any noncovered service under the provisions of WAC ~~((388-501-0160. When early periodic screening, diagnosis and treatment (EPSDT) applies, the department evaluates a request for a noncovered service according to the process in WAC 388-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see chapter 388-534 WAC for EPSDT rules)))~~ 182-501-0160.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0386 Infant case management—Payment. (1) The ~~((department))~~ medicaid agency must pay((s)) for the covered infant case management (ICM) services described in WAC ~~((388-533-0380))~~ 182-533-0380 on a fee-for-service basis subject to the following requirements.

~~((H))~~ ICM services must be:

(a) Provided to a client who meets the eligibility requirements in WAC ~~((388-533-0370;))~~ 182-533-0370.

(b) Provided by a person who meets the criteria established in WAC ~~((388-533-0375;))~~ 182-533-0375.

(c) Provided according to the ~~((department's))~~ agency's current ((published maternity support services/infant case management (MSS/ICM))) billing instructions ~~((and/or numbered memoranda;)).~~

(d) Documented in the infant's and/or ~~((infant's parent(s)))~~ the parent's record or chart(~~(and)~~).

(e) Billed using:

(i) The eligible infant's ~~((department assigned))~~ medicaid agency-assigned client identification number;

(ii) The appropriate procedure codes and modifiers identified in the ~~((department's))~~ agency's current ((published MSS/ICM)) billing instructions ~~((and/or numbered memoranda));~~ and

(iii) The ~~((department assigned))~~ medicaid agency-assigned MSS/ICM provider number.

(2) The ~~((department))~~ medicaid agency:

(a) ~~Must pay((s))~~ ICM services in units of time, with one unit being equal to fifteen minutes of one-to-one service delivered face-to-face(~~(s)~~).

(b) When directed by the legislature to achieve targeted expenditure levels for payment of maternity support services for any specific biennium, may determine the maximum number of units allowed per client(~~(s) and~~).

(c) (~~Publishes~~) Must publish the maximum number of units allowed per client in the (~~(MSS/ICM))~~ agency's current billing instructions (~~(and/or numbered memoranda)~~).

(3) The provider may request authorization for a limitation extension to exceed the number of allowed ICM units of service under WAC 182-501-0169.

(4) For a client enrolled in a managed care plan who is eligible to receive ICM, the (~~(department))~~ medicaid agency must pay((s)) ICM services(~~(s)~~

~~(a))~~ delivered outside the plan on a fee-for-service basis as described in this section(~~(s) and~~

~~(b) Subject to the same program rules that apply to a client who is not enrolled in a managed care plan.~~

~~(4) Limitation extension requests to exceed the number of allowed ICM units of service may be authorized according to WAC 388-501-0169).~~

WSR 14-09-074

PERMANENT RULES

RECREATION AND CONSERVATION OFFICE

(Recreation and Conservation Funding Board)

[Filed April 18, 2014, 11:01 a.m., effective May 19, 2014]

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

Purpose: (1) Change the agency's name from the inter-agency committee for outdoor recreation to the recreation and conservation office or the recreation and conservation funding board, (2) revise the general grant assistance rules for grant application procedures and deadlines, matching shares, and retroactive costs, (3) change the planning eligibility for applicants from five to six years in the boating facilities program, and (4) revise the long-term grant compliance requirements for projects funded in the firearms and archery range recreation program.

Citation of Existing Rules Affected by this Order: Amending Title 286 WAC.

Statutory Authority for Adoption: For Title 286 WAC is section 39, chapter 241, Laws of 2007 and RCW 34.05.220, 34.05.230, and 42.56.040; for chapter 286-26 WAC is RCW 46.09.530; for chapter 286-27 WAC is RCW 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130; and for chapter 286-30 WAC is RCW 79A.25.210.

Adopted under notice filed as WSR 14-06-063 on February 28, 2014.

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 70, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 70, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 30, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 18, 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: April 16, 2014.

Leslie Connelly
Natural Resource
Policy Specialist
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-04-010 What definitions apply to this chapter? For purposes of Title 286 WAC, unless the context clearly indicates otherwise:

"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the (~~(committee))~~ board. Generally, a federal, state, local, tribal or special purpose government is an applicant.

"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the (~~(committee))~~ board.

"Board" means the recreation and conservation funding board as described in RCW 79A.25.110.

"Chair" means the chair of the (~~(committee. See RCW 43-99-140))~~ board as described in RCW 79A.25.110.

~~("Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43-99-140.))~~

"Development" means the construction and/or restoration of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the (~~(committee))~~ office or that person's designee((-See RCW 43-99-130)) as described in RCW 79A.25.150.

"Nonhighway and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the (~~(committee))~~ board under chapter 46.09 RCW.

"Manual(s)" mean a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the (~~(committee))~~ board or director for dissemination to agencies and organizations that may wish to participate in the (~~(committee's))~~ board's grant program(s).

"Office" means the recreation and conservation office or the office of recreation and conservation as described in RCW 79A.25.010.

"Preliminary expense" means project costs incurred prior to (~~(committee)~~) board or director approval, other than site preparation/development costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the (~~(committee)~~) board.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the (~~(committee)~~) office and a sponsor.

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-015 Address. All communications with the (~~(committee)~~) board shall be directed to (~~(its)~~) the recreation and conservation office at the Natural Resources Building, 1111 Washington Street S.E., P.O. Box 40917, Olympia, Washington 98504-0917, telephone (~~((360) 902-3000)~~) 360-902-3000.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-020 Organization and operations. The (~~(committee)~~) board:

(1) Is an unsalaried body consisting of the (a) commissioner of public lands, (b) director of the department of fish and wildlife, (c) director of the parks and recreation commission, (or the designees of these individuals) and five citizens appointed by the governor from the public-at-large, with the consent of the senate, for a term of three years each. The chair of the (~~(committee)~~) board is a voting member, appointed by the governor from among the five citizen members.

(2) Was created by Initiative 215 (Marine Recreation Land Act of 1964). It is authorized to allocate and administer funds to agencies and organizations from the state's outdoor recreation and other such accounts as may now or hereafter be established.

(3) Is authorized and obligated to prepare, maintain and update statewide plans, including:

(a) A strategic recreation resource and open space or assessment and policy plan and state trails plan (RCW (~~((43-99-025))~~) 79A.25.020 and 79A.35.040); and

(b) A nonhighway and off-road vehicle plan (~~((RCW 46.09.250);~~

(~~(c) A trails plan (RCW 67.32.050))~~) (RCW 46.09.370).

(4) Does not own or operate any outdoor recreation or resource facilities.

(5) Performs and accomplishes work by a staff under the supervision of a director appointed by the governor.

(6)(a) Conducts regular meetings, pursuant to RCW 42.30.075, according to a schedule it adopts in an open public meeting.

(b) May conduct special meetings at any time, pursuant to RCW 42.30.080, if called by the chair.

(c) Maintains an official record of its meetings in a recorded audio format, unless written minutes are otherwise indicated for logistical reasons.

(7) Members who have been appointed from the public-at-large shall be reimbursed at the rate established by the office of financial management in accordance with RCW 43.03.050(1) for each day or portion thereof spent on official business and shall be entitled to receive all necessary travel expenses on the same basis as is provided by law for state officials and employees generally.

(8) Defines a quorum as five of its members.

(9) Adopts parliamentary meeting procedure generally as described in *Robert's Rules of Order*.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-04-030 Goals. The general goals of the (~~(committee)~~) board and office are to:

(1) Provide funds and planning assistance for acquisition and development and use of outdoor recreation and habitat conservation resources to maximize protection of the natural quality of the environment;

(2) Provide funds and planning assistance for a system of public recreational facilities and opportunities for state residents and visitors;

(3) Aid organizations and local government, with funds and planning assistance, in providing the type of facilities and resources which, under their jurisdiction, will best serve their needs for outdoor recreation and habitat conservation; and

(4) Encourage programs which promote outdoor education, skill development, participation opportunity and proper stewardship of recreation and natural resources. See also RCW (~~((43-99-010))~~) 79A.25.005.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-050 Compliance with Environmental Act guidelines. (1) The (~~(committee)~~) board has determined that all of its activities and programs in effect as of December 12, 1975, or pursuant to WAC 197-11-800 are exempt from threshold determinations and environmental impact statement requirements under the provisions of WAC 197-11-875.

(2) To the extent applicable, it is the responsibility of applicants and sponsors to comply with the provisions of chapter 197-11 WAC, the State Environmental Policy Act rules for acquisition or development of projects, the National Environmental Protection Act, and to obtain associated land-use permits.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-04-060 Manuals and waivers—Guidance. (1) The (~~(committee)~~) board or director shall adopt manuals that describe its general administrative policies for use by applicants, potential applicants, sponsors, and others. These manuals shall not have the force or effect of administrative code rules.

(2) (~~(Committee)~~) Board policies, including those in the manuals shall be considered and approved by the (~~(committee)~~) board in an open public meeting. Notice of such consid-

erations will be given by distribution of the agenda for the meeting, press releases, formal meeting notice in the Washington State Register, or other such means.

(3) Project applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with general administrative matters and procedures within the manuals. Determinations on petitions for waivers made by the director are subject to review by the ((committee)) board at the request of the petitioner.

(4) Petitions for waivers of subjects dealing with ((committee)) board policy, and those petitions that in the judgment of the director require ((committee)) board review, shall be referred to the ((committee)) board for deliberation. Such waivers may be granted after consideration by the ((committee)) board at an open public meeting.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-065 Project evaluations. It is the policy of the ((committee)) board to use an open, public, competitive selection process to guide it in allocating funds to grant applicants. In this regard, the director shall use priority rating systems in preparing funding recommendations for ((committee)) board consideration. These systems shall:

- (1) Be developed, to a reasonable extent, through the participation of interested parties and specialists;
- (2) Consider applicant, local, regional, and statewide needs, a project's technical merits, and other criteria;
- (3) Be adopted by the ((committee)) board in advertised public meetings;
- (4) Be made available in published form to interested parties;
- (5) Be designed for use by a team of evaluators selected for this purpose; and
- (6) Be in accord with statutes.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-04-070 Director's authority. Consistent with RCW ((43-99.025)) 79A.25.020, and other applicable laws, the director is delegated the authority and responsibility to carry out policies of the ((committee)) board. This includes, but is not limited to the authority to:

- (1) Administer ((committee)) programs; employ, discipline, and terminate staff, consistent with applicable merit system and personnel rules;
- (2) Administer all applicable rules, regulations and requirements established by the ((committee)) board or reflected in the laws of the state; and
- (3) Approve certain cost increase or waiver requests.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-04-080 Federal overlay and requirements. At times through the years, the ((committee's)) board's grant programs have been closely interrelated with certain federal grant programs. For example, see WAC 286-40-010, Land and Water Conservation Fund. The result of this interrela-

tionship is that there are many federal requirements imposed on the ((committee)) board and its applicants over which the ((committee)) board has no control.

Many of these requirements may be found in the Land and Water Conservation Fund Grants Manual (National Park Service). In addition, most of the federal requirements are restated or clarified in the manuals.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-085 Declaratory order—Petition requirements—Consideration—Disposition. (1) Any person may submit a petition for a declaratory order in accordance with RCW 34.05.240 in any form so long as it:

- (a) Clearly states the question the declaratory order is to answer; and
 - (b) Provides a statement of the facts which raise the question.
- (2) The director may conduct an independent investigation in order to fully develop the relevant facts.
- (3) The director will present the petition to the ((committee)) board at the first meeting when it is practical to do so and will provide the petitioner with at least five days notice of the time and place of such meeting. Such notice may be waived by the petitioner.
- (4) The petitioner may present additional material and/or argument at any time prior to the issuance of the declaratory order.
- (5) The ((committee)) board may decide that a public hearing would assist its deliberations and decisions. If such a hearing is ordered, it will be placed on the agenda of a meeting and at least five days notice of such meeting shall be provided to the petitioner.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-04-090 What is the history of the ((committee's)) board's fund sources? (1) As of July 1, 1995, the "recreation resource account," RCW 79A.25.200, included ((appropriations and)) funds, under ((RCW 43.99.040 (repealed as)) RCW 79A.25.040 ((since 1999))), in support of the ((committee's)) boating facilities and other programs. These funds are derived from:

- (a) Unclaimed marine fuel tax refunds;
 - (b) Moneys made available to the state of Washington by the federal government for outdoor recreation; and
 - (c) Such other sources as may be provided.
- (2) As of July 1, 1995, the "NOVA program account," RCW 46.09.510, included ((appropriations and)) funds, under RCW ((46.09.110 and 46.09.170)) 46.68.045 and 46.09.520, in support of the ((committee's)) nonhighway and off-road vehicle activities program. These funds are derived from:
- (a) Refunds from the motor vehicle fund for nonhighway and off-road purposes;
 - (b) Off-road vehicle permit fees; and
 - (c) Such other sources as may be provided.
- (3) As of July 1, 1990, the "habitat conservation account," RCW 79A.15.020, included ((appropriations and))

funds, under chapter ~~((43-98A RCW (recodified as chapter))~~ 79A.15 RCW ~~((since 1999))~~, in support of the ~~((committee's))~~ Washington wildlife and recreation program. These funds are derived from:

(a) Sales of bonds approved in capital budget appropriations; and

(b) Such other sources as may be provided.

(4) As of July 1, 1995, the "outdoor recreation account," RCW 79A.25.060, included ~~((appropriations and))~~ funds, under chapter ~~((43-98A RCW (recodified as chapter))~~ 79A.15 RCW ~~((since 1999))~~, in support of the ~~((committee's))~~ Washington wildlife and recreation program. These funds are derived from:

(a) Sales of bonds approved in capital budget appropriations; and

(b) Such other sources as may be provided.

(5) Prior to July 1, 1995, the "outdoor recreation account," RCW 79A.25.060, included ~~((appropriations and))~~ funds, in support of the ~~((committee's))~~ board's programs. Funds were derived from:

(a) Unclaimed marine fuel tax refunds under RCW ~~((43-99.040 (recodified as RCW 79A.25.404 since 1999))~~ 79A.25.040;

(b) Sales of bonds under Referenda 11, 18, 21, and 28, and HJR 52;

(c) State apportionments of the federal land and water conservation fund;

(d) Moneys refunded from the motor vehicle fund under RCW ~~((46-09.170))~~ 46.09.520 and funds received under RCW ~~((46-09.110))~~ 46.68.045 for nonhighway and off-road vehicle purposes;

(e) Off-road vehicle permit fees;

(f) Sales of general obligation bonds for outdoor recreation purposes under RCW ~~((43-98A.050))~~ 79A.15.050; and

(g) Such other sources as were provided.

(6) As of July 1, 1990, the "firearms range account" includes appropriations and funds, under ~~((RCW 77.12.720 (recodified as))~~ RCW 79A.25.210 ~~((since 1999))~~, in support of the ~~((committee's))~~ firearms and archery range recreation program(s). These funds are derived from:

(a) Concealed pistol license fees under RCW 9.41.070;

(b) Destruction of firearms programs under RCW 9.41.098; and

(c) Such other sources as may be provided.

(7) As of July 1, 2003, the "aquatic lands enhancement account" ~~((includes appropriations under section 377, chapter 26, Laws of 2003, 1st sp. sess. These))~~ funds are derived from the proceeds from sale or lease of aquatic lands or valuable materials therefrom under RCW ~~((79.90.245 and 79.90.450))~~ 79.105.150.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-045 ((Committee)) Office and the salmon recovery funding board. The ~~((committee))~~ office provides support to the salmon recovery funding board, as directed in RCW 79A.25.240, including administration and management of the salmon board's public records. Such records shall be managed and made available through the

~~((committee's))~~ public records officer in the same manner as provided for ~~((committee))~~ office records and set forth in this chapter.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-050 Public records available. All public records of the ~~((committee and board))~~ office, as defined in RCW ~~((42-17.260))~~ 42.56.070, as now or hereafter amended, are available for public inspection and copying pursuant to this regulation, except as otherwise provided by law, including, but not limited to, RCW ~~((42-17.255 and 42-17.310))~~ 42.56.050 and 42.56.210 and WAC 286-06-100~~((--))~~. Exemptions.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-060 Responsibility. The public records shall be available through a public records officer designated by the director. The public records officer shall be responsible for: Implementation of the rules and regulations regarding release of public records, coordinating the staff of the ~~((committee))~~ office in this regard, and generally ensuring compliance with the public records disclosure requirements of chapter ~~((42-17))~~ 42.56 RCW as now or hereafter amended.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-065 Indexes. (1) Through its public records officer, the ~~((committee))~~ office shall maintain indexes for the records and files listed in subsection (2)(a) through (g) of this section. These indexes:

(a) Provide identifying information as to its files and records;

(b) Are available for public inspection and copying at its offices in the Natural Resources Building, Olympia, in the manner provided in this chapter for the inspection and copying of public records;

(c) Are updated at least every five years and revised at appropriate intervals; and

(d) Are public records even if the records to which they refer may not, in all instances, be subject to disclosure.

(2) Indexes of the following records and files are available:

(a) Archived files;

(b) Equipment inventory;

(c) ~~((Committee))~~ Office and board policies and procedures, including manuals;

(d) Active project files;

(e) Publications such as brochures and special reports;

(f) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(15), including grant program manuals; and

(g) Rule-making files, as described in RCW 34.05.370, for each rule proposed for adoption in the *State Register* and adopted.

(3) The following general records and files are available by reference to topic, and generally arranged alphabetically

or chronologically within such topic. Due to volume, costs and/or complexity, however, no master index is maintained.

- (a) Administrative files;
- (b) Comprehensive park-recreation plans;
- (c) Summaries of ~~((committee))~~ office staff meetings;
- (d) Closed/inactive project files;
- (e) General correspondence;
- (f) Attorney general opinions;
- (g) Financial records;
- (h) Summaries and memoranda of ~~((committee))~~ office and board meetings;
- (i) Final adjudicative proceeding orders entered after June 30, 1990, as defined in RCW 34.05.010(1) that contain an analysis or decision of substantial importance to the ~~((committee))~~ office or board in carrying out its duties (each listed alphabetically by subject with a phrase describing the issue or issues and relevant citations of law);
- (j) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the ~~((committee))~~ office or board in carrying out its duties (each listed alphabetically by case name with a phrase describing the issue or issues and relevant citations of law); and
- (k) Interpretive statements as defined in RCW 34.05.-010(8) (each indexed by the ~~((committee))~~ office or board program).

(4) Before June 30, 1990, the ~~((committee))~~ office maintained no index of:

- (a) Declaratory orders containing analysis or decisions of substantial importance to the ~~((committee))~~ office in carrying out its duties;
- (b) Interpretive statements as defined in RCW 34.05.-010(8); and
- (c) Policy statements as defined in RCW 34.05.-010(~~(14))~~ (15).

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-06-070 Office hours. Public records shall be available for inspection and copying during the ~~((committee's))~~ office's customary office hours. Those hours shall be consistent with RCW 42.04.060 and ~~((42-17-280))~~ 42.56.090, from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-080 Requests for public records. Consistent with chapter ~~((42-17))~~ 42.56 RCW, public records may be inspected or copied or copies of such records may be obtained by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing, preferably on a form prescribed by the director, which shall be available at its Olympia office or electronically. The request shall be presented to the public records officer or designee. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The calendar date on which the request was made;

(c) The nature of the request;

(d) A reference to the requested record as it is described in any current index, if the matter requested is referenced within indexes; and

(e) An appropriate description of the record requested, if the requested matter is not identifiable in the indexes.

(2) Whenever a member of the public makes a request, the public records officer or designee shall ensure the request receives a "date received" stamp or equivalent notation and that assistance is provided in promptly identifying the public record requested as defined in RCW ~~((42-17-320))~~ 42.56.520. The ~~((agency))~~ office shall assist to the maximum extent consistent with ongoing operations, and retains the authority to condition records access to prevent unreasonable invasions of privacy, access to other information protected from disclosure by law, damage/disorganization, and excessive interference with office operations and equipment.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-090 Copying. (1) No fee shall be charged for the inspection of public records.

(2) The director shall charge a fee of fifteen cents per page for providing copies of public records and for use of the ~~((committee's))~~ office's copy equipment. Copying in other formats shall be subject to a fee established by the director. These charges will be the amount necessary to reimburse the ~~((committee))~~ office for its actual costs incident to such copying.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-100 Exemptions. (1) The ~~((committee and/or board and the))~~ director reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 286-06-080 is exempt under the provisions of state or federal law, or chapter ~~((42-17))~~ 42.56 RCW.

(2) In addition, pursuant to chapter ~~((42-17))~~ 42.56 RCW, the ~~((committee and/or board and the))~~ director reserves the right to delete identifying details when made available or published in cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy, or would disclose information otherwise protected by law.

(3) All denials of requests for public records, in whole or part, will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-06-110 Review of denials. (1) Any person who objects to the denial of a request for a public record may petition the director for review by submitting a written

request. The request shall specifically refer to the written statement which constituted or accompanied the denial.

(2) After receiving a written request for review of a decision denying inspection of a public record, the director, or designee, will either affirm or reverse the denial by the end of the second business day following receipt according to RCW ~~((42.17.320))~~ 42.56.520. This shall constitute final ~~((committee and/or board))~~ action. ~~((Whenever possible in such matters, the director shall first consult with the committee's or board's chair and members.))~~

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-13-010 What is the purpose of this chapter? (1) This chapter contains general rules affecting grant program eligibility, applications, and projects funded with money from or through the ~~((committee))~~ board.

(2) Further rules are in chapter 286-26 WAC (Nonhighway and off-road vehicle activities program), chapter 286-27 WAC (Washington wildlife and recreation program), chapter 286-30 WAC (Firearms and archery range recreation program), chapter 286-35 WAC (Initiative 215 boating facilities program), chapter 286-40 WAC (Land and water conservation fund program) and chapter 286-42 WAC (Aquatic lands enhancement account program).

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-13-020 Applications ~~((form))~~. (1) All grant requests must be completed and submitted in the format prescribed ~~((by the committee unless otherwise allowed))~~ by the director.

(2) If the director determines that the applicant is eligible to apply for federal funds administered by the ~~((committee))~~ board, the applicant must execute the forms necessary for that purpose.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-13-030 Application review. (1) All applications for funding submitted to the ~~((committee))~~ office will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the ~~((committee's))~~ office's staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.

(2) The ~~((committee))~~ office shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the manuals or other publicly available formats.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-13-040 What are the grant program deadlines and how can the deadlines be waived? (1) ~~((Applica-~~

~~tions. To allow time for review, applications))~~ Compliance with the following deadlines is required to be eligible for grant funding and to receive grant funding.

(a) Applications must be submitted at least four calendar months before the ~~((funding))~~ meeting of the board at which the applicant's project is first considered. Applications must be completed in final form and on file with the ~~((committee))~~ office at least one calendar month before ~~((this))~~ the meeting of the board at which the applicant's project is first considered. Excepted are applications for ~~((the National Recreational Trails Funding Act, Riparian Habitat, and Youth Athletic Facilities Programs, and))~~ programs where the director specifically establishes another deadline to accomplish new or revised statutory direction, board direction, or to meet a federal grant application deadline.

~~((2) Plans.))~~ (b) Plans required for participation in ~~((committee))~~ board grant programs must be complete and on file with the ~~((committee))~~ office at least three calendar months before the ~~((funding))~~ meeting of the board at which the applicant's project is first considered. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to six years.

~~((3) Matches.))~~ (c) To ~~((allow time for development of))~~ develop the director's funding recommendations, written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the ~~((committee))~~ office at least one calendar month before the meeting of the board at which the project is to be considered for funding.

~~((4) Project agreement.))~~ (d) To prepare a project agreement, certain documents or materials in addition to the application may be required by the office. These documents or materials must be provided by the applicant to the office at least two calendar months after the date the board or director approves funding for the project or earlier to meet a federal grant program requirement. After this period, the board or director may rescind the offer of grant funds and reallocate the grant funds to another project(s).

(e) An applicant has three calendar months from the date ~~((of the committee's mailing of))~~ the office sends the project agreement to ~~((execute))~~ sign and return the agreement to the ~~((committee's))~~ office. After this period, the ~~((committee))~~ board or director may reject any agreement not signed and returned and reallocate the grant funds to another project(s).

~~((5) Waivers.))~~ (2) Compliance with ~~((these))~~ the deadlines is required ~~((for eligibility))~~ unless a waiver is granted by the board or director. Such waivers are considered based on several factors which may vary with the type of waiver requested, including any one or more of the following:

(a) ~~((When the applicant started the application/planning process (for application and plan deadline waivers)))~~ Current status and progress made to meet the deadline;

(b) ~~((Progress made))~~ The reason the established deadline could not be met;

(c) When ~~((final plan adoption will occur (for plan deadline waivers)))~~ the deadline will be met;

(d) ~~((The cause of the delay (procedural or content related, etc.);~~

~~et)))~~ Impact on the ~~((committee's))~~ board's evaluation process;

- ~~((f))~~ (e) Equity to other applicants; and
~~((g))~~ (f) Such other information as may be relevant.

AMENDATORY SECTION (Amending WSR 06-05-024, filed 2/7/06, effective 3/10/06)

WAC 286-13-045 What rules govern ~~((eligible))~~ matching resources? (1) When ~~((requiring a match from an applicant for committee administered funds, or giving))~~ the board gives preference to an applicant that provides a ~~((match))~~ matching resource, it is the intent of the ~~((committee))~~ board to do so to foster and demonstrate local commitment to the proposed project ~~((and to demonstrate that commitment, and))~~, to make funds from a given grant program ~~((and revenue source))~~ available to a greater number of projects, and to fund projects that are ready to implement without delay.

(2) Applicant resources used to match ~~((committee))~~ board funds must be eligible in the grant program. Sources of matching resources include, but are not limited to, any one or more of the following: ~~((Cash; local impact/mitigation fees; certain federal funds; the value of donations such as privately owned real estate, equipment, equipment use, materials, and labor; or any combination thereof))~~

(a) Appropriations and cash;

(b) Value of the applicant's expenses for labor, materials, and equipment;

(c) Value of donated real property, labor, services, materials, and equipment use; and

(d) Grant funds, except those from the same grant program administered by the board.

(3) ~~((An agency's or organization's match may include state and federal funds, including funds from other grant programs administered by the committee. However, the committee))~~ The board may require the ~~((agency or organization))~~ applicant to provide a portion of ~~((the match))~~ its matching resources in local resources.

(4) ~~((Private donated real property, or the value of that property, must consist of real property (land and facilities) that would normally qualify for committee grant funding.~~

~~((5))~~ State agency projects may be assisted by one hundred percent funding from ~~((committee sources))~~ board funds except where prohibited by law or the board.

~~((6))~~ The eligibility of some federal and state funds to be used as a match is governed by federal and state requirements and thus may vary with individual program policies.)

(5) Grants from state funds are intended to supplement the existing capacity of a sponsor. They are not intended to supplant existing programs or fund projects that would have been undertaken without grant funding.

(6) Except for grant applications submitted within the same biennium, matching resources or board grant funds committed in one board funded project must not be used as match in another board funded project.

(7) If a matching resource is required or provided in the grant application, it must also conform to the deadlines in WAC 286-13-040.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-050 ~~((Final))~~ Funding decision. The ~~((committee))~~ board will review recommendations from the director for grant projects at regularly scheduled ~~((funding sessions. It))~~ public meetings. The board retains the authority and responsibility to accept or deviate from these recommendations and ~~((, where statutory authority exists, it alone will))~~ make the final decision concerning the funding of a project.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-13-060 Project agreement. For every funded project, an agreement must be executed as provided in this section.

(1) The project agreement shall be prepared by the ~~((director))~~ office subsequent to approval of the project by the ~~((committee))~~ board at a public meeting. The ~~((director shall execute the agreement on behalf of the committee and tender the document to the applicant. On execution by the applicant, who through this action becomes the sponsor,))~~ project agreement is executed upon the signature of the office and the applicant and the parties are bound by the agreement's terms. The applicant ~~((may))~~ shall not proceed ~~((with the project))~~ until the project agreement has been executed ~~((and the project start date listed in the agreement has arrived))~~, unless specific authorization pursuant to WAC 286-13-085 ~~((+a))~~ has been given by the director.

(2) If the project is approved by the ~~((committee))~~ board to receive a grant from federal funds, the director shall not execute an agreement or amendment with the applicant until federal funding has been authorized through ~~((execution of a concurrent project))~~ an agreement with the applicable federal agency.

(3) Execution of the project agreement must conform to the deadlines in WAC 286-13-040.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-13-070 Disbursement of funds. (1) Except as otherwise provided ~~((herein))~~ in this chapter, the ~~((director))~~ office will authorize disbursement of project funds only on a reimbursable basis ~~((, after the sponsor has spent its own funds and))~~ at the percentage identified in the project agreement after the sponsor has presented ~~((a billing showing satisfactory evidence of property rights acquired and/or))~~ an invoice documenting costs incurred and compliance with ~~((partial or all))~~ the provisions of the project agreement.

~~((1))~~ Reimbursement method. Reimbursement must be requested on voucher forms authorized by the director and must include all documentation as detailed in the manual in effect at the time reimbursement is requested.)

(2) ~~((Reimbursement level.))~~ The amount of reimbursement may never exceed the cash spent on the project.

(3) ~~((Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development.~~

(4) Exceptions.

~~(a) State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. Prior to the 1995-1997 biennium (July 1, 1995,) state agencies were required to submit voucher forms with the supporting documentation specified in the manual in effect at the time of completion of project acquisition, relocation or development.~~

~~(b) Direct payment.) Reimbursement shall not be approved for any donations, including donated real property.~~

~~(4) Direct payment to an escrow account of the ((committee's)) office's share of the approved cost of real property and related costs may be made following ((committee)) office approval ((of an acquisition project)) when the sponsor indicates a temporary lack of funds to purchase the property on a reimbursement basis. Prior to release of the ((committee's)) office's share ((of)) into escrow ((funds)), the sponsor must provide the ((director)) office with a copy of a binding ((sale)) agreement between the sponsor and the seller, all required documentation, and evidence of deposit of the sponsor's share ((if any)), identified in the project agreement, into an escrow account.~~

AMENDATORY SECTION (Amending WSR 06-05-024, filed 2/7/06, effective 3/10/06)

WAC 286-13-080 What rules govern expenses incurred before execution of a project agreement? ~~((Except as hereinafter provided, the committee will not approve the disbursement of funds for expenses))~~ Unless otherwise provided in this chapter, the office shall not approve the disbursement of funds for costs incurred before execution of a project agreement.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-13-085 Retroactive, preagreement, and increased costs. ~~((See WAC 286-04-010 for definition of terms for the following section.~~

~~Under most conditions, eligible expenses may only be reimbursed for activities)) (1) The office will only reimburse costs that occur within the period ((eited)) of performance in the project agreement((- This is known as the committee's prohibition on retroactivity. To avoid this prohibition, a waiver may be issued.~~

~~(1) Retroactive land acquisition costs)).~~

~~(2) The director may grant a waiver of retroactivity for acquiring real property whenever an applicant asserts, in writing, ((that a condition exists which may jeopardize the project)) the justification for the critical need to purchase the property in advance of the project agreement along with any documentation required by the director. When evidence warrants, the director may grant the applicant permission to proceed by issuing ((the)) a written waiver. This waiver of retroactivity will not be construed as ((an)) approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for ((assistance)) grant funding. If the project is to remain eligible for ((grant support)) funding from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its~~

own waiver of retroactivity as provided under its rules and regulations. A waiver may be issued for more than one grant program.

~~((2) Retroactive development costs.) (3) The only retroactive acquisition, development, and restoration costs eligible for ((reimbursement consideration are preliminary expenses (e.g., engineering costs).~~

~~However, solely in respect to WWRP projects on LEAP Capital Document 5, the director is authorized to grant a waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.~~

~~(3) Cost increases.~~

~~(a)) grant funding are preagreement costs as defined by the board.~~

~~(4) Cost increases for approved projects may be granted by the ((committee)) board or director if financial resources are available.~~

~~((b)) (a) Each cost increase request will be considered on its merits.~~

~~((c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.~~

~~(d)) (b) The director may approve a ((sponsor's acquisition, development, and/or noncapital project)) cost increase request so long as the ((total request)) cost increase amount does not exceed ten percent of the project's approved initial ((cost)) grant funding amount. The director's approval of an acquisition project cost increase is limited to a parcel-by-parcel appraised and reviewed value.~~

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-090 Federal assistance. Insofar as is possible under the ((committee's)) board's statewide ((plan(s))) plan provided ((under WAC 286-04-020(3))) in this chapter, applications will be administered and approved in a manner that will maximize any federal assistance available for the benefit of projects in Washington.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-13-100 Nonconformance and repayment. Any ((sponsor expenditure of committee grant moneys)) project cost deemed by the ((committee)) board or director to conflict with applicable statutes, rules and/or related manuals must be repaid, upon written request by the director, to the appropriate state account per the terms of the project agreement. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.

AMENDATORY SECTION (Amending WSR 97-17-004, filed 8/7/97, effective 9/7/97)

WAC 286-13-110 Income, use of income ((use)). (1) ~~(Income-~~

~~(a) Compatible source:))~~ The source of any income generated in a ~~((committee assisted))~~ funded project or project area must be compatible with the ~~((element(s) defined in the))~~ funding source and project agreement.

(a) The way the project or project area is defined varies with the source of funds provided by the ~~((committee))~~ board. That is, income generated in a project assisted with funds that originate from:

(i) A state source must be consistent with the limits of the element(s) assisted by the ~~((committee))~~ board (for example, within the area of an athletic field or habitat area).

(ii) The federal land and water conservation fund must be consistent within the protected boundary as described in ~~((chapter 660.2.6.A. ("project area") of the L&WCF Grants-in-Aid Manual))~~ the Land and Water Conservation Fund Act, 36 C.F.R., Part 59.

~~(b) ((Fees:))~~ User ~~((and/or))~~ or other fees may be charged in connection with land acquired or facilities developed with ~~((committee))~~ board grants if the fees are consistent with the:

(i) Value of any service(s) furnished; ~~((and))~~

(ii) Value of any ~~((opportunity(ies)))~~ opportunities furnished; and

(iii) Prevailing range of public fees in the state for the activity involved.

(iv) Excepted are firearms and archery range recreation program safety classes (firearm and/or hunter) for which a facility/range fee must *not* be charged (RCW ~~((77.12.720))~~ 79A.25.210).

(2) ~~((Income use:))~~ Regardless of whether income or fees in a ~~((committee assisted))~~ project area (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) are gained during or after the reimbursement period cited in the project agreement, unless precluded by state or federal law, the revenue may only be used to offset:

(a) The sponsor's matching ~~((funds, and/or))~~ resources;

(b) The project's total cost; ~~((and/or))~~

(c) The expense of operation, maintenance, ~~((and/or))~~ stewardship, monitoring, or repair of the facility or program assisted by the ~~((committee))~~ board's grant; ~~((and/or))~~

(d) The expense of operation, maintenance, ~~((and/or))~~ stewardship, monitoring or repair of other similar units in the sponsor's ~~((park and recreation and/or habitat conservation))~~ system; ~~((and/or))~~ or

(e) Capital expenses for similar acquisition ~~((and/or))~~ or development.

AMENDATORY SECTION (Amending WSR 97-17-004, filed 8/7/97, effective 9/7/97)

WAC 286-13-115 Discrimination, preferences. (1) Sponsors shall not discriminate against users of projects assisted with ~~((committee))~~ board funds on the basis of race, creed, color, sex, religion, national origin, disability, marital status, or sexual orientation.

(2) Sponsors shall not express a preference for users of ~~((committee))~~ board grant assisted projects on the basis of

residence (including preferential reservation, membership, and/or permit systems). However, reasonable differences in admission and other fees may be maintained on the basis of residence. The ~~((committee))~~ board does not encourage the imposition of such differential fees. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-120 Permanent project signs. Permanent signs identifying that land was acquired ~~((or facilities)),~~ developed or restored with financial assistance from the ~~((committee))~~ board are required unless waived by the director. Such waivers are considered based on agreed project goals.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-26-010 Scope of chapter. This chapter contains rules affecting the nonhighway and off-road vehicle activities grant program administered by the ~~((committee))~~ board under chapter 46.09 RCW. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules(ç)" chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-26-020 What definitions apply to this chapter? For purposes of this chapter, the following definitions shall apply:

"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

"NOVA" means the ~~((committee's))~~ board's nonhighway and off-road vehicle activities program described in chapter 46.09 RCW.

"NOVA advisory committee" as provided in RCW ~~((46.09.280))~~ 46.09.340, means the panel of representatives chosen to advise the director in the development of the state-wide NOVA plan, the development of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the ~~((committee))~~ board for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW.

"Off-road vehicle" ~~((ORV))~~ as provided in RCW ~~((46.09.020))~~ 46.04.365.

"ORV sport park" as provided in RCW ~~((46.09.020, means a facility that accommodates racing two, three, and/or four wheel ORVs, and four wheeled vehicles over forty inches width which are equipped with four wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or~~

other obstacles found in more natural settings)) 46.09.310. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for funds from the NOVA program account.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-26-080 Does this program have planning eligibility requirements? Yes. To be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2), except that such a plan is not required to support a funding request for education((—)) and enforcement ((and/)) or maintenance((—)) and operation projects. At minimum the plan must include:

- (1) A statement of the applicant's long-range goals and objectives;
- (2) An inventory((—or description of the planning area));
- (3) An analysis of demand and need, that is, why actions are required;
- (4) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;
- (5) A current capital improvement program of at least six years; and
- (6) Evidence that this plan has been approved by the applicant's governing entity most appropriate to the plan's scope. For example, a city or county-wide plan must be approved at the council or commission level. Plans with a different scope will be approved by department heads, district rangers, regional managers/supervisors, etc.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-26-083 What long term rules apply? (1) Without prior approval of the ((committee)) board, land, natural resources and/or facilities purchased and/or developed with ((committee)) board administered NOVA funds shall not be converted to uses other than those for which the funds were originally approved.

(2) The ((committee)) board is entitled to pursue and obtain remedies that assure the substitution or replacement of natural resources or facilities in accordance with this chapter.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-26-085 When considering approval of a conversion, what rules apply? The ((committee)) board shall only approve conversions when:

- (1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and
- (2) Another resource(s) will serve as a replacement. The replacement resource(s) must:
 - (a) ((f))If a land acquisition((f)), be real ((property(ies))) property of at least equal fair market value and public benefit at the time of conversion;
 - (b) ((f))If a development((f)), provide a facility of at least equal fair market value and public benefit as that which existed at the time of the original investment;

(c) Be of reasonably equivalent or greater recreation usefulness and location;

(d) Be administered by the same political jurisdiction as the converted property ((and/)) or development;

(e) Satisfy ((need(s))) needs identified in the ((committee's)) board's or sponsor's plan; and

(f) Include only elements eligible under the ((committee's)) board's program from which funds were originally allocated.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-26-090 For land acquisition projects, are there long term obligations? Yes. Sponsors must execute an instrument(s) containing:

- (1) For fee or perpetual property rights acquisition projects:
 - (a) A legal description of the property acquired;
 - (b) A conveyance to the state of Washington for the right to use the described real property for outdoor recreation purposes forever unless a term is specified in the project agreement; and
 - (c) A prohibition on conversion of use of the land to a principal use other than that for which funds were originally approved without prior approval of the ((committee)) board.
- (2) For lease, less than fee, or nonperpetual property rights, a binding agreement which:
 - (a) Contains a legal description of the property and rights acquired;
 - (b) Contains a conveyance to the state of Washington for the right to use the described real property for outdoor recreation purposes for the period of the lease;
 - (c) Contains a prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the ((committee)) board;
 - (d) Is for at least twenty-five years unless precluded by state law;
 - (e) Is not revocable at will;
 - (f) Has a value supported through appraisal requirements approved by the ((committee)) board; and
 - (g) Is paid for in lump sum at initiation.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-26-100 For development projects, are there long term obligations? Yes.

(1) Properties and facilities assisted with money granted by the ((committee)) board shall not be converted (WAC 286-26-083(1)).

(2) Properties and facilities assisted with money granted by the ((committee)) board shall be:

- (a) Built, operated, used, and maintained according to federal, state, and local laws and regulations, including public health standards and building codes;
- (b) Built, operated, used, and maintained in a reasonably safe condition for the project's intended use;
- (c) Operated and maintained throughout its estimated life so as to prevent undue deterioration; and

(d) Built and operated in compliance with all federal and state nondiscrimination laws, regulations, and policies.

(3) Facilities open to the public must:

(a) Be built, operated, and maintained according to state and federal accessibility guidelines((-));

(b) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods((-); and

(c) Be available for use at reasonable hours and times of the year, according to the type of area or facility.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-26-105 What provisions apply to federal agencies? A (~~(committee-federal)~~) board-federal agency agreement signed by the parties shall control the provision of funds granted by the (~~(committee)~~) board for facility developments to federal agency sponsored projects. Absent this agreement, the (~~("general provisions")~~) standard terms and conditions of (~~(committee's)~~) board's project agreement shall control.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-26-110 Matching amounts and caps determined. The (~~(committee)~~) board will establish (~~(NOVA program)~~) sponsor matching share requirements and fund request limits. Any changes will normally be done at a (~~(committee)~~) board meeting six months before program funding consideration.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-010 What is the purpose of this chapter? This chapter contains rules affecting the Washington wildlife and recreation grant program (~~(WWRP)~~) administered by the (~~(committee)~~) board under chapter 79A.15 RCW. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules(;-)" chapter 286-13 WAC. These moneys are available through the (~~(committee)~~) board for projects in the following accounts and categories:

(1) Farmlands preservation account((-));

(2) Habitat conservation account:

(a) Critical habitat category;

(b) Natural areas category;

(c) Urban wildlife habitat category; and

(d) (~~(Restoration enhancement on state lands category-)~~)

State lands restoration and enhancement category.

(3) Outdoor recreation account:

(a) State parks category;

(b) Local parks category;

(c) Trails category;

(d) Water access category; and

(e) (~~(Development renovation on state lands category-)~~)

State lands development and renovation category.

(4) Riparian protection account.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-040 Does the (~~(WWRP)~~) program have planning eligibility requirements? Yes. Except as noted under subsection (2) of this section, to be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2).

(1) At a minimum the plan must include:

(a) A statement of the applicant's long-range goals and objectives;

(b) An inventory(~~(-or description of the planning area)~~);

(c) An analysis of demand and need, that is, why actions are required;

(d) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;

(e) A current capital improvement program of at least six years; and

(f) Evidence that this plan has been approved by the applicant's governing entity. For example, a city plan would be approved at the council level and a county-wide plan at the county council or commission level. Plans with a different scope would be approved by department heads, regional managers/supervisors, etc.(;-)

(2) A plan is not required for projects submitted in the farmlands preservation account.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-045 What is a conversion of use? A "conversion" occurs when interests in real property and facilities acquired, developed, renovated, enhanced or restored (~~(with WWRP funds)~~) are converted to uses other than those for which the funds were originally approved and described in the project agreement (~~(with the committee)~~). Interests in real property include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-055 Are there long-term obligations for acquiring interest in real property? Yes. Sponsors must execute an instrument(s) containing these provisions:

(1) For acquisition of perpetual interest in real property:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington of the right to use the described real property for farmland, habitat conservation, and/or outdoor recreation purposes; and

(c) Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use.

(2) For acquisition of nonperpetual interest in real property:

(a) A legal description of the property and a description of the interests acquired;

(b) A conveyance to the state of Washington of the right to use the described real property for farmland, habitat con-

servation, and/or outdoor recreation purposes for the term of the lease or easement;

(c) Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use;

(d) A lease(s) or easement(s) period of at least fifty years except for:

(i) Farmlands preservation account projects which shall be for at least twenty-five years; or

(ii) Projects that extend conservation reserve enhancement program leases which shall be for at least twenty-five years(=);

(e) Is not revocable at will;

(f) Has a value supported through appraisal methods approved by the ((committee)) board; and

(g) Terms of payment between the sponsor and seller.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-061 Are there long-term obligations for restoration projects? Yes.

(1) Unless otherwise approved by the ((committee)) board, environmental restoration and enhancement projects ((granted WWRP funds)) must continue to provide the functions for which the funds were originally approved and not be converted to any other use.

(2) When approving such a conversion, the ((committee)) board shall require the ((grant recipient)) sponsor or successor to provide for environmental restoration or enhancement as a replacement. When approving the replacement, ((committee)) board considerations shall include the intended ecological benefits of the replacement compared to those of the original project and likelihood that the replacement project will be successful.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-065 Are there long-term obligations for development projects? Yes.

(1) Properties, structures, and facilities developed with the assistance of money granted by the ((committee)) board shall not be converted except as provided in WAC 286-27-066.

(2) Properties, structures, and facilities developed with the assistance of money granted by the ((committee)) board shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health standards to assure a reasonably safe condition and to prevent premature deterioration.

(3) Properties, structures, and facilities intended for public use shall meet state and federal accessibility guidelines and nondiscrimination laws, regulations, and policies; be maintained to a standard that encourages use; and be open and available to the public at reasonable hours and times of the year.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-066 What additional rules apply to conversions of use? (1) Except as provided in this section, interest in real property and facilities acquired, developed, renovated, enhanced or restored ((with WWRP funds)) shall not, without prior approval of the ((committee)) board be converted to uses other than those for which the funds were originally approved.

(2) The ((committee)) board shall assure the substitution or replacement of interest in real property and/or facilities in accordance with this chapter.

(3) The ((committee)) board shall only approve conversions when:

(a) All practical alternatives to the conversion have been evaluated and rejected; and

(b) The sponsor or successor will provide another interest in real property(s) and/or facilities to serve as a replacement. The replacement must:

(i) Be of equivalent or greater usefulness and location;

(ii) Be administered by the same sponsor or successor unless otherwise approved by the ((committee)) board;

(iii) Satisfy need(s) identified in the most recent plan(s) required under WAC 286-27-040;

(iv) Be eligible to receive a grant in the WWRP account or category from which funds were originally allocated, unless otherwise authorized by the ((committee)) board;

(v) If acquisition of interests in real property: Be interest in real property(ies) of at least equal market value and public benefit at the time of replacement;

(vi) If a development: Provide a facility of at least equal market value and public benefit as that which existed at the time of the original investment of WWRP funds; and

(vii) If a restoration or enhancement project: Provide restoration or enhancement activities necessary to replicate the ecological benefit intended by the project.

(4) Projects authorized by the Interstate Commerce Commission under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) shall convert to railroad purposes automatically upon reactivation of a line for rail purposes under an ICC order. Substitution or replacement with interest in real property, facilities or moneys which are of at least equal market value at the time of replacement may be required.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-071 What rules apply to the sale of farmland? (1) Any moneys from the sale of farmland acquired by a city or county in fee simple with farmlands preservation account funds, along with any net income derived from agricultural activities on the property, shall be returned to the farmlands preservation account, or, used by the city or county to purchase interests in additional farmland properties. The city or county may deduct expenses associated with the transaction and management of the property as authorized by the ((committee)) board.

(2) The sale of the farmland and use of funds to purchase additional farmland properties must be approved by the ~~((committee))~~ board.

AMENDATORY SECTION (Amending WSR 06-05-025, filed 2/7/06, effective 3/10/06)

WAC 286-27-075 Are matching resources required—Are there caps? Yes. Consistent with RCW 79A.15.060 (4) ~~((and))~~, 79A.15.070(4), 79A.15.120(7), and 79A.15.130 (8) the ~~((committee))~~ board will establish sponsor matching share requirements and fund request limits.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-30-010 Scope. This chapter contains rules affecting the firearms and archery range recreation grant program administered by the ~~((committee))~~ board under RCW ~~((77.12.720))~~ 79A.25.210. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules~~((;))~~" chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-30-030 Acquisition projects—Deed of right, conversions, leases and easements. ~~((For acquisition projects, sponsors must execute an instrument or instruments that contain:))~~ (1) For fee, less-than-fee, and easement acquisition projects sponsors must execute an instrument or instruments that contain:

- (a) A legal description of the property acquired;
- (b) A conveyance to the state of Washington of the right to use the described real property ~~((for at least ten years from the date of the committee's final reimbursement))~~ for outdoor recreation purposes; and
- (c) A restriction on conversion of use of the land ~~((for at least ten years from the date of the committee's final reimbursement, with the proviso that should use be discontinued or a noncommittee approved conversion occur, the sponsor shall pay back to the committee the entire grant amount. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not, within ten years, be converted))~~ to a use other than that for which funds were originally approved. ~~((The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.))~~

(2) For lease acquisition projects~~((;))~~ sponsors must execute a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The ~~((interest))~~ agreement:

- (a) Must be for at least ten years from the date of the ~~((committee's))~~ office's final reimbursement unless precluded by state law;
- (b) May not be revocable at will;
- (c) Must have a value supported through standard appraisal techniques;

- (d) Must be paid for in lump sum at initiation; and
- (e) May not be converted during the lease period~~((;))~~ to a use other than that for which funds were originally approved~~((;))~~ without prior approval of the ~~((committee))~~ board.

(3) If a conversion occurs less than ten years after the office's final reimbursement, the board shall approve such a conversion under the following conditions:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
 - (b) The sponsor shall pay back the entire grant amount to the firearms range account; and
 - (c) The sponsor shall comply with other board adopted policies as applicable.
- (4) If a conversion occurs ten or more years after the office's final reimbursement, the board shall approve such a conversion under conditions which assure:
- (a) The substitution of other land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project; or
 - (b) By other remedy as adopted by the board to satisfy the conversion of use.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-30-040 Development projects—Conversion to other uses. (1) ~~((Within ten years of the committee's final reimbursement, and without prior approval of the committee,))~~ A facility developed with money granted by the ~~((committee))~~ board shall not be converted to a use other than that for which funds were originally approved. ~~((Should a thus prohibited conversion occur, the sponsor shall pay back to the committee the entire grant amount.~~

(2) The committee shall only approve such a conversion under conditions which assure that:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
- (b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:
 - (i) Is of reasonably equivalent recreation utility and location;
 - (ii) Will be administered by the same political jurisdiction or entity as the converted development; and
 - (iii) Includes only elements eligible under the committee's program from which funds were originally allocated.))

(2) If a conversion occurs less than ten years after the office's final reimbursement, the board shall approve such a conversion under the following conditions:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
 - (b) The sponsor pays back the entire grant amount to the firearms range account; and
 - (c) The sponsor shall comply with other board adopted policies as applicable.
- (3) This section does not apply to development projects ten or more years after the office's final reimbursement.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-30-050 Matching requirements and caps determined. The ~~((committee))~~ board will establish sponsor matching share requirements and fund request limits. Any changes will normally be done at a ~~((committee))~~ board meeting six months before project funding consideration.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-35-010 Scope. This chapter contains rules affecting the ~~((Initiative 215))~~ boating facilities ~~((grant))~~ program administered by the ~~((committee))~~ board under the Marine Recreation Land Act, chapter ~~((43-99))~~ 79A.25 RCW. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules~~(s)~~" chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

WAC 286-35-030 Planning requirements. To be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2). At minimum the plan must include:

- (1) A statement of the applicant's long-range goals and objectives;
- (2) An inventory~~((, or description of the planning area))~~;
- (3) An analysis of demand and need, that is, why actions are required;
- (4) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;
- (5) A current capital improvement program of at least ~~((five))~~ six years; and
- (6) Evidence that this plan has been approved by the applicant's governing entity most appropriate to the plan's scope. For example, a city or county-wide plan must be approved at the council or commission level. Plans with a different scope will be approved by department heads, district rangers, regional managers/supervisors, etc.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

WAC 286-35-060 Matching requirements and caps determined. The ~~((committee))~~ board will establish sponsor matching share requirements and acquisition-development fund request limits. Any changes will normally be done at a ~~((committee))~~ board meeting six months before project funding consideration.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-35-080 Acquisition projects—Deed of right, conversions, leases and easements. For acquisition projects, sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

- (a) A legal description of the property acquired;
- (b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and
- (c) A restriction on conversion of use of the land.

That is, marine recreation land with respect to which money has been expended under RCW ~~((43-99-080))~~ 79A.25.080 shall not, without the approval of the ~~((committee))~~ board, be converted to uses other than those for which such expenditure was originally approved. The ~~((committee))~~ board shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

- (a) Must be for at least fifty years unless precluded by state law;
- (b) May not be revocable at will;
- (c) Must have a value supported through standard appraisal techniques;
- (d) Must be paid for in lump sum at initiation; and
- (e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the ~~((committee))~~ board.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-35-090 Development projects—Conversion to other uses. (1) Without prior approval of the ~~((committee))~~ board, a facility developed with money granted by the ~~((committee))~~ board shall not be converted to a use other than that for which funds were originally approved.

(2) The ~~((committee))~~ board shall only approve such a conversion under conditions which assure that:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and
- (b) A new development~~((, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."))~~) will serve as a replacement which:
 - (i) Is of reasonably equivalent recreation utility and location;
 - (ii) Will be administered by the same political jurisdiction as the converted development; and
 - (iii) Includes only elements eligible under the ~~((committee's))~~ board's program from which funds were originally allocated.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-40-010 Scope. This chapter contains rules affecting the federal land and water conservation fund program administered by the ~~((committee))~~ board. These funds are administered pursuant to the Land and Water Conservation Fund Act of 1965 (Public Law 88-578, 78 stat 897)~~((,~~

and the *Land and Water Conservation Fund Grants Manual* (U.S. Department of the Interior, National Park Service)). Under the terms of this program many federal requirements are imposed on both applicants and the ((committee)) board over which the ((committee)) board has no control. Most of these federal requirements are restated or clarified in the manuals. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules(;-)" chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

WAC 286-40-020 Funding and candidate selection.

Funding for projects approved under this chapter is from any eligible account administered by the ((committee)) board. Candidate project(s) are recommended by the director, and approved by the ((committee)) board. Selection criteria include:

- (1) How well the project(s) has ranked in the evaluation;
- (2) How well the project(s) meets needs identified in the statewide comprehensive outdoor recreation planning program and the general goals identified in WAC 286-04-030;
- (3) How well the project(s) meets the criteria in the Land and Water Conservation Fund Grants Manual; and
- (4) An assessment of how quickly the project(s) will progress through planning and implementation stages.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

WAC 286-40-030 Matching requirements. (1) Local agencies. The ((committee)) board shall only approve local agency projects when the applicant's share is at least equal to the ((committee)) board amount awarded.

(2) State agencies. If federal matching money is available, state agency sponsors may be assisted by ((committee)) board funds to meet federal matching requirements.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-40-040 Projects eligible for funding. Only those acquisition and development costs eligible under the federal Land and Water Conservation Fund Act as specified in that program's manual will be eligible for consideration by the ((committee)) board. However, from time to time the ((committee)) board may decide as a matter of policy that certain project costs are ineligible irrespective of how those costs are treated under the Land and Water Conservation Fund Act.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-40-050 Acquisition projects—Deed of right, conversions, leases and easements. For acquisition projects, sponsors must execute an instrument or instruments which contain:

- (1) For fee, less-than-fee, and easement acquisition projects:

- (a) A legal description of the property acquired;
- (b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land. That is, without prior approval of the ((committee)) board, a facility acquired with money granted by the ((committee)) board shall not be converted to a use other than that for which funds were originally approved. The ((committee)) board shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

- (a) Must be for at least fifty years unless precluded by state law;
- (b) May not be revocable at will;
- (c) Must have a value supported through standard appraisal techniques;
- (d) Must be paid for in lump sum at initiation; and
- (e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the ((committee)) board.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-40-060 Development projects—Conversion to other uses. (1) Without prior approval of the ((committee)) board, a facility developed with money granted by the ((committee)) board shall not be converted to a use other than that for which funds were originally approved.

(2) The ((committee)) board shall only approve such a conversion under conditions which assure that:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and
- (b) A new development(;- in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor...";)) will serve as a replacement which:

- (i) Is of at least equal fair market value and of reasonably equivalent recreation usefulness and location;
- (ii) Will be administered by the same political jurisdiction as the converted development; and
- (iii) Includes only elements eligible under the ((committee's)) board's program from which funds were originally allocated.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-42-010 What is the purpose of this chapter? This chapter provides rules affecting the aquatic lands enhancement account ((ALEA)) grant program administered by the ((committee)) board under RCW ((79.90.245 and section 377, chapter 26, Laws of 2003, 1st sp. sess)) 79.105.-150. Additional provisions are contained in "What definitions(;-) apply to this chapter?" WAC 286-04-010 and "General grant assistance rules(;-)" chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-42-020 What organizations may receive ((ALEA)) grants? Through the ((committee, ALEA)) board grants are available to any division of local or state government and Native American tribe that is eligible to apply and that is legally authorized to acquire and develop public open space, habitat, recreation lands, and/or natural resources.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-42-040 What long term rules apply? (1) Without prior approval of the ((committee)) board, land, natural resources and/or facilities purchased and/or developed with ((committee)) board administered ((ALEA)) funds shall not be converted to uses other than those for which funds were originally approved.

(2) The ((committee)) board is entitled to pursue and obtain remedies that assure the substitution or replacement of natural resources or facilities in accordance with this chapter.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-42-050 When considering approval of a conversion, what rules apply? The ((committee)) board shall only approve conversions when:

(1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and

(2) Another resource(s) will serve as a replacement. The replacement resource(s) must:

(a) ((f))If a land acquisition((f)), be real property of at least equal fair market value and public benefit at the time of conversion;

(b) ((f))If a development((f)), provide a facility of at least equal fair market value and public benefit as that which existed at the time of the original investment;

(c) Be of reasonably equivalent or greater recreation and habitat usefulness and location;

(d) Be administered by the same political jurisdiction as the converted property and/or development;

(e) Satisfy need(s) identified in the ((committee's)) board's or sponsor's plan; and

(f) Include only elements eligible under the ((committee's)) board's program from which funds were originally allocated.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-42-060 For land acquisition projects, are there long term obligations? Yes. Sponsors must execute an instrument(s) containing:

(1) For fee or perpetual property rights acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington for the right to use the described real property for habitat conservation

and/or outdoor recreation purposes forever unless a term is specified in the project agreement; and

(c) A prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the ((committee)) board.

(2) For lease, less than fee, or nonperpetual property rights, a binding agreement which:

(a) Contains a legal description of the property and rights acquired;

(b) Contains a conveyance to the state of Washington for the right to use the described real property for habitat conservation and/or outdoor recreation purposes for the period specified;

(c) Contains a prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the ((committee)) board;

(d) Is for at least twenty-five years unless precluded by state law;

(e) Is not revocable at will;

(f) Has a value supported through appraisal requirements approved by the ((committee)) board; and

(g) Is paid for in lump sum at initiation.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-42-080 For development projects, are there long term obligations? Yes.

(1) Properties and facilities assisted with moneys granted by the ((committee)) board shall not be converted (WAC 286-42-040(1)).

(2) Properties and facilities assisted with moneys granted by the ((committee)) board shall be:

(a) Built, operated, used, and maintained according to federal, state, and local laws and regulations, including public health standards and building codes;

(b) Built, operated, used, and maintained in a reasonably safe condition for the project's intended use;

(c) Operated and maintained throughout its estimated life so as to prevent undue deterioration; and

(d) Built and operated in compliance with all federal and state nondiscrimination laws, regulations, and policies.

(3) Facilities open to the public must:

(a) Be built, operated, and maintained according to state and federal accessibility guidelines;

(b) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods; and

(c) Be available for use at reasonable hours and times of the year, according to the type of area or facility.

AMENDATORY SECTION (Amending WSR 05-01-030, filed 12/3/04, effective 1/3/05)

WAC 286-42-090 Must a grant recipient provide matching funds for the project—Are grant amounts limited? Yes. The ((committee)) board establishes sponsor matching share requirements and fund request limits. Any changes to current requirements are normally made at a

~~((committee))~~ board meeting six months before program funding consideration.

WSR 14-09-080
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2013-19—Filed April 18, 2014,
4:56 p.m., effective May 19, 2014]

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

Purpose: This new rule allows health benefit plans to have optional plan designs that are compliant with the Affordable Care Act and include pediatric dental benefits as one of the ten essential health benefit designs.

Citation of Existing Rules Affected by this Order: Amending 1 [WAC 284-43-879].

Statutory Authority for Adoption: RCW 48.02.060, 48.43.715.

Adopted under notice filed as WSR 14-06-098 on March 5, 2014.

A final cost-benefit analysis is available by contacting Donna Dorris, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7040, fax (360) 586-3109, e-mail rulescoordinator@oic.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 3, Amended 1, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 3, 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 3, Amended 1, Repealed 0.

Date Adopted: April 23 [18], 2014.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 13-15-025, filed 7/9/13, effective 7/10/13)

WAC 284-43-879 Essential health benefit category—Pediatric oral services. A health benefit plan must include "pediatric ~~((oral services))~~ dental benefits" in its essential health benefits package. Pediatric dental benefits means coverage for the oral services ~~((are oral services))~~ listed in subsection (3) of this section, delivered to those under age nineteen.

(1) For benefit years beginning January 1, 2015, a health benefit plan must ~~((cover))~~ include pediatric ~~((oral services))~~ dental benefits as an embedded set of ~~((services))~~ benefits, or

through a combination of a health benefit plan and a stand-alone dental plan that includes pediatric dental benefits certified as a qualified dental plan. ~~((#))~~ For a health benefit plan ~~((is))~~ certified by the health benefit exchange as a qualified health plan, this requirement is met ~~((for that benefit year for the certified plan))~~ if a stand-alone dental plan ~~((that covers pediatric oral services as set forth in the EHB-benchmark plan))~~ meeting the requirements of subsection (3) of this section is offered in the health benefit exchange for that benefit year.

(2) The requirements of WAC 284-43-878 and 284-43-880 are not applicable to the stand-alone dental plan. A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The supplemental base-benchmark plan specifically excludes oral implants, and an issuer should not include benefits for oral implants in establishing a plan's actuarial value.

(3) **Supplementation:** The base-benchmark plan covers pediatric services for the categories set forth in WAC 284-43-878, but does not ~~((include))~~ cover pediatric oral services. Because the base-benchmark plan does not ~~((include))~~ cover pediatric oral benefits, the state EHB-benchmark plan requirements ~~((is))~~ are supplemented for pediatric oral benefits. The Washington state CHIP plan is designated as the supplemental base-benchmark plan for pediatric ~~((oral services. An))~~ dental benefits. A health plan issuer must offer coverage for and classify the following ~~((services as))~~ pediatric oral services as pediatric dental benefits in a manner substantially equal to the supplemental base-benchmark plan:

- (a) Diagnostic services;
 - (b) Preventive care;
 - (c) Restorative care;
 - (d) Oral surgery and reconstruction to the extent not covered under the hospitalization benefit;
 - (e) Endodontic treatment;
 - (f) Periodontics;
 - (g) Crown and fixed bridge;
 - (h) Removable prosthetics; and
 - (i) Medically necessary orthodontia.
- (4) The supplemental base-benchmark plan's visit limitations on services in this category are:
- (a) Diagnostic exams once every six months, beginning before one year of age;
 - (b) Bitewing X ray once a year;
 - (c) Panoramic X rays once every three years;
 - (d) Prophylaxis every six months beginning at age six months;
 - (e) Fluoride three times in a twelve-month period for ages six and under; two times in a twelve-month period for ages seven and older; three times in a twelve-month period during orthodontic treatment; sealant once every three years for occlusal surfaces only; oral hygiene instruction two times in twelve months for ages eight and under if not billed on the same day as a prophylaxis treatment;
 - (f) Every two years for the same restoration (fillings);
 - (g) Frenulectomy or frenuloplasty covered for ages six and under without prior authorization;
 - (h) Root canals on baby primary posterior teeth only;
 - (i) Root canals on permanent anterior, bicuspid and molar teeth, excluding teeth 1, 16, 17 and 32;

(j) Periodontal scaling and root planing once per quadrant in a two-year period for ages thirteen and older, with prior authorization;

(k) Periodontal maintenance once per quadrant in a twelve-month period for ages thirteen and older, with prior authorization;

(l) Stainless steel crowns for primary anterior teeth once every three years; if age thirteen and older with prior authorization;

(m) Stainless steel crowns for permanent posterior teeth once every three years;

(n) Metal/porcelain crowns and porcelain crowns on anterior teeth only, with prior authorization;

(o) Space maintainers for missing primary molars A, B, I, J, K, L, S, and T;

(p) One resin based partial denture, if provided at least three years after the seat date;

(q) One complete denture upper and lower, and one replacement denture per lifetime after at least five years from the seat date;

(r) Rebasement and relining of complete or partial dentures once in a three-year period, if performed at least six months from the seat date.

NEW SECTION

WAC 284-170-800 Purpose and scope—Pediatric dental benefits for health benefit plans sold outside of the health benefit exchange. For plan years beginning on or after January 1, 2015, each nongrandfathered health benefit plan offered, issued or renewed to small employers or individuals, outside the Washington health benefit exchange, must include pediatric dental benefits as an essential health benefit (EHB). This design requirement must be met by one of the methods set forth in WAC 284-170-810. Pediatric dental benefits must meet cost sharing requirements including deductible and out-of-pocket maximums as required by the ACA. All pediatric dental benefits are subject to premium tax.

NEW SECTION

WAC 284-170-805 Definitions. "PPACA" or "ACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), collectively known as the Affordable Care Act, and any rules, regulations, or guidance issued, thereunder.

"Stand-alone dental plan" means coverage for a set of benefits limited to oral care including, but not necessarily limited to, the pediatric oral services listed in WAC 284-43-879(3).

NEW SECTION

WAC 284-170-810 Pediatric dental benefits design—Methods of satisfying requirements. (1) An issuer of a health benefit plan may satisfy the requirement of WAC 284-170-800 in any one of the following ways.

(a) A health benefit plan includes pediatric dental benefits as an embedded benefit; or

(b) A separate health benefit plan is offered without pediatric dental benefits, if and only if, the issuer receives reasonable assurance that the applicant has obtained or will obtain pediatric dental benefits through a stand-alone dental plan certified as a qualified dental plan. This reasonable assurance must be received by the issuer within sixty days.

(i) "Reasonable assurance" means receipt of proof of coverage from the stand-alone dental plan and a signed attestation of coverage from the applicant. In cases where the enrollment process is for a health plan and a dental plan that are being jointly purchased (bundled), verification by the dental carrier of enrollment in the dental plan and transmission of the enrollment confirmation to the health carrier will be considered reasonable assurance.

(ii) The health benefit plan issuer has the responsibility to obtain any required documents establishing reasonable assurance at the initial application and every renewal.

(iii) The stand-alone dental plan issuer has the responsibility for providing the proof of coverage upon request of the health benefit plan issuer or applicant. If a health benefit plan issuer requests proof of coverage for an applicant, the stand-alone dental issuer must provide proof of coverage or inform the health benefit plan issuer that no coverage exists. The stand-alone dental issuer must respond within thirty days of a request for proof of coverage.

(iv) The health benefit plan issuer may issue coverage prior to receiving reasonable assurance. If the health benefit plan issuer receives the reasonable assurance within sixty days of the effective date of the health benefit plan, the enrollee's stand-alone dental coverage will be considered to satisfy the requirement of WAC 284-43-879. If the health benefit plan issuer does not receive reasonable assurance within the sixty days provided in (iii) of this subsection, the health benefit plan issuer must discontinue the health benefit plan for that applicant unless and until the health benefit plan issuer receives reasonable assurance that the applicant has obtained pediatric dental benefits as required under the ACA.

(2) Nothing in this section precludes issuing ACA compliant pediatric dental benefits as part of a family dental plan sold as group or individual coverage.

WSR 14-09-094

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed April 22, 2014, 9:12 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: This rule updates conversion factors provided in WAC 296-20-135 and maximum daily fees provided in WAC 296-23-220 and 296-23-230 for certain professional health care services for injured workers. Rule changes are necessary to maintain current overall fees for health care services, which are published annually in the medical aid rules and fee schedules.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Adopted under notice filed as WSR 14-05-091 on February 19, 2014.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Date Adopted: April 22, 2014.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 13-11-020, filed 5/7/13, effective 7/1/13)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of \$((~~55.34~~) 58.58). The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of \$((~~3.25~~) 3.31) per minute, which is equivalent to \$((~~48.75~~) 49.65) per 15 minutes. The base units and payment policies can be found in the fee schedules.

AMENDATORY SECTION (Amending WSR 13-11-020, filed 5/7/13, effective 7/1/13)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. In

addition, physician assistants may order physical therapy under these rules for the attending doctor. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or \$((~~49.96~~) 122.00) whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 13-11-020, filed 5/7/13, effective 7/1/13)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125

for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. In addition, physician assistants may order occupational therapy under these rules for the attending doctor. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor or by the physician assistant.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or \$(~~119.96~~) 122.00 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

WSR 14-09-095
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 22, 2014, 9:15 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: The eRules project was initiated in response to complaints from customers and staff, and out of recognition that customers and staff want to use smartphones and tablets to access safety and health rules.

- No requirements were changed because of this rule making.
- Consistent format for all division of occupational safety and health (DOSH) safety and health rules.
- Easy to access rules for smart phone and tablet users.
- Bookmarks in the rules allow easy navigation in PDF files.
- Bullets and dashes were removed and replaced with numbers and letters for easier referencing.
- Enhances rule update efficiency for customers through electronic postings.

NEW SECTIONS:

WAC 296-829-099 Definitions, 296-876-099 Definitions, and 296-878-099 Definitions, moved the definitions section to the front of the rule and consolidated all definitions in one place.

AMENDED SECTIONS:

WAC 296-829-100 Scope.

- Made word "Exemption" all caps. Numbered items in the exemption.

WAC 296-829-200 Design and installation requirements for helicopters.

- Created a summary table with links to subsections.

WAC 296-829-20005 Follow Federal Aviation Administration (FAA) requirements.

- Consolidated requirement into a single sentence.

WAC 296-829-20010 Install and test hooks on helicopters correctly.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-829-300 Maintenance.

- Created a summary table with links to subsections.

WAC 296-829-30005 Keep landing and deposit areas safe.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-829-30010 Follow safe refueling procedures.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-829-400 Operating the helicopter.

- Created a summary table with links to subsections.

WAC 296-829-40005 Hold daily briefings.

- Consolidated requirement into a single sentence.

WAC 296-829-40010 Make sure employees are dressed correctly.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-829-40015 Make sure loads are attached correctly.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-829-40020 Make sure the load is handled correctly.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-832-200 Training.

- Created a summary table with links to subsections.

WAC 296-832-20005 Provide crime prevention training to your employees.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-832-20010 Provide crime prevention retraining to your employees annually.

- Consolidated requirement into a single sentence.

WAC 296-832-300 Store safety.

- Created a summary table with links to subsections.

WAC 296-832-30005 Have a safe in your store.

- Consolidated requirement into a single sentence.

WAC 296-832-30010 Post a notice about your store's safe and cash register.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Number notes items.

WAC 296-832-30015 Provide outside lighting.

- Consolidated requirement into a single sentence.
- Numbered notes items.

WAC 296-876-100 Scope.

- Made word "Exemption" all caps. Numbered items in the exemption.

WAC 296-876-150 Training.

- Created a summary table with link to subsection.

WAC 296-876-15005 Training.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-200 Design and construction.

- Created a summary table with link to subsection.

WAC 296-876-20005 Design and construction.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Moved "Special purpose ladder" definition to WAC 296-876-099.

WAC 296-876-300 Ladder care.

- Created a summary table with links to subsections.

WAC 296-876-30005 Condition and inspection.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-30010 Repair.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-30015 Storage.

- Consolidated requirement into a single sentence.

- Removed bullet from note text.

WAC 296-876-30020 Transport.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-400 Portable ladder use.

- Created a summary table with links to subsections.

WAC 296-876-40005 Designed use.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Numbered note items.

- Moved "Maximum intended load" definition and "Ladder type" definition and table to WAC 296-876-099.

WAC 296-876-40010 Workplace activities or traffic.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-40015 Support.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-40020 Set-up.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

- Moved "Working length" definition to WAC 296-876-099.

- Removed redundant "Safe Ladder Angle" notation from above the graphic.

WAC 296-876-40025 Climbing and descending.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

- Moved "Single-rail ladder" definition to WAC 296-876-099.

WAC 296-876-40030 Getting on and off ladders at upper levels.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

- Made the word "Exemption" all caps.

WAC 296-876-40035 Exposed electrical hazards.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-40040 Persons on ladders.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-40045 Multisection ladders.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-40050 Self-supporting ladders.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

- Made the word "Exemption" all caps.

WAC 296-876-500 Fixed ladder design and construction installed on or after December 1, 2006.

- Added "installed on or after December 1, 2006" to section name.

- Created a summary table with link to subsection.

WAC 296-876-50010 Design and construction—Fixed ladders installed on or after December 1, 2006.

- Consolidated requirement into a single sentence.

- Removed colon from note to make text a continuous sentence.

WAC 296-876-600 Fixed ladder design and construction installed before December 1, 2006.

- Added "installed before December 1, 2006" to section name.
- Created a summary table with links to subsections.

WAC 296-876-60005 Design and construction—Fixed ladders installed before December 1, 2006.

- Consolidated requirement into a single sentence.
- Removed colon from note to make text a continuous sentence.

WAC 296-876-60010 Design loads.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-60015 Pitch.

- Consolidated requirement into a single sentence.
- Numbered notes items.

WAC 296-876-60020 Welding.

- Consolidated requirement into a single sentence.

WAC 296-876-60025 Ladder surfaces.

- Consolidated requirement into a single sentence.

WAC 296-876-60030 Rungs, cleats and steps.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-60035 Side rails.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-60040 Clearances.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Made the word "Exemption" all caps.

WAC 296-876-60045 Step-across distance.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-60050 Extensions and grab bars.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Numbered note items.
- Made the word "Exemption" all caps.

WAC 296-876-60055 Hatches.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-60060 Platforms.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Made the word "Exemption" all caps.

WAC 296-876-60065 Protective structures and equipment.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Made the word "Exemption" all caps.

WAC 296-876-60070 Cages.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- In subsection (4)(a), changed "is" to "are."

WAC 296-876-60075 Wells.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-60080 Ladder safety devices.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

- In subsection (1)(a), hyphenated "five-hundred-pound weight."

WAC 296-876-700 Fixed ladders inspection and maintenance.

- Deleted "--Section contents" from section title.
- Created a summary table with links to subsections.

WAC 296-876-70005 Protection against corrosion and deterioration.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-876-70010 Inspection and repair.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Numbered and lettered note items and subitems.

WAC 296-876-800 Fixed ladder use.

- Deleted "--Section contents" from section title.
- Created a summary table with links to subsections.

WAC 296-876-80005 Designed load.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Deleted redundant "Maximum intended load" definition restatement and added to WAC 296-876-099.

WAC 296-876-80010 Climbing and descending.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-10005 Summary.

- Changed "IMPORTANT" to upper and lowercase.
- Removed list of subsections, as each following three-digit WAC section was changed to have its own summary table, with link(s) to any subsections within that three-digit WAC section.

WAC 296-878-110 Training.

- Created a summary table with links to subsections.

WAC 296-878-11005 Train workers to use window-cleaning equipment.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Numbered note items.

WAC 296-878-120 Building surfaces and fixtures.

- Created a summary table with link to subsection.

WAC 296-878-12005 Make sure building surfaces and fixtures are safe to use.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-130 Inspection procedures.

- Created a summary table with links to subsections.

WAC 296-878-13005 Inspect the area to be cleaned.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-13010 Inspect window-cleaning equipment before use.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-140 Develop site-specific service and emergency plans.

- Created a summary table with links to subsections.

WAC 296-878-14005 Develop a site-specific service and emergency recovery plan for window-cleaning operations.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Numbered note items.

WAC 296-878-150 Equipment.

- Created a summary table with links to subsections.

WAC 296-878-15005 Select and use appropriate equipment.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-15015 Select appropriate rope for suspended equipment.

- Consolidated requirement into a single sentence.

WAC 296-878-15020 Select appropriate carabiners.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-15025 Use fall protection equipment.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-160 Warning signs and barricades.

- Created a summary table with link to subsection.

WAC 296-878-16005 Provide warning signs and barricades when suspended equipment is used.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-170 Power line clearances.

- Created a summary table with links to subsections.

WAC 296-878-17005 Maintain clearance between window cleaners and power lines.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-180 Window-cleaners' belts and anchors.

- Created a summary table with links to subsections.

WAC 296-878-18005 Select appropriate window-cleaners' belts and anchors.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-18010 Inspect the anchors you plan to use for window cleaning.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-18015 Use window-cleaners' belts safely.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-18020 Move safely on the outside of buildings.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Numbered note items.

WAC 296-878-190 Boatswains' chairs.

- Created a summary table with links to subsections.

WAC 296-878-19005 Select appropriate boatswains' chairs.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-19010 Safely use boatswains' chairs rigged with a block and tackle.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Made "Exemption" all caps. Numbered exemption items.

WAC 296-878-200 Rope descent systems.

- Created a summary table with links to subsections.

WAC 296-878-20005 Select appropriate rope descent systems.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-20010 Safely use rope descent systems.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.
- Numbered note items.

WAC 296-878-20015 Safely use rope descent devices.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

WAC 296-878-210 Equipment prohibited.

- Created a summary table with links to subsections.

WAC 296-878-21005 Prohibit equipment from use.

- Applied numbers (or numbers and letters) to content items, and repeated "You must" as needed.

REPEALED SECTIONS:**WAC 296-829-500 Definitions, 296-876-900 Definitions and 296-878-220 Definitions, were repealed.**

Citation of Existing Rules Affected by this Order: See Purpose above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Other Authority: Chapter 49.17 RCW.

Adopted under notice filed as WSR 14-01-088 on December 17, 2014.

Changes Other than Editing from Proposed to Adopted Version: The following section is being changed as indicated below:

CHANGES TO THE RULES (proposed rule versus rule actually adopted):

WAC 296-829-30010(4): "Stop fueling immediately if there is a spill." changed to read: "You must stop fueling immediately if there is a spill."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 3, Amended 98, Repealed 3; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 98, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 98, Repealed 3.

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: April 22, 2014.

Joel Sacks
Director

NEW SECTION

WAC 296-829-099 Definitions.

Aviation gasoline. Gasoline fuel for reciprocating piston engine helicopters, also known as avgas.

Cargo hook. A device attached to a helicopter that is used to hold suspended loads.

Competent person. One who is capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Deadman controls. A control, switch or device that will automatically shut off whenever the operator releases it.

Deposit area. An area that is designated for dropping off and picking up suspended loads.

Downwash. The wind created by the rotating blades of a helicopter.

Ground device. A device used to dissipate the static electricity charge that has built up on a suspended load.

Helicopter crane. A helicopter that carries cargo or equipment suspended underneath it.

Jet A type fuel. A kerosene grade fuel suitable for helicopters with turbine engines.

Jet B type fuel. A blend of gasoline and kerosene fuel.

Powered hoist. A powered device designed to lift and lower equipment and cargo.

Tag line. A line or rope used to control suspended loads that can swing freely.

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-100 Scope. Chapter 296-829 WAC applies to helicopters when used to carry loads, suspended with a cargo sling, powered hoist, or other attaching methods.

~~((Exemption))~~ This chapter does **not** apply to the use of helicopters:

EXEMPTION: ((*) 1. In the logging industry.

((*) 2. For rescue operations when a winch or hoist is used.

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-200 Design and installation requirements for helicopters.

Summary:

Your responsibility: To make sure your helicopters meet design specifications and are equipped properly.

~~((You must:~~

~~Follow Federal Aviation Administration (FAA) requirements~~

~~WAC 296-829-20005.~~

~~Install and test hooks on helicopters correctly~~

~~WAC 296-829-20010.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Follow Federal Aviation Administration (FAA) requirements</u>	<u>WAC 296-829-20005</u>
<u>Install and test hooks on helicopters correctly</u>	<u>WAC 296-829-20010</u>

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-20005 Follow Federal Aviation Administration (FAA) requirements. You must((+)

+)) make sure helicopter cranes and their use meet the applicable requirements of the Federal Aviation Administration (FAA).

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-20010 Install and test hooks on helicopters correctly. (~~((You must:~~

~~+Make sure electrically operated cargo hooks are:~~
~~—Designed and installed to prevent accidental operation.~~
~~—Equipped with an emergency mechanical control to release the load.~~

~~+Make sure a competent person tests all hooks before each day's operation to make sure both the electrical and mechanical releases work properly.))~~ (1) You must make sure electrically operated cargo hooks are:

(a) Designed and installed to prevent accidental operation.

(b) Equipped with an emergency mechanical control to release the load.

(2) You must make sure a competent person tests all hooks before each day's operation to make sure both the electrical and mechanical releases work properly.

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-300 Maintenance.

Summary:

Your responsibility: To keep helicopters in safe operating condition.

~~((You must:~~

~~Keep landing and deposit areas safe~~

~~WAC 296-829-30005.~~

~~Follow safe refueling procedures~~

~~WAC 296-829-30010.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Keep landing and deposit areas safe</u>	<u>WAC 296-829-30005</u>
<u>Follow safe refueling procedures</u>	<u>WAC 296-829-30010</u>

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-30005 Keep landing and deposit areas safe. ~~((You must:~~

~~(1) Make sure precautions are taken to prevent loose objects from being caught in the downwash and flying around:~~

~~• Secure or remove all loose gear:~~

~~—Within one hundred feet of lift and deposit areas:~~

~~—In all other areas affected by rotor downwash:~~

~~(2) Make sure employees do not work under hovering craft, except where necessary to hook or unhook loads:~~

~~(3) Make sure safe access and exit, including an emergency escape route, is provided for employees who hook or unhook loads:~~

~~(4) Prohibit open fires in any area that could be affected by the rotor downwash:~~

~~(5) Make sure unauthorized people do not go within fifty feet of the helicopter when the rotor blades are turning:~~

~~(6) Make sure all employees:~~

~~• Stay in full view of the pilot, in a crouched position, when approaching or leaving a helicopter with rotating blades:~~

~~• Stay away from the area behind the cockpit or cabin unless the operator authorizes them to work there:~~

~~(7) Take precautions to eliminate reduced visibility:~~

~~(8) Make sure ground personnel take special care to stay clear of rotors when visibility is reduced by dust or other conditions:))~~

(1) You must make sure precautions are taken to prevent loose objects from being caught in the downwash and flying around. Secure or remove all loose gear:

(a) Within one hundred feet of lift and deposit areas.

(b) In all other areas affected by rotor downwash.

(2) You must make sure employees do not work under hovering craft, except where necessary to hook or unhook loads.

(3) You must make sure safe access and exit, including an emergency escape route, is provided for employees who hook or unhook loads.

(4) You must prohibit open fires in any area that could be affected by the rotor downwash.

(5) You must make sure unauthorized people do not go within fifty feet of the helicopter when the rotor blades are turning.

(6) You must make sure all employees:

(a) Stay in full view of the pilot, in a crouched position, when approaching or leaving a helicopter with rotating blades.

(b) Stay away from the area behind the cockpit or cabin unless the operator authorizes them to work there.

(7) You must take precautions to eliminate reduced visibility.

(8) You must make sure ground personnel take special care to stay clear of rotors when visibility is reduced by dust or other conditions.

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-30010 Follow safe refueling procedures. ~~((You must:~~

~~• Make sure refueling areas are safe:~~

~~—Post "NO SMOKING" signs at all entrances to the refueling area:~~

~~—Provide at least one thirty-pound fire extinguisher, or a combination totaling thirty pounds, good for class A, B, and C fires, within one hundred feet on the upwind side of the refueling operation:~~

Reference: For additional requirements relating to portable fire extinguishers, see WAC 296-800-300 in the safety and health core rules.

~~**You must:**~~

~~• Make sure workers involved in refueling are trained in both:~~

~~—The refueling operation;~~

~~**AND**~~

~~—The use of fire extinguishing equipment they may need:~~

~~• Make sure the following precautions are taken before and during refueling:~~

~~—Keep unauthorized people at least fifty feet away from the refueling operation or equipment:~~

~~—Prohibit smoking and open flames within fifty feet of the refueling area or fueling equipment:~~

~~—Make sure helicopter engines are shut down before refueling, if using aviation gasoline or jet B-type fuel:~~

~~—Pump fuel, either by hand or power:~~

~~—Use self-closing nozzles or deadman controls:~~

~~■ Do not allow these to be blocked open:~~

~~—Make sure nozzles are not dragged along the ground:~~

~~—Make sure the helicopter and the fueling equipment are grounded:~~

~~—Electrically bond the fueling nozzle to the helicopter:~~

~~■ Do not use conductive hose for this bonding:~~

~~—Make sure all grounding and bonding connections are:~~

~~■ Electrically and mechanically firm:~~

~~■ On clean unpainted metal parts:~~

~~• Stop fueling **immediately** if there is a spill:~~

~~—Do not continue operation until the person in charge has determined it is safe:))~~

(1) You must make sure refueling areas are safe.

(a) Post "NO SMOKING" signs at all entrances to the refueling area.

(b) Provide at least one thirty-pound fire extinguisher, or a combination totaling thirty pounds, good for class A, B, and C fires, within one hundred feet on the upwind side of the refueling operation.

Reference: For additional requirements relating to portable fire extinguishers, see WAC 296-800-300 in the safety and health core rules.

(2) You must make sure workers involved in refueling are trained in both:

(a) The refueling operation; and

(b) The use of fire extinguishing equipment they may need.

(3) You must make sure the following precautions are taken before and during refueling:

(a) Keep unauthorized people at least fifty feet away from the refueling operation or equipment.

(b) Prohibit smoking and open flames within fifty feet of the refueling area or fueling equipment.

(c) Make sure helicopter engines are shut down before refueling, if using aviation gasoline or jet B type fuel.

(d) Pump fuel, either by hand or power.

(e) Use self-closing nozzles or deadman controls:

(i) Do not allow these to be blocked open.

(ii) Make sure nozzles are not dragged along the ground.

(iii) Make sure the helicopter and the fueling equipment are grounded.

(iv) Electrically bond the fueling nozzle to the helicopter.

(v) Do not use conductive hose for this bonding.

(f) Make sure all grounding and bonding connections are:

(i) Electrically and mechanically firm.

(ii) On clean unpainted metal parts.

(4) You must stop fueling **immediately** if there is a spill. Do not continue operation until the person in charge has determined it is safe.

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-400 Operating the helicopter.

Summary:

Your responsibility: To make sure helicopters are operated safely.

~~((You must:~~

~~Hold daily briefings~~

~~WAC 296-829-40005.~~

~~Make sure employees are dressed correctly~~

~~WAC 296-829-40010.~~

~~Make sure loads are attached correctly~~

~~WAC 296-829-40015.~~

~~Make sure the load is handled correctly~~

~~WAC 296-829-40020.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Hold daily briefings</u>	<u>WAC 296-829-40005</u>
<u>Make sure employees are dressed correctly</u>	<u>WAC 296-829-40010</u>
<u>Make sure loads are attached correctly</u>	<u>WAC 296-829-40015</u>
<u>Make sure the load is handled correctly</u>	<u>WAC 296-829-40020</u>

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-40005 Hold daily briefings. You must(=

~~*) make sure the helicopter pilot and ground personnel hold a briefing before each day's operation to discuss cargo-handling plans.~~

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-40010 Make sure employees are dressed correctly. ~~((You must:~~

~~Make sure employees receiving the load:~~

~~Do NOT wear loose-fitting clothes that could snag on the hoist line.~~

~~Wear personal protective equipment (PPE), including complete eye protection and hard hats that are secured by chin straps.))~~ You must make sure employees receiving the load:

(1) Do not wear loose-fitting clothes that could snag on the hoist line.

(2) Wear personal protective equipment (PPE), including complete eye protection and hard hats that are secured by chin straps.

Reference: For other requirements relating to PPE, see WAC 296-800-160 in the safety and health core rules.

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-40015 Make sure loads are attached correctly. ~~((You must:~~

~~Make sure loads are properly slung so tag lines cannot be drawn up into rotors.~~

~~Make sure precautions are taken on all freely suspended loads to keep hand splices from spinning open or cable clamps from loosening, such as using pressed sleeves or swedged eyes.~~

~~Make sure the weight of the load does not exceed the manufacturer's load ratings.~~

~~Make sure hoist wires and other gear are not attached to or allowed to catch on any fixed structure.))~~ (1) You must make sure loads are properly slung so tag lines cannot be drawn up into rotors.

(2) You must make sure precautions are taken on all freely suspended loads to keep hand splices from spinning open or cable clamps from loosening, such as using pressed sleeves or swedged eyes.

(3) You must make sure the weight of the load does not exceed the manufacturer's load ratings.

(4) You must make sure hoist wires and other gear are not attached to or allowed to catch on any fixed structure.

~~((Exemption))~~ This requirement does not apply to pulling lines or conductors that "pay out" from a container or reel.

EXEMPTION:

AMENDATORY SECTION (Amending WSR 04-09-099, filed 4/20/04, effective 9/1/04)

WAC 296-829-40020 Make sure the load is handled correctly. ~~((You must:~~

~~Make sure signal systems, whether radio or hand signals, are checked before hoisting the load:~~

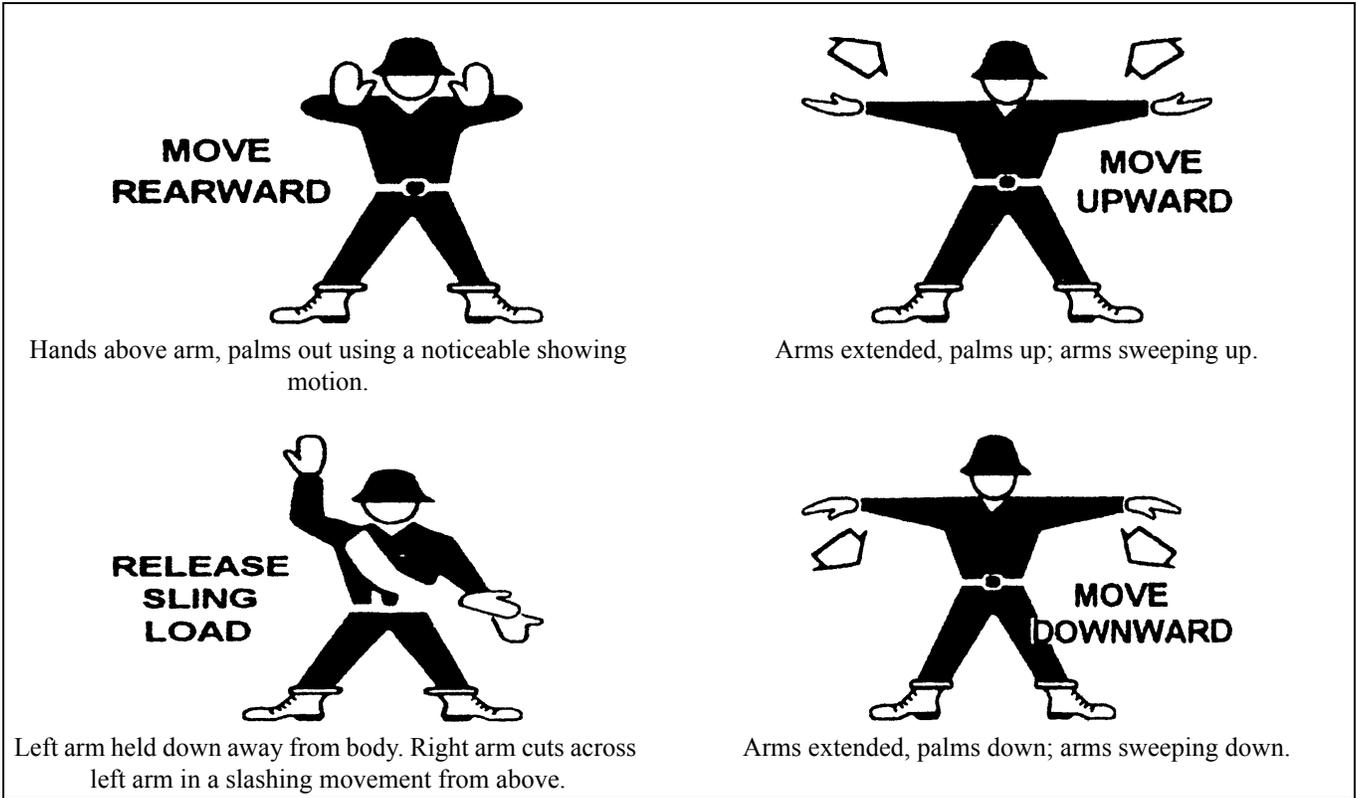
~~When using hand signals, use those shown in Figure 1.~~

- ~~Make sure workers on the ground do either of the following before touching the suspended load:~~
 - ~~— Use a ground device to safely discharge any static charge;~~
 - ~~OR~~
 - ~~— Put on and wear rubber gloves.~~
 - ~~Make sure there are enough employees for safe loading and unloading operations.~~
 - ~~Make sure constant communications are maintained between the pilot and signal person.~~
- ~~The signal person must be distinctly recognizable from other ground personnel.))~~ (1) You must make sure signal systems, whether radio or hand signals, are checked before hoist-

- ing the load. When using hand signals, use those shown in Figure 1.
- (2) You must make sure workers on the ground do either of the following before touching the suspended load:
- (a) Use a ground device to safely discharge any static charge; or
- (b) Put on and wear rubber gloves.
- (3) You must make sure there are enough employees for safe loading and unloading operations.
- (4) You must make sure constant communications are maintained between the pilot and signal person.
- (5) You must make sure the signal person is distinctly recognizable from other ground personnel.

HELICOPTER HAND SIGNALS

<p>MOVE RIGHT</p>		<p>HOLD HOVER</p>			
<p>Left arm extended horizontally; right arm sweeps upward to position over.</p>	<p>The signal "Hold" is executed by placing arms over head with clenched fists.</p>	<p>MOVE LEFT</p>		<p>TAKEOFF</p>	
<p>Right arm extended horizontally; left sweeps upward to position over head.</p>	<p>Right hand behind back; left hand pointing up.</p>	<p>MOVE FORWARD</p>		<p>LAND</p>	
<p>Combination of arm and hand movement in a collecting motion pulling toward head.</p>	<p>Arms crossed in front of body and pointing downward.</p>				



REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-829-500 Definitions.

AMENDATORY SECTION (Amending WSR 02-16-087, filed 8/7/02, effective 10/1/02)

WAC 296-832-200 Training.

SUMMARY

Your responsibility: To make sure all employees receive crime prevention training as part of your accident prevention program.

~~((You must:~~

~~Provide crime prevention training to your employees~~

~~WAC 296-832-20005~~

~~Provide crime prevention retraining to your employees annually~~

~~WAC 296-832-20010.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Provide crime prevention training to your employees</u>	<u>WAC 296-832-20005</u>
<u>Provide crime prevention retraining to your employees annually</u>	<u>WAC 296-832-20010</u>

AMENDATORY SECTION (Amending WSR 02-16-087, filed 8/7/02, effective 10/1/02)

WAC 296-832-20005 Provide crime prevention training to your employees.

Note: These training requirements apply only to employees working any time during the hours of 11:00 p.m. to 6:00 a.m. This training must be conducted prior to the employee working this time period.

~~((You must:~~

~~• Provide crime prevention training as part of your accident prevention program.~~

~~— Make sure you have instructed your employees on the purpose and function of robbery and violence prevention to provide them with the knowledge and skills required to maintain their personal safety.~~

~~• Provide training and training materials that outline your company's:~~

~~— Security policies~~

~~— Safety and security procedures~~

~~— Personal safety and crime prevention techniques.~~

~~• Provide formal instruction about crime prevention through a training seminar or training video presentation that includes these topics:~~

~~— How keeping the store clean, neat and uncluttered discourages potential robbers~~

~~— Why the cash register should be kept in plain view from outside the store, if your store layout allows~~

~~— Reasons for operating your business with only a minimum number of cash registers at night~~

~~— Reasons for keeping cash register funds to a minimum~~

~~—How to take extra precautions after dark such as ways to keep alert, making sure appropriate lights are on, inspecting dark corners, and identifying possible hiding places for robbers~~

~~—Violence prevention procedures in case of a robbery.~~

~~• Have employees sign a statement indicating the date, time, and place they received their crime prevention training.~~

~~• Keep a record of this information readily available for review when requested by the department of labor and industries.) (1) You must provide crime prevention training as part of your accident prevention program. Make sure you have instructed your employees on the purpose and function of robbery and violence prevention to provide them with the knowledge and skills required to maintain their personal safety.~~

(2) You must provide training and training materials that outline your company's:

(a) Security policies;

(b) Safety and security procedures;

(c) Personal safety and crime prevention techniques.

(3) You must provide formal instruction about crime prevention through a training seminar or training video presentation that includes these topics:

(a) How keeping the store clean, neat, and uncluttered discourages potential robbers;

(b) Why the cash register should be kept in plain view from outside the store, if your store layout allows;

(c) Reasons for operating your business with only a minimum number of cash registers at night;

(d) Reasons for keeping cash register funds to a minimum;

(e) How to take extra precautions after dark such as ways to keep alert, making sure appropriate lights are on, inspecting dark corners, and identifying possible hiding places for robbers;

(f) Violence prevention procedures in case of a robbery.

(4) You must have employees sign a statement indicating the date, time, and place they received their crime prevention training.

(5) You must keep a record of this information readily available for review when requested by the department of labor and industries.

Note: Employers may keep electronic records of employee training and verification.

~~((• Have a videotape or other materials about crime prevention available to all employees at their request.)) (6) You must have a videotape or other materials about crime prevention available to all employees at their request.~~

AMENDATORY SECTION (Amending WSR 02-16-087, filed 8/7/02, effective 10/1/02)

WAC 296-832-20010 Provide crime prevention retraining to your employees annually. You must((=

•)) provide a refresher course in crime prevention training annually.

AMENDATORY SECTION (Amending WSR 02-16-087, filed 8/7/02, effective 10/1/02)

WAC 296-832-300 Store safety.

SUMMARY

Your responsibility: To take certain safety measures to discourage crime in your store.

~~((You must:~~

~~Have a safe in your store~~

~~WAC 296-832-30005~~

~~Post a notice about your store's safe and cash register~~

~~WAC 296-832-30010~~

~~Provide outside lighting~~

~~WAC 296-832-30015.))~~

You must meet the requirements...	in this section:
Have a safe in your store	WAC 296-832-30005
Post a notice about your store's safe and cash register	WAC 296-832-30010
Provide outside lighting	WAC 296-832-30015

AMENDATORY SECTION (Amending WSR 02-16-087, filed 8/7/02, effective 10/1/02)

WAC 296-832-30005 Have a safe in your store. You must((=

•)) have a drop-safe, limited access safe, or comparable device in your store.

AMENDATORY SECTION (Amending WSR 02-16-087, filed 8/7/02, effective 10/1/02)

WAC 296-832-30010 Post a notice about your store's safe and cash register. ~~((You must:~~

~~• Post a notice in an obvious place on a window or door stating:~~

~~—There is a safe in the store~~

~~—Employees have no access to the safe~~

~~—The cash register contains only enough cash to do business.)) You must post a notice in an obvious place on a window or door stating:~~

(1) There is a safe in the store.

(2) Employees have no access to the safe.

(3) The cash register contains only enough cash to do business.

Notes: ((*) 1. You will not be cited by ((WISHA)) DOSH for having money in the cash register over the minimal amount needed to do business.

((*) 2. All displays and other materials posted in the window(s) or door(s) should be arranged to provide an unobstructed view of the cash register if it is visible from the street.

AMENDATORY SECTION (Amending WSR 02-16-087, filed 8/7/02, effective 10/1/02)

WAC 296-832-30015 Provide outside lighting. You must((=

•)) light the store's approach area and parking lot during all night hours your business is open.

Note: You can do this by:
 ((-)) 1. Providing surveillance lighting to observe pedestrian and vehicle entrances.
 ((-)) 2. Providing lighting of a minimum of one foot candle to comply with ANSI/IES RP7-1983. Lighting levels can be measured with a light meter; for comparison purposes 1 foot-candle = 1 lumen incident per square foot = 10.76 lux.

NEW SECTION

WAC 296-876-099 Definitions.

Cage. An enclosure that encircles the climbing space of a fixed ladder. It is fastened to the ladder side rails or to the structure and may also be called a cage or basket guard.

Cleat. A ladder crosspiece used in climbing or descending. Also called a step or rung.

Equivalent. Alternative design, material, or method to protect against a hazard. You have to demonstrate it provides an equal or greater degree of safety for employees than the method, material, or design specified in the rule.

Extension ladder. A nonself-supporting portable ladder consisting of two or more sections. The sections travel in guides or brackets that allow the length of the ladder to be changed. The size is designated by the sum of the lengths of each section, measured along the side rails.

Failure. The ladder or ladder component loses the ability to carry the load, breaks, or separates into component parts.

Fastenings. Devices to attach a ladder to a structure, building, or equipment.

Fixed ladder. A ladder permanently attached to a structure, building, or equipment.

Grab bars. Handholds placed adjacent to or as an extension above ladders for the purpose of providing access beyond the limits of the ladder.

Job-made ladder. A ladder that is made, not commercially manufactured, to fit a specific job situation. They are for temporary use until a particular phase of construction is completed or until permanent stairways or fixed ladders are ready to use.

Individual-rung/step ladder. A fixed ladder consisting of individual steps or rungs mounted directly to the side or wall of the structure, building, or equipment.

Ladder. A device having steps, rungs, or cleats that can be used to climb or descend.

Ladder safety device. Any device, other than a cage or well, designed to arrest the fall of a person using a fixed ladder.

Ladder type. The designation that identifies the maximum intended load (working load) of the ladder. Ladder types are as follows:

Duty Rating	Ladder Type	Use	Maximum Intended Load (pounds)
Extra Heavy-Duty	IA	Industry, utilities, contractors	300

Duty Rating	Ladder Type	Use	Maximum Intended Load (pounds)
Heavy-Duty	I	Industry, utilities, contractors	250
Medium-Duty	II	Painters, offices, light maintenance	225
Light-Duty	III	General household use	200

Landing. Any area such as the ground, roof, or platform that provides access or egress to a ladder.

Maximum intended load. The total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time. Sometimes referred to as working load.

Pitch. The included angle between the horizontal and the ladder, measured on the opposite side of the ladder from the climbing side.

Portable ladder. A ladder that can be readily moved or carried.

Reinforced plastic. A plastic that has high-strength fillers embedded in the base resin to increase strength.

Reinforced plastic ladder. A ladder whose side rails are reinforced plastic. The crosspieces, hardware, and fasteners may be made of metal or other suitable material.

Rung. A ladder crosspiece used in climbing or descending. Also called a cleat or step.

Side-step ladder. A fixed ladder that requires a person to step to the side of the ladder side rails to reach the landing.

Single ladder. A nonself-supporting portable ladder, nonadjustable in length, consisting of one section. The size is designated by the overall length of the side rail.

Single-rail ladder. A portable ladder with crosspieces mounted on a single rail. Single-rail ladders are prohibited from use.

Special-purpose ladder. A portable ladder that is made by modifying or combining design or construction features of the general-purpose types of ladders in order to adapt the ladder to special or specific uses.

Step. A ladder crosspiece used in climbing or descending. Also called a cleat or rung.

Stepladder. A self-supporting portable ladder, nonadjustable in length, with flat steps and hinged at the top. The size is designated by the overall length of the ladder measured along the front edge of the side rails.

Through ladder. A fixed ladder that requires a person to step between the side rails of the ladder to reach the landing.

Trestle ladder. A self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

Well. A walled enclosure around a fixed ladder that provides a person climbing the ladder with the same protection as a cage.

Working length. The length of a nonself-supporting ladder, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-100 Scope. This chapter applies to portable and fixed ladders, including job-made wooden ladders.

~~((Exemption:))~~ This chapter does not apply to:
EXEMPTION: ~~((*) 1.~~ Portable ladders used by the fire services for fire combat that are covered by safety standards for firefighters, chapter 296-305 WAC;
~~((*) 2.~~ Agriculture activities covered by safety standards for agriculture, chapter 296-307 WAC.

AMENDATORY SECTION (Amending WSR 06-22-024, filed 10/24/06, effective 12/1/06)

WAC 296-876-150 Training~~((—Section contents)).~~

Your responsibility: To train employees who use ladders.

~~((Training: WAC 296-876-15005.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
Training	WAC 296-876-15005

AMENDATORY SECTION (Amending WSR 06-22-024, filed 10/24/06, effective 12/1/06)

WAC 296-876-15005 Training. (1) You must(~~(=~~ ~~*)~~) train employees to recognize ladder hazards and the procedures to minimize these hazards.

~~((*)~~ (2) You must have a competent person train employees that use ladders in at least the following topics:

~~((—)~~ (a) The proper construction, use, placement, and care in handling ladders.

~~((—)~~ (b) The maximum intended load capacities of ladders that are used.

~~((—)~~ (c) The requirements of this chapter.

~~((*)~~ (3) You must retrain employees as necessary to make sure they know and understand the content of the original training.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-200 Design and construction~~((—Section contents)).~~

Summary

Your responsibility: To make sure portable ladders meet design and construction requirements.

~~((Design and construction WAC 296-876-20005.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
Design and construction	WAC 296-876-20005

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-20005 Design and construction.

~~((IMPORTANT:))~~ **Important:**

Design and construction requirements of this section do not apply to special purpose ladders.

~~((Definition:~~

~~A **special purpose ladder** is a portable ladder that is made by modifying or combining design or construction features of the general purpose types of ladders in order to adapt the ladder to special or specific uses.))~~

(1) You must(~~(=~~ ~~*)~~)

~~*)~~ make sure portable ladders and job-made wooden ladders manufactured **on or after January 1, 2006**, meet the design and construction requirements and specifications of the appropriate American National Standards Institute (ANSI) standard:

~~((—)~~ (a) ANSI A14.1-2000, American National Standard for Ladders-Portable Wood-Safety Requirements.

~~((—)~~ (b) ANSI A14.2-2000, American National Standard for Ladders-Portable Metal-Safety Requirements.

~~((—)~~ (c) ANSI A14.5-2000, American National Standard for Ladders-Portable Reinforced Plastic-Safety Requirements.

~~((—)~~ (d) ANSI A14.4-2002, American National Standard Safety Requirements for Job-Made Wooden Ladders.

~~((*)~~ (2) You must make sure portable ladders manufactured **before January 1, 2006**, meet the design and construction requirements and specifications of the appropriate ANSI standard in effect on the date of manufacture:

~~((—)~~ (a) ANSI A14.1, American National Standard for Ladders-Portable Wood-Safety Requirements.

~~((—)~~ (b) ANSI A14.2, American National Standard for Ladders-Portable Metal-Safety Requirements.

~~((—)~~ (c) ANSI A14.5, American National Standard for Ladders-Portable Reinforced Plastic-Safety Requirements.

Note: A commercially manufactured portable ladder should have a label indicating it meets the requirements of the ANSI standard. If in doubt, check with the manufacturer.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-300 Ladder care~~((—Section contents)).~~

Summary

Your responsibility: To make sure portable ladders are inspected, maintained, stored, and transported properly.

~~((Condition and inspection~~

~~WAC 296-876-30005.~~

~~Repair-~~

~~WAC 296-876-30010.~~

~~Storage~~

~~WAC 296-876-30015.~~

~~Transport~~

~~WAC 296-876-30020.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
Condition and inspection	WAC 296-876-30005

You must meet the requirements...	in this section:
<u>Repair</u>	<u>WAC 296-876-30010</u>
<u>Storage</u>	<u>WAC 296-876-30015</u>
<u>Transport</u>	<u>WAC 296-876-30020</u>

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-30005 Condition and inspection. (1) You must((=

•)) keep portable ladders in good, usable condition. Good, usable condition includes, but is not limited to:

((-) (a) Joints between the steps or rungs and the side rails are tight.

((-) (b) Rungs, cleats, or steps are not bent, broken, or missing.

((-) (c) Side rails are not bent, broken, or split.

((-) (d) All bolts and rivets are in place and secure.

((-) (e) Hardware, fittings, and accessories are securely attached and working properly.

((-) (f) Ropes are not frayed or badly worn.

((-) (g) Moveable parts operate freely without binding or excessive play.

((-) (h) Safety feet and other auxiliary equipment are not excessively worn.

((-) (i) Metal components are not corroded.

((-) (j) There are no other faulty or defective components.

((*) (2) You must make sure wood ladders are not coated with an opaque covering except for the minimum amount necessary for identification and warning information which may be placed on one face only of a side rail.

((*) (3) You must have a competent person inspect a ladder:

((-) (a) When required by Table 1, Ladder Inspection Criteria; ((AND)) and

((-) (b) After any other occurrence that could affect safe use.

((*) (4) You must make sure any ladder with structural damage or other hazardous defect is:

((-) (a) Marked to identify it as defective or tagged with "do not use" or similar language; ((AND)) and

((-) (b) Removed from service.

Note: Ladders subjected to certain acids or alkali materials may experience chemical corrosion and a reduction in strength. Consult the manufacturer or a qualified person prior to use.

Table 1
Ladder Inspection Criteria

When the ladder is:	Do the following:
First placed into service and periodically while in service	((*) Inspect the ladder for visible defects, including, but not limited to:
	((-) 1. Working parts; ((AND)) <u>and</u>
	((-) 2. Rung or step connections to the side rails.

When the ladder is:	Do the following:
Damaged by impact or tips over	((*) 1. Visually inspect the ladder for((=
	--)) dents, bends, cracks or splits
	((*) 2. Check:
	((-) a. Rung or step connections to the side rails.
	((-) b. Hardware connections.
Exposed to excessive heat such as a fire	((-) c. Rivets for shear damage.
	((-) d. All other components.
	((*) 1. Visually inspect the ladder for damage.
	((*) 2. Test for deflection and strength characteristics using the "in-service use tests" contained in the appropriate ANSI.
	((Exemption)) EXEMPTION: Job-made wooden ladders are not to be subjected to load or impact tests. Those tests may weaken lumber components or fasteners, causing hidden damage that could result in sudden failure during use.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-30010 Repair. (1) You must((=

•)) make sure repairs restore the ladder to a condition meeting its original design criteria.

((*) (2) You must prohibit repairs to a defective side rail.

Note: A commercially manufactured ladder with a defective side rail cannot be repaired by the user. Side rail repair can only be done by the manufacturer.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-30015 Storage. You must((=

•)) make sure material is not put on ladders in storage.

Note: ((*) Store portable ladders on racks designed to protect them when not in use. The racks should have enough supporting points to prevent the ladder from sagging. ((*) Do not store wood ladders near sources of heat, moisture, or dampness.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-30020 Transport. (1) You must((=

•)) properly support ladders while transporting them on vehicles.

((*) (2) You must make sure ladders transported in a truck rack are positively secured in a fixed position that prevents chafing or abrasion.

Note: Securing the ladder to each support point will greatly reduce damage due to road shock.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-400 (~~Use Section contents~~) **Portable ladder use.**

Summary

Your responsibility: To use portable ladders safely.

~~((Designed use~~

~~WAC 296-876-40005.~~

~~Workplace activities or traffic~~

~~WAC 296-876-40010.~~

~~Support~~

~~WAC 296-876-40015.~~

~~Set-up~~

~~WAC 296-876-40020.~~

~~Climbing and descending~~

~~WAC 296-876-40025.~~

~~Getting on and off ladders at upper levels~~

~~WAC 296-876-40030.~~

~~Exposed electrical hazards~~

~~WAC 296-876-40035.~~

~~Persons on ladders~~

~~WAC 296-876-40040.~~

~~Multisection ladders~~

~~WAC 296-876-40045.~~

~~Self-supporting ladders~~

~~WAC 296-876-40050.))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Designed use</u>	<u>WAC 296-876-40005</u>
<u>Workplace activities or traffic</u>	<u>WAC 296-876-40010</u>
<u>Support</u>	<u>WAC 296-876-40015</u>
<u>Set-up</u>	<u>WAC 296-876-40020</u>
<u>Climbing and descending</u>	<u>WAC 296-876-40025</u>
<u>Getting on and off ladders at upper levels</u>	<u>WAC 296-876-40030</u>
<u>Exposed electrical hazards</u>	<u>WAC 296-876-40035</u>
<u>Persons on ladders</u>	<u>WAC 296-876-40040</u>
<u>Multisection ladders</u>	<u>WAC 296-876-40045</u>
<u>Self-supporting ladders</u>	<u>WAC 296-876-40050</u>

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40005 Designed use. (1) You must(~~(=~~ ~~•~~)) use ladders only for their intended purpose.

- Note: Unless specifically recommended by the manufacturer, do not use a ladder as a:
- (~~•~~) 1. Brace.
 - (~~•~~) 2. Skid.
 - (~~•~~) 3. Lever.
 - (~~•~~) 4. Guy or gin pole.
 - (~~•~~) 5. Gangway.
 - (~~•~~) 6. Platform.
 - (~~•~~) 7. Scaffold plank.
 - (~~•~~) 8. Material hoist.

(2) You must(~~(=~~ ~~•~~)) make sure not to overload ladders. Do not exceed either the:

((~~-~~)) (a) Maximum intended load; ((~~OR~~)) or

((~~-~~)) (b) Manufacturer's rated capacity.

((~~Definitions:~~

~~—The **maximum intended load** is the total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time.~~

~~—**Ladder type.** The designation that identifies the maximum intended load (working load) of the ladder. Ladder types are as follows:~~

Duty Rating	Ladder Type	Use	Maximum-Intended-Load-(Pounds)
Extra-Heavy-Duty	IA	Industry, utilities, contractors	300
Heavy-Duty	I	Industry, utilities, contractors	250
Medium-Duty	H	Painters, offices, light maintenance	225
Light Duty	III	General household use	200))

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40010 Workplace activities or traffic.

(1) You must(~~(=~~ ~~•~~))

protect ladders that are ((~~set-up~~)) **set up** in a location where they could be displaced by workplace activities or traffic by either:

((~~-~~)) (a) Securing the ladder to prevent accidental displacement; ((~~OR~~)) or

((~~-~~)) (b) Using a barricade to keep the activities or traffic away from the ladder.

((~~•~~)) (2) You must protect ladders that are set-up in front of doors that open towards the ladder by doing at least one of the following:

((~~-~~)) (a) Block the door open.

((~~-~~)) (b) Lock the door.

((~~-~~)) (c) Guard the door to keep it from opening into the ladder.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40015 Support. (1) You must(~~(=~~ ~~•~~))

place the ladder either:

((~~-~~)) (a) With a secure footing on a firm, level support surface; ((~~OR~~)) or

((~~-~~)) (b) Secure the ladder to prevent accidental displacement.

((*) (2) You must make sure a ladder is not placed on ice, snow, or other slippery surface unless the ladder is prevented from accidental displacement by either:

- ((-) (a) Securing it; ((OR)) or
- ((-) (b) Providing the ladder with slip-resistant feet.

Note: Slip-resistant feet are not a substitute for care in placing, lashing, or holding a ladder that is used on a slippery surface.

(3) You must((:

*) make sure ladders are not placed on boxes, barrels, or other unstable bases to obtain additional height.

((*) (4) You must place a straight ladder so the side rails are equally supported by the top support, unless the ladder is equipped with a single support attachment.

((*) (5) You must make sure the top support of the ladder is reasonably rigid and able to support the load.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40020 Set-up. (1) You must((:

*) set up nonself-supporting ladders at a safe angle. The ladder is set at the proper angle when the horizontal distance from the top support to the foot of the ladder is approximately one-quarter the working length of the ladder.

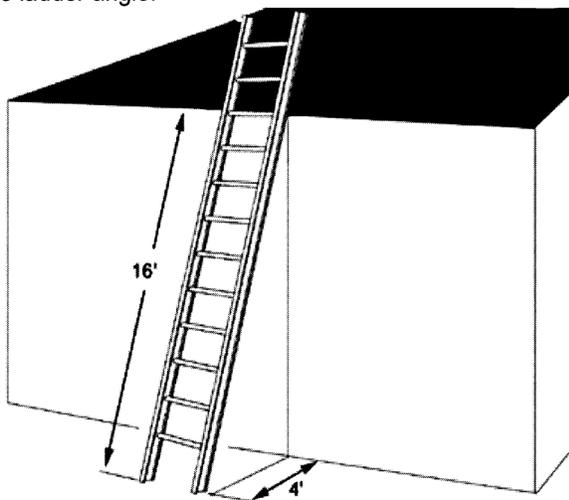
((*) (2) You must set up job-made ladders with spliced side rails so that the horizontal distance from the top support to the foot of the ladder is not greater than one-eighth the working length of the ladder.

(Definition:

The *working length* of a nonself-supporting ladder is the length, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

Safe Ladder Angle))

Note:
Safe ladder angle.



AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40025 Climbing and descending. (1)

You must((:

*) have both hands free to hold on to the ladder.

((*) (2) You must face the ladder when climbing or descending.

((*) (3) You must keep ladders free of oil, grease, or other slippery materials.

((*) (4) You must keep the area around the top and bottom of ladders clear.

((*) (5) You must make sure single-rail ladders are not used.

(Definition:

A *single rail ladder* is a portable ladder with crosspieces mounted on a single rail.))

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40030 Getting on and off ladders at upper levels. (1) You must((:

*) make sure a ladder used to access an upper level has the side rails extended at least three feet ((-9)) 0.9 m) above the landing surface if the ladder length permits.

((*) (2) You must do the following if a ladder used to access an upper level is not long enough to obtain a three-foot side rail extension above the landing surface:

((-) (a) Secure the ladder at the top to a rigid support that will not deflect.

((-) (b) Provide a grasping device, such as a grabrail, to assist in mounting and dismounting the ladder.

((-) (c) Make sure the ladder deflection under a load would not, by itself, cause it to slip off its support.

((*) (3) You must make sure, if two or more separate ladders are used to reach an elevated work area, that the ladders are offset with a platform or landing between them.

(Exemption):

EXEMPTION:

A platform or landing is not required when a portable ladder is used to reach a fixed ladder on structures such as utility towers and billboards where the bottom of the fixed ladder is elevated to limit access.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40035 Exposed electrical hazards.

You must((:

*) use ladders with nonconductive side rails where the ladder could contact uninsulated, energized electric lines or equipment. ((-) Metal ladders or other ladders specifically designed to permit grounding or dissipation of static electricity may be used around high-static electrical fields if all of the following are met:

((*) (1) Using nonconductive ladders would present a greater hazard than using conductive ladders.

((*) (2) Ladders are prominently marked and identified as being conductive.

((*) (3) Ladders are grounded when used near energized lines or equipment.

Note:

Examples of ladders with conductive side rails are metal ladders, and wood or reinforced plastic ladders with metal side rail reinforcement.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40040 Persons on ladders. (1) You must(=

•) make sure a ladder is not moved, shifted, or adjusted while anyone is on it.

((*) (2) You must secure the ladder at the top and bottom when working from it.

((*) (3) You must use a safety belt with a lanyard that is secured to the ladder when doing any work that:

((-) (a) Requires the use of both hands; (~~AND~~) and

((-) (b) Is done from a ladder more than twenty-five feet above the ground or floor.

((*) (4) You must prohibit work being done from a ladder more than twenty-five feet above the ground or floor if the work requires wearing eye protection or a respirator.

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40045 Multisection ladders. (1) You must(=

•) make sure not to tie or fasten ladder sections together to make longer ladders unless:

((-) (a) The ladder manufacturer endorses this type of use; (~~AND~~) and

((-) (b) You have hardware fittings specifically designed for this purpose.

((*) (2) You must make sure each section of a multisection ladder, when fully extended and locked in position to be used, overlaps the adjacent section as indicated in Table 2, Minimum Required Overlap for Extension Ladders.

Table 2

Minimum Required Overlap for Extension Ladders

If the ladder size (feet) is:	Minimum required overlap (feet) for a two-section ladder is ((feet)):
Up to and including 36	3
Over 36 up to and including 48	4
Over 48 up to and including 60	5

AMENDATORY SECTION (Amending WSR 05-20-068, filed 10/4/05, effective 1/1/06)

WAC 296-876-40050 Self-supporting ladders. (1) You must(=

•) make sure self-supporting ladders are not used as single ladders or in the partially closed position.

((*) (2) You must make sure stepladders are fully opened with the spreaders locked.

((*) (3) You must make sure not to climb on the rear braces of a self-supporting ladder unless they are designed and recommended for that purpose by the manufacturer.

((*) (4) You must prohibit standing or stepping on the:

((-) (a) Top cap and top step of a step or trestle ladder.

((-) (b) Bucket or pail shelf of a self-supporting ladder.

~~(Exemption)~~ The restriction against using the top step is not applicable if it is eighteen inches or more below the top cap.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-500 Fixed ladder design and construction~~(—Section contents)~~ **installed on or after December 1, 2006.**

Summary

Your responsibility: To make sure fixed ladders installed on or after December 1, 2006, meet design and construction requirements.

~~((Design and construction—Fixed ladders installed on or after December 1, 2006.~~

~~WAC 296-876-50010))~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
Design and construction—Fixed ladders installed on or after December 1, 2006	WAC 296-876-50010

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-50010 Design and construction—Fixed ladders installed on or after December 1, 2006. You must(=

•) make sure fixed ladders installed **on or after** December 1, 2006, meet the design and construction requirements of ANSI A14.3-2002, American National Standard for Ladders-Fixed-Safety Requirements.

Note: Ladders will be considered to have met the requirements of this section if they meet the design and construction requirements of ANSI A14.3, American National Standard for Ladders-Fixed-Safety Requirements, in effect at the time they are installed.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-600 Fixed ladder design and construction~~(—Section contents)~~ **installed before December 1, 2006.**

Summary

Your responsibility: To make sure fixed ladders installed before December 1, 2006, meet design and construction requirements.

~~((Design and construction—Fixed ladders installed before December 1, 2006.~~

~~WAC 296-876-60005~~

~~Design loads:~~

~~WAC 296-876-60010~~

~~Pitch:~~

~~WAC 296-876-60015~~

~~Welding:~~

~~WAC 296-876-60020~~

~~Ladder surfaces:~~

~~WAC 296-876-60025~~

Rungs, cleats and steps:

WAC 296-876-60030

Side rails:

WAC 296-876-60035

Clearances:

WAC 296-876-60040

Step-across distance:

WAC 296-876-60045

Extensions and grab bars:

WAC 296-876-60050

Hatches:

WAC 296-876-60055

Platforms:

WAC 296-876-60060

Protective structures and equipment:

WAC 296-876-60065

Cages:

WAC 296-876-60070

Wells:

WAC 296-876-60075

Ladder safety devices:

WAC 296-876-60080)

Note: Ladders will be considered to have met the requirements of this section if they meet the design and construction requirements of ANSI A14.3, American National Standard for Ladders-Fixed-Safety Requirements, in effect at the time they are installed.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60010 Design loads. (1) You must((-
 •)) make sure each ladder is able to support, without failure, the total of the following loads:

((-)) (a) At least two loads of two hundred and fifty pounds each, concentrated between any two consecutive attachments.

((-)) (b) Any additional concentrated loads of two hundred and fifty pounds each determined from the anticipated use of the ladder.

((-)) (c) Anticipated loads caused by all of the following that apply:

((•)) (i) Ice buildup.

((•)) (ii) Winds.

((•)) (iii) Rigging attached to the ladder, including the load to be lifted.

((•)) (iv) Impact loads resulting from the use of ladder safety devices.

((•)) (2) You must make sure the design of rails, supports, and fastenings includes:

((-)) (a) Live loads to be supported by the ladder; and

((-)) (b) The weight of the ladder and everything attached to it.

((•)) (3) You must consider all live loads to be concentrated at the point or points that will cause the maximum stress on the ladder or structural member.

((•)) (4) You must make sure each step or rung is capable of supporting a single concentrated load of at least two hundred fifty pounds applied in the middle of the step or rung.

((•)) (5) You must make sure the design stresses for wood components of ladders meet the requirements and specifications of ANSI A14.1, American National Standard for Ladders-Portable Wood-Safety Requirements, in effect when the ladder was installed.

((•)) (6) You must make sure fastenings are designed to meet the ladder load requirements.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60015 Pitch. You must((-

•)) make sure the pitch of the ladder is no greater than ninety degrees from the horizontal.

Notes: ((•)) 1. The preferred pitch of fixed ladders is within the range of seventy-five to ninety degrees from the horizontal. Ladders with a pitch range of sixty to seventy-five degrees from the horizontal are considered substandard and are only permitted if necessary to meet the installation requirements.

((•)) 2. Fixed stairs are an alternative for installations where a pitch angle of less than sixty degrees is necessary. See Fixed industrial stairs, WAC 296-24-765, in the General Safety and Health Standards, chapter 296-24 WAC.

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Design and construction— Fixed ladders installed before December 1, 2006.</u>	<u>WAC 296-876-60005</u>
<u>Design loads</u>	<u>WAC 296-876-60010</u>
<u>Pitch</u>	<u>WAC 296-876-60015</u>
<u>Welding</u>	<u>WAC 296-876-60020</u>
<u>Ladder surfaces</u>	<u>WAC 296-876-60025</u>
<u>Rungs, cleats and steps</u>	<u>WAC 296-876-60030</u>
<u>Side rails</u>	<u>WAC 296-876-60035</u>
<u>Clearances</u>	<u>WAC 296-876-60040</u>
<u>Step-across distance</u>	<u>WAC 296-876-60045</u>
<u>Extensions and grab bars</u>	<u>WAC 296-876-60050</u>
<u>Hatches</u>	<u>WAC 296-876-60055</u>
<u>Platforms</u>	<u>WAC 296-876-60060</u>
<u>Protective structures and equipment</u>	<u>WAC 296-876-60065</u>
<u>Cages</u>	<u>WAC 296-876-60070</u>
<u>Wells</u>	<u>WAC 296-876-60075</u>
<u>Ladder safety devices</u>	<u>WAC 296-876-60080</u>

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

**WAC 296-876-60005 Design and construction—
Fixed ladders installed before December 1, 2006.** You must((-

•)) make sure fixed ladders installed **before** December 1, 2006, meet the requirements of WAC 296-876-60010 through 296-876-60080.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60020 Welding. You must((= *)) make sure welding meets the requirements of the ANSI A14.3, American National Standard for Ladders-Fixed-Safety Requirements, in effect at the time the ladder was installed.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60025 Ladder surfaces. You must((= *)) make sure all parts and surfaces of the ladder are free of splinters, sharp edges, burrs, or projections that may be hazardous to persons using the ladder.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60030 Rungs, cleats and steps. (1) You must((=

*)) make sure rungs have a minimum diameter as follows:

((-)) (a) Rungs of wood ladders are at least one and one-eighth inches.

((-)) (b) Rungs of metal ladders subject to unusually corrosive exposures, such as individual metal rungs imbedded in concrete which serve as access to pits and to other areas under floors, are at least one inch.

((-)) (c) Rungs of all other metal ladders are at least three-quarters inch.

((*) (2) You must make sure rungs, cleats, and steps are all of the following:

((-)) (a) Parallel.

((-)) (b) Level.

((-)) (c) Uniformly spaced throughout the length of the ladder.

((-)) (d) Spaced so the distance from the centerline of one rung to the centerline of the next rung does not exceed twelve inches.

Exception: The vertical distance from the ground, floor, or roof at the access level to the first rung may be adjusted within a range of fourteen inches.

(3) You must((=

*)) make sure the minimum inside clear width of the stepping surface of rungs, steps, or cleats is sixteen inches.

((*) (4) You must make sure individual rung or step-type ladders have rungs or steps that are shaped so that a person's foot cannot slide off the end.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60035 Side rails. (1) You must((= *)) make sure the shape of the side rail:

((-)) (a) Provides an adequate gripping surface; and

((-)) (b) Is uniform throughout the length of climb.

((*) (2) You must make sure a side rail that has been spliced to obtain a longer length is at least equivalent in strength to a one-piece side rail made of the same material.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60040 Clearances. (1) You must((= *)) make sure ladders without wells or cages are at least thirty inches from the nearest permanent object on the climbing side, measured perpendicular to the ladder from the centerline of the rungs, cleats, or steps.

((~~Exemption~~)) **EXEMPTION:** When unavoidable obstructions are encountered, the minimum perpendicular clearance between the centerline of the rungs, cleats, or steps and an obstruction on the climbing side may be reduced to twenty-four inches if a deflection device is installed to guide persons around the obstruction.

(2) You must((=

*)) make sure ladders without wells or cages have a clear width from the nearest permanent object on each side of the ladder of at least fifteen inches, measured from the center of the rungs, cleats, or steps.

((*) (3) You must make sure the distance from the centerline of the rungs, cleats, or steps to the nearest permanent object in back of the ladder is at least seven inches.

((~~Exemption~~)) **EXEMPTION:** Fixed ladders in elevator pits may reduce the minimum clearance from the ladder to the nearest permanent object in back of the ladder to four and one-half inches.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60045 Step-across distance. (1) You must((=

*)) make sure a through ladder at the point of access or egress has a step-across distance, measured from the centerline of the steps or rungs to the nearest edge of the landing area, that is:

((-)) (a) Not less than seven inches; or

((-)) (b) Greater than twelve inches.

((*) (2) You must make sure a side-step ladder at the point of access or egress has a step-across distance, measured from the side rail of the ladder to the nearest edge of the landing area, that is:

((-)) (a) Not less than seven inches; or

((-)) (b) Greater than twelve inches.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60050 Extensions and grab bars. (1) You must((=

*)) make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.

Note: For a parapet ladder, the access level is:

((-)) 1. The roof if the parapet is cut to permit passage through it; or

((-)) 2. The top of the parapet if it is continuous and uncut.

(2) You must((=

*)) make sure the extension of a through ladder above the access level or landing platform has:

((-)) (a) Steps or rungs omitted from the extension; and

((-)) (b) Clearance between the side rails that is:

((■)) (i) Not less than twenty-four inches; or

((■)) (ii) Greater than thirty inches.

(Exemption) The maximum clearance between side rails of the extension may be increased to thirty-six inches if the ladder has a ladder safety device.
EXEMPTION:

(3) You must(=

•) make sure the side rails of through or side-step ladders extend forty-two inches above the top of the access level or landing platform.

((•)) (4) You must make sure side-step ladders have the steps or rungs and the side rails continuous in the extension.

((•)) (5) You must make sure individual rung-step ladders are extended at least forty-two inches above the access level or landing platform by:

((-)) (a) Continuing the rung spacings as horizontal grab bars; or

((-)) (b) Providing vertical grab bars that have the same lateral spacing as the vertical legs of the rungs.

(Exemption) Extensions are not required for individual rung-step ladders with access openings through a manhole or hatch.
EXEMPTION:

(6) You must(=

•) make sure grab bars:

((-)) (a) Are at least four inches from the nearest permanent object in back of the grab bar, measured from the centerline of the grab bar; and

((-)) (b) Do not extend beyond the rungs on the climbing side of the ladder.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60055 Hatches. (1) You must(=

•) make sure counterbalanced hatch covers open at least seventy degrees from the horizontal.

((•)) (2) You must make sure the inside clear width of the hatch is a nominal thirty inches.

((•)) (3) You must make sure the distance from the centerline of the rungs or cleats to the edge of the hatch opening on the climbing side, measured perpendicular to the ladder, is:

((-)) (a) Not less than twenty-four inches; or

((-)) (b) Greater than thirty inches.

((•)) (4) You must make sure hatches with clearance on the climbing side of the ladder that is between twenty-four and twenty-seven inches are fitted with a deflector plate mounted at an angle of sixty degrees from the horizontal.

Note: The springs or other counterbalance mechanisms for the hatch may project into the hatch opening provided they do not reduce clearance to less than twenty-four inches and a deflector plate is installed to guide persons around the obstruction.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60060 Platforms. (1) You must(=

•) make sure landing platforms for side-step ladders extend at least thirty inches on the climbing side of the ladder.

((•)) (2) You must make sure landing platforms are:

((-)) (a) At least thirty inches wide; and

((-)) (b) Equipped with standard railings and toeboards placed to allow safe access to the ladder.

Reference: Requirements for standard railings and toeboards are in Railing, toeboards, and cover specifications, WAC 296-24-75011, the General Safety and Health Standards, chapter 296-24 WAC.

(3) You must(=

•) make sure the top rung or step of the ladder is level with the landing served by the ladder.

((•)) (4) You must make sure the spacing from the landing platform to the first rung below the platform of a through ladder is the same as the rung spacing of the ladder.

((•)) (5) You must make sure, if two or more separate ladders are used to reach an elevated work area, that the ladders are offset with a platform or landing between them.

(Exemption) A platform or landing is not required when a portable ladder is used to reach a fixed ladder on structures such as utility towers and billboards where the bottom of the fixed ladder is elevated to limit access.
EXEMPTION:

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60065 Protective structures and equipment. (1) You must(=

•) make sure a cage, well, or ladder safety system is provided if:

((-)) (a) The length of climb is less than twenty-four feet; and

((-)) (b) The top of the ladder is more than twenty-four feet above the ground, floor, or roof.

((•)) (2) You must make sure a ladder with a single length of climb that is equal to or greater than twenty-four feet is either:

((-)) (a) Equipped with a ladder safety device; or

((-)) (b) Uses multiple ladder sections and meets all of the following:

((■)) (i) Each section is provided with a cage or well.

((■)) (ii) The length of climb of any ladder section is not greater than fifty feet.

((■)) (iii) Each ladder section is offset from adjacent sections.

((■)) (iv) Landing platforms are provided at maximum intervals of fifty feet.

(Exemption) During construction activities, a self-retracting lifeline with landing platforms provided at maximum intervals of one hundred ((and)) fifty feet may be used instead of a ladder safety device or multiple ladder sections.
EXEMPTION:

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60070 Cages. (1) You must(=

•) make sure the cage meets all of the following:

((-)) (a) Extends at least forty-two inches above the top of the platform or above the point of access and egress at the top of the ladder.

((-)) (b) Has provisions for accessing and egressing the platform or the point of access or egress of the ladder.

((-) (c) There is at least twenty-seven inches, but not more than thirty inches, from the cage to the centerline of the step or rung at all points except where the cage flares at the bottom of the ladder.

((-) (d) The cage is at least twenty-seven inches wide.

((-) (e) There are no projections inside the cage.

((*) (2) You must make sure the bottom of the cage is:

((-) (a) At least seven feet but not more than eight feet above the point of access to the bottom of the ladder; and

((-) (b) Flared at least four inches all around within the distance between the bottom horizontal band and the next higher band.

((*) (3) You must make sure vertical bars are:

((-) (a) Spaced at intervals of nine and one-half inches or less on center around the circumference of the cage; and

((-) (b) Fastened to the inside of the horizontal bands.

((*) (4) You must make sure the horizontal bands meet all of the following:

((-) (a) The vertical intervals between horizontal bands ~~are~~ are not more than four feet on center.

((-) (b) The horizontal bands of ladders with side rails are fastened to the side rails.

((-) (c) The horizontal bands of individual-rung ladders are fastened directly to the structure, building, or equipment.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60075 Wells. (1) You must((:

*) make sure there is at least twenty-seven inches, but not more than thirty inches, from the centerline of the step or rung to the inside face of the well on the climbing side of the ladder.

((*) (2) You must make sure the inside clear width is at least thirty inches.

((*) (3) You must make sure the well:

((-) (a) Completely encircles the ladder; and

((-) (b) Is free of projections.

((*) (4) You must make sure the bottom of the wall on the access side is at least seven feet, but not more than eight feet, above the point of access to the bottom of the ladder.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-60080 Ladder safety devices. (1) You must((:

*) make sure ladder safety devices and related support systems meet all of the following:

((-) (a) Are capable of withstanding, without failure, the test drop of a five-hundred-pound weight for a free-fall distance of eighteen inches.

((-) (b) The device does not require a person to continually hold, push, or pull any part of the device and allows them to have both hands free to grip the ladder.

((-) (c) In the event of a fall, the device:

((*) (i) Is activated within two feet; and

((*) (ii) Limits the fall velocity to seven feet per second or less.

((-) (d) Uses a connection between the carrier or lifeline and the point of attachment on the full body harness that is not longer than nine inches.

((*) (2) You must make sure ladder safety devices with rigid carriers have mountings that:

((-) (a) Are attached at each end of the carrier; and

((-) (b) Have intermediate mountings that are all of the following:

((*) (i) Spaced along the entire length of the carrier in accordance with the manufacturer's recommendations.

((*) (ii) Installed within one foot below each splice on the carrier.

((*) (iii) Have a maximum distance between mountings that is twenty-five feet or less.

((*) (3) You must make sure ladder safety devices with flexible carriers have:

((-) (a) Mountings that are attached at each end of the carrier; and

((-) (b) Cable guides that are spaced at least twenty-five feet, but no further than forty feet, apart along the entire length of the carrier.

((*) (4) You must make sure the design and installation of mountings and cable guides does not reduce the design strength of the ladder.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-700 Fixed ladders inspection and maintenance(~~Section contents~~).

Summary

Your responsibility: To make sure fixed ladders are inspected and maintained properly.

~~(Protection against corrosion and deterioration:~~

~~WAC 296-876-70005~~

~~Inspection and repair:~~

~~WAC 296-876-70010)~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Protection against corrosion and deterioration</u>	<u>WAC 296-876-70005</u>
<u>Inspection and repair</u>	<u>WAC 296-876-70010</u>

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-70005 Protection against corrosion and deterioration. (1) You must((:

*) paint or otherwise treat metal ladders or metal parts to resist rust and corrosion if they are:

((-) (a) Exposed to the elements; or

((-) (b) Located where rust or corrosion could be expected.

((*) (2) You must treat wood ladders used in conditions where decay may occur with a nonirritating preservative.

((*) (3) You must make sure wood ladders are not coated with an opaque covering except for the minimum amount necessary for identification and warning information which may be placed on one face only of a side rail.

((*) (4) You must treat the interface between different materials or use other means to prevent:

((-) (a) One material from damaging or having a harmful effect on another material; and

((-) (b) Electrolytic action between dissimilar metals.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-70010 Inspection and repair. (1) You must((=

*) keep ladders in safe condition.

((*) (2) You must have a competent person inspect a ladder for visual defects:

((-) (a) Periodically; and

((-) (b) After any occurrence that could affect safe use.

((*) (3) You must make sure any ladder with structural damage or other hazardous defect is immediately removed from service.

Notes: ((*) 1. Structural damage includes, but is not limited to, any of the following:

((-) a. Broken or missing rungs, cleats, or steps.

((-) b. Broken or split rails.

((-) c. Corroded components.

((-) d. Bolts and welds missing or not secure.

((*) 2. A ladder is considered to be removed from service if any of the following are done:

((-) a. It is marked to identify it as defective.

((-) b. It is tagged with "do not use" or similar language.

((-) c. It is blocked so that it cannot be used, for example, by using a plywood attachment that spans several rungs.

(4) You must((=

*) make sure repairs restore the ladder to a condition meeting its original design criteria.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-800 Fixed ladder use(~~Section contents~~).

Summary

Your responsibility: To use fixed ladders safely.

~~(Designed load.~~

~~WAC 296-876-80005~~

~~Climbing and descending.~~

~~WAC 296-876-80010)~~

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Design load</u>	<u>WAC 296-876-80005</u>
<u>Climbing and descending</u>	<u>WAC 296-876-80010</u>

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-80005 Designed load. You must((=

*) make sure not to overload ladders. Do not exceed either the:

((-) (1) Maximum intended load; or

((-) (2) Manufacturer's rated capacity.

~~(Definition:~~

~~The maximum intended load is the total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time.)~~

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-876-80010 Climbing and descending. (1)

You must((=

*) have both hands free to hold on to the ladder.

((*) (2) You must face the ladder when climbing or descending.

((*) (3) You must keep ladders free of oil, grease, or other slippery materials.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-876-900 Definitions.

NEW SECTION

WAC 296-878-099 Definitions.

Anchor, window-cleaner's belt. Fall-preventing attachment points for direct attachment of the terminal portion of a window-cleaner's belt.

Belt terminal. That part of the safety belt that is attached to the anchor during the window-cleaning operation.

Block and tackle. A lifting device consisting of one or more pulley blocks reeved with chains, wire ropes, or fiber ropes used solely for raising and lowering a load or moving a load horizontally.

Boatswain's chair. A single-point adjustable suspension scaffold consisting of a seat or sling designed to support one worker in a sitting position.

Capstan device. An upright, spool-shaped cylinder used for hoisting or lifting weights that is turned by a motor or by hand.

Carabiner. An oblong metal ring with an openable spring-hinged side, used to clip a rope to an anchoring device.

Competent person. One who is capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Drop (drop zone). A vertical area or work zone accessed by the worker or piece of equipment during one descent.

Drop line. A vertical line from a fixed anchorage, independent of the work surface.

Fixture. Attachments, anchors, anchorages, tie backs or support equipment permanently dedicated to a given site.

Grade. Means the ground, floor, sidewalk, roof, or any level surface that is considered a safe place to work.

Lanyard. A flexible line to secure a wearer of a safety belt or harness to a drop line, lifeline or fixed anchorage.

Mullion. A slender, vertical dividing bar between windows, panels, etc.

Primary support/suspension. A working line or approved anchorage used for attachment of a working line.

Qualified person. A person is qualified if they have one of the following:

- (1) Extensive knowledge, training, and experience about the subject matter, work, or project;
- (2) A recognized degree, certificate, or professional standing;
- (3) Successful demonstration of problem solving skills in connection with the subject, work, or project.

Rated capacity. The combined weight of workers, tools, equipment, and other materials that the device is designed and installed to lift and support.

Rope descent system (RDS). An assembly of components that allows the operator to control the rate of descent at any time. A rope descent system includes the following components:

- (1) Suspension devices;
- (2) Certified roof anchorages;
- (3) Primary support ropes or lines;
- (4) The descent device;
- (5) Carabiners or shackles;
- (6) A seatboard or boatswain's chair.

Terminal strap. The strap or rope attached to the waist band on one end, and to the belt terminals on the other end.

Window cleaning. Cleaning, wiping, restoring or other methods of cleaning windows.

Working line. A rope suspended from an anchorage and used to access parts of a building.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-878-10005 Summary.

Your responsibility: Make sure workers clean windows safely, and properly use and maintain their window-cleaning equipment.

~~((**IMPORTANT:**))~~ **Important:**

Window-cleaning equipment includes window-cleaner's belts, boatswains' chairs, rope descent systems, ladders, supported scaffolds, and the support equipment used to suspend employees cleaning windows.

~~((**You must:**~~

Training

~~Train workers to use window-cleaning equipment~~

~~WAC 296-878-11005~~

Building surfaces and fixtures

~~Make sure building surfaces and fixtures are safe to use~~

~~WAC 296-878-12005~~

Inspection procedures

~~Inspect the area to be cleaned~~

~~WAC 296-878-13005~~

~~Inspect window-cleaning equipment before use~~

~~WAC 296-878-13010~~

Develop site-specific service and emergency plans

~~Develop a site-specific service and emergency recovery plan for window-cleaning operations~~

~~WAC 296-878-14005~~

Equipment

~~Select and use appropriate equipment~~

~~WAC 296-878-15005~~

~~Select appropriate rope for suspended equipment~~

~~WAC 296-878-15015~~

~~Select appropriate carabiners~~

~~WAC 296-878-15020~~

~~Use fall-protection equipment~~

~~WAC 296-878-15025~~

Warning signs and barricades

~~Provide warning signs and barricades when suspended equipment is used~~

~~WAC 296-878-16005~~

Power line clearances

~~Maintain clearance between window cleaners and power lines~~

~~WAC 296-878-17005~~

Window cleaners' belts and anchors

~~Select appropriate window-cleaners' belts and anchors~~

~~WAC 296-878-18005~~

~~Inspect the anchors you plan to use for window-cleaning~~

~~WAC 296-878-18010~~

~~Use window-cleaners' belts safely~~

~~WAC 296-878-18015~~

~~Move safely on the outside of buildings~~

~~WAC 296-878-18020~~

Boatswains' chairs

~~Select appropriate boatswains' chairs~~

~~WAC 296-878-19005~~

~~Safely use boatswains' chairs rigged with a block and tackle~~

~~WAC 296-878-19010~~

Rope descent systems

~~Select appropriate rope descent systems~~

~~WAC 296-878-20005~~

~~Safely use rope descent systems~~

~~WAC 296-878-20010~~

~~Safely use rope descent devices~~

~~WAC 296-878-20015~~

Equipment prohibited

~~Prohibit equipment from use~~

~~WAC 296-878-21005~~

Definitions

~~WAC 296-878-220.))~~

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-110 Training.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Train workers to use window-cleaning equipment</u>	<u>WAC 296-878-11005</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-11005 Train workers to use window-cleaning equipment. (1) You must((+)

+) provide the following training to workers before they use window-cleaning equipment on the job:

- ((-) (a) Proper care and maintenance of the equipment;
- ((-) (b) Review manufacturer's instructions for proper equipment use;

((-) (c) Methods for inspection, assembly, and dismantling of components;

((-) (d) Identify anchorages;

((-) (e) A complete understanding of safe working conditions;

((-) (f) How employees will be rescued.

((+) (2) You must provide additional training to workers using window-cleaners' belts in all the following areas:

- ((-) (a) How to select the proper-sized belt;
- ((-) (b) How to use anchors and terminals;
- ((-) (c) How to deal with obstructions and slippery/wet surfaces.

((+) (3) You must provide additional training to workers using boatswains' chairs and rope descent systems in all the following areas:

- ((-) (a) Proper rigging practices;
- ((-) (b) Fall arrest requirements;
- ((-) (c) Proper methods of descending;
- ((-) (d) The effects of wind on window-cleaning operations when a worker is suspended;
- ((-) (e) Proper methods of hoisting for ascents.

((+) (4) You must document the training by recording all of the following:

- ((-) (a) The name and signature of the trainer/educator;
- ((-) (b) The name and signature of the student;
- ((-) (c) The subjects in which the workers were trained;
- ((-) (d) The date of the training;
- ((-) (e) The location of the training.

Note: ((+) You do not need a specialized educator to provide training. You may use a qualified person to conduct the training. A qualified person is defined as a person who has:

- ((-) 1. Extensive knowledge, training, and experience about the subject matter, work, or project;
- ((-) 2. A recognized degree, certificate, or professional standing;
- ((-) 3. Successful demonstration of problem solving skills in connection with the subject, work, or project.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-120 Building surfaces and fixtures.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Make sure building surfaces and fixtures are safe to use</u>	<u>WAC 296-878-12005</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-12005 Make sure building surfaces and fixtures are safe to use. You must((+)

+) make sure building surfaces and fixtures are safe to be used before you begin the window-cleaning operation. This includes:

((-) (1) Guardrails, parapets, cornices and other building surfaces used to support suspended loads;

((-) (2) Permanently installed fixtures used as anchorages and tiebacks;

((-) (3) Window-cleaning equipment support systems permanently dedicated to the building.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-130 Inspection procedures.
Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Inspect the area to be cleaned</u>	<u>WAC 296-878-13005</u>
<u>Inspect window-cleaning equipment before use</u>	<u>WAC 296-878-13010</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-13005 Inspect the area to be cleaned. (1) You must((+)

+) inspect the building before cleaning to make sure there are no areas that can damage worker fall protection equipment and window-cleaning equipment. Inspect:

- ((-) (a) Sharp edges of parapets;
- ((-) (b) Window frames;
- ((-) (c) Open projected windows;
- ((-) (d) Cornices;
- ((-) (e) Overhangs;
- ((-) (f) Any other areas that may abrade, sever, weaken, or damage the equipment.

((+) (2) You must make sure all working surfaces are safe and free from hazards such as:

- ((-) (a) Grease;
- ((-) (b) Oil;
- ((-) (c) Other slippery substances.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-13010 Inspect window-cleaning equipment before use. (1) You must((+)

(+)) store your window-cleaning equipment in a way that:

- ((+) (a) Is easy to get to, inspect, and safely take out for use;
- ((+) (b) Provides protection from moisture, sunlight, or corrosion.

(2) You must make sure a competent person inspects these items before each use:

- ((*) (a) Window-cleaners' belts;
- ((*) (b) Boatswains' chairs;
- ((*) (c) All components of rope descent systems;
- ((*) (d) Suspension devices;
- ((*) (e) Certified roof anchorages;
- ((*) (f) Primary support ropes or lines;
- ((*) (g) The descent device;
- ((*) (h) Carabiners or shackles;
- ((*) (i) A seatboard or boatswain's chair;
- ((*) (j) Wear points on rope descent system components exposed to constant friction.

(3) You must make sure you do not use any piece of window-cleaning equipment with defects.

((*) (a) Prohibit makeshift repairs to any piece of window-cleaning equipment;

((*) (b) Label any piece of window-cleaning equipment that is defective "dangerous, do not use."

(4) You must secure any padding or softeners so they do not come loose from:

- ((*) (a) The surface of the building;
- ((*) (b) The rope if not attached to the building.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-140 Develop site-specific service and emergency plans.

Summary

You must meet the requirements...	in this section:
Develop a site-specific service and emergency recovery plan for window-cleaning operations	WAC 296-878-14005

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-14005 Develop a site-specific service and emergency recovery plan for window-cleaning operations. (1) You must((+)

+) make sure that a qualified person develops a written plan for each location to be cleaned that identifies:

- ((-) (a) Hazardous areas;
- ((-) (b) Drop zones;
- ((-) (c) Safety features;
- ((-) (d) Methods for emergency recovery of workers working from suspended equipment, or other types of installations, in the event of equipment failure or any other kind of disability.

((*) (2) You must keep the plan at the work site during the entire cleaning operation.

Note: You may use an outside service for rescue and recovery (such as a fire department) if:

- ((*) 1. The rescue personnel will be able to reach the victims without undue delay;
- ((*) 2. They have the necessary equipment to retrieve the victims;
- ((*) 3. They are trained and proficient in high angle rescue techniques.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-150 Equipment.

Summary

You must meet the requirements...	in this section:
Select and use appropriate equipment	WAC 296-878-15005
Select appropriate rope for suspended equipment	WAC 296-878-15015
Select appropriate carabiners	WAC 296-878-15020
Use fall protection equipment	WAC 296-878-15025

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-15005 Select and use appropriate equipment. (1) You must((+)

+) make sure that all equipment provided to workers for window-cleaning operations is engineered, designed, and intended for use in commercial applications.

Note: Equipment that is designed or labeled for recreational use or rescue use only is prohibited for use in window-cleaning operations.

(2) You must((+)

+) make sure that the window-cleaning equipment is not altered unless it is specifically approved in writing by the original manufacturer or a registered professional engineer.

(3) You must provide manufacturer's instructions to employees for all window-cleaning equipment they will use.

Reference: Use Table 1 for other window-cleaning equipment requirements.

Table 1
Other Window-Cleaning Equipment

	If you use:	Then follow all requirements in:
((+))	Portable ladders	WAC ((296-800-290, Portable ladders)) 296-800-876, Ladders portable and fixed
((2-))	Supported scaffolds	Chapter 296-24 WAC, ((PART J-2,)) Scaffolds
((3-))	Suspension ropes and lifelines Powered and manual hoists Suspended scaffold equipment	Chapter 296-24 WAC, ((PART J-2,)) Scaffolds
((4-))	Single and multipoint adjustable suspension scaffolds	Chapter 296-24 WAC, ((PART J-2,)) Scaffolds
((5-))	Powered platforms	Chapter 296-24 WAC, PART J-3, Powered platforms

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-15015 Select appropriate rope for suspended equipment. You must((+)

•)) make sure all rope used for suspended equipment has a minimum breaking strength of five thousand pounds.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-15020 Select appropriate carabiners.

(1) You must((+)

•)) use carabiners for connecting hardware or attaching boatswains' chairs, descent devices, and lifelines to anchors.

((•)) (2) You must use carabiners with a minimum tensile load of five thousand pounds.

((•)) (3) You must make sure carabiners are either manual or auto-locking.

Note: You may secure a rope to an anchor with a knot if normal daily use of the rope will not decrease its initial breaking strength below five thousand pounds.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-15025 Use fall protection equipment.

(1) You must((+)

(+)) make sure the fall arrest system meets the requirements of WAC 296-24-88050 mandatory Appendix C, Part I, Personal fall arrest systems.

((•)) (2) You must use and inspect fall arrest equipment in accordance with the requirements of WAC 296-24-88050, mandatory Appendix C, Part I, Personal fall arrest systems.

((•)) (3) You must make sure all workers suspended from a boatswain's chair or rope descent system use an independent fall arrest system where the fall arrest anchorage is separate from the suspension system anchorage.

((•)) (4) You must make sure workers operating powered platforms wear and use a fall arrest system.

((•)) (5) You must make sure workers assemble and wear their personal fall arrest equipment before they approach the point of suspension.

((•)) (6) You must make sure workers are connected at all times to the fall arrest system while they are suspended.

((2)) (7) You must make sure the boatswain's chair or rope descent system is connected at all times to the suspension line.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-160 Warning signs and barricades.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Provide warning signs and barricades when suspended equipment is used</u>	<u>WAC 296-878-16005</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-16005 Provide warning signs and barricades when suspended equipment is used. (1) You must((+)

(+)) place warning signs below suspended equipment.

(2) You must block the ground area with barricades directly under or next to the work zone.

(3) You must assign a competent person to decide if additional protection is necessary.

(4) You must make sure all tools used by the worker are attached to the worker, seatboard, or boatswain's chair.

Reference: Rules for protecting workers from overhead hazards are listed in WAC 296-800-16055(-). Make sure your employees use appropriate head protection.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-170 Power line clearances.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Maintain clearance between window cleaners and power lines</u>	<u>WAC 296-878-17005</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-17005 Maintain clearance between window cleaners and power lines. (1) You must((+)

•)) maintain clearances between window cleaners and power lines as indicated in Tables 2 and 3.

Table 2

Minimum Clearances from Power Lines – Insulated Lines

Voltage	Minimum distance	Alternatives
Less than 300 volts	3 feet (0.9 m)	----
300 volts to 50 kv	10 feet (3.1 m)	----
More than 50 kv	10 feet (3.1 m) plus 0.4 inches (1.0 cm) for each 1 kv over 50 kv	2 times the length of the line insulator, but never less than 10 feet (3.1 m)

Table 3

Minimum Clearances from Power Lines – Uninsulated Lines

Voltage	Minimum distance	Alternatives
Less than 50 kv	10 feet (3.1 m)	----
More than 50 kv	10 feet (3.1 m) plus 0.4 inches (1.0 cm) for each 1 kv over 50 kv	2 times the length of the line insulator, but never less than 10 feet (3.1 m)

(2) You must((+)

•) follow these procedures when window cleaners need to get closer to power lines than allowed in Tables 2 and 3:

((-) (a) Notify the utility company or electrical system operator of the need to work closer than the minimum clearances to power lines before starting the work;

((-) (b) Begin the work only when the utility company or electrical system operator has deenergized or relocated the lines, or installed protective coverings to prevent accidental contact with the lines.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-180 Window-cleaners' belts and anchors.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Select appropriate window-cleaners' belts and anchors</u>	<u>WAC 296-878-18005</u>
<u>Inspect the anchors you plan to use for window cleaning</u>	<u>WAC 296-878-18010</u>
<u>Use window-cleaners' belts safely</u>	<u>WAC 296-878-18015</u>
<u>Move safely on the outside of buildings</u>	<u>WAC 296-878-18020</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-18005 Select appropriate window-cleaners' belts and anchors. You must((+)

•) make sure window-cleaners' belts and anchors conform to the:

((-) (1) Design, manufacture, and maintenance requirements of ANSI/TWCA 1-14.1-2001 (~~AND~~); and

((-) (2) Manufacturer's specifications.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-18010 Inspect the anchors you plan to use for window cleaning. (1) You must((+)

•) make sure you do not use anchors if they:

((-) (a) Appear to be damaged;

((-) (b) Appear deteriorated;

((-) (c) Appear to be worn;

((-) (d) Appear to be loose;

((-) (e) Appear to be unsecured to the building or window frame;

((-) (f) Will not allow the belt terminal to easily slip over the anchor head.

((+) (2) You must use window-cleaner's belts only if:

((-) (a) The area to be cleaned is safe;

((-) (b) All anchors intended for use are safe.

((+) (3) You must make sure window ledges and frames will not impair the safe use of the window-cleaner's belt.

Note: If unsafe anchors are found, report them to the building owner or manager and do not use them.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-18015 Use window-cleaners' belts safely. (1) You must((+)

•) make sure workers do not extend more than one arm beyond the window sash when cleaning windows from inside a building.

((+) (2) You must attach one belt terminal to an anchor before you put more than one arm outside the window.

((+) (3) You must pull on the terminal strap and look for signs of damage to the anchor.

((+) (4) You must attach both belt terminals to anchors before climbing out the window.

((+) (5) You must keep all belt terminals attached during the entire cleaning operation.

((+) (6) You must make sure the worker keeps one terminal attached to an anchor when reentering the window and until the worker is inside.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-18020 Move safely on the outside of buildings. You must((+)

•) make sure you travel on the outside of the building only when:

((-) (1) You keep at least one window-cleaner's belt terminal attached at all times;

((-) (2) The anchors are not more than forty-eight inches apart.

Note: Anchors can be up to seventy-two inches apart if:

((+) 1. The sill or ledge is continuous;

((+) 2. The sill or ledge is at least twelve inches wide;

((+) 3. The sill or ledge has a slope less than five degrees;

((+) 4. There is at least six inches of window sill in front of the mullions.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-190 Boatswains' chairs.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Select appropriate boatswains' chairs</u>	<u>WAC 296-878-19005</u>
<u>Safely use boatswains' chairs rigged with a block and tackle</u>	<u>WAC 296-878-19010</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-19005 Select appropriate boatswains' chairs. (1) You must((+)

(4)) make sure that when you use a block and tackle, it is the correct size, including:

((*) (a) Correctly((-)sized ball bearings or bushed blocks;

((*) (b) Safety hooks;

((*) (c) Eye-spliced rope;

((*) (d) A minimum breaking strength of five thousand pounds.

(2) You must make sure all rope used with a boatswain's chair has a minimum breaking strength of five thousand pounds, including rope used for:

((*) (a) Suspension;

((*) (b) Block and tackle;

((*) (c) Seat slings.

(3) You must make sure the ropes on boatswain's chair seat slings:

((*) (a) Are reeved through the four corner holes in the seat;

((*) (b) Cross each other on the underside of the seat;

((*) (c) Are rigged so the chair cannot slip out of a level position.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-19010 Safely use boatswains' chairs rigged with a block and tackle. (1) You must((+)

(4)) make sure the rated capacity or the maximum intended load, whichever is less, is not exceeded.

(2) You must make sure the suspension rope stays vertical between the boatswain's chair and suspension device unless all of these requirements are met:

((*) (a) The rigging has been designed by a qualified person;

((*) (b) The scaffold can be easily reached by rescuers;

((*) (c) The suspension rope is protected from damage when a change in direction occurs;

((*) (d) The scaffold will not swing and contact another surface.

(3) You must make sure a suspension height of seventy-five feet above grade or building setback is not exceeded.

~~((Exemption))~~ **EXEMPTION:** Suspension height may be up to one hundred thirty feet above grade or building setback if the boatswain's chair block and tackle has all of the following:

((*) 1. An automatic braking system;

((*) 2. A design that minimizes the amount of force required to raise or lower the suspended worker;

((*) 3. An automatic braking system that automatically maintains an elevation when no force is applied to the tackle;

((*) 4. A system that does not slip.

(4) You must((+

(4)) prohibit tying any kind of knot in a block and tackle system to maintain elevation.

(5) You must make sure another worker is stationed below any boatswain's chair rigged with a block and tackle who can assist the suspended employee.

(6) You must make sure workers do not attempt to increase the work area by swinging, swaying, or other maneuvers.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-200 Rope descent systems.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
<u>Select appropriate rope descent systems</u>	<u>WAC 296-878-20005</u>
<u>Safely use rope descent systems</u>	<u>WAC 296-878-20010</u>
<u>Safely use rope descent devices</u>	<u>WAC 296-878-20015</u>

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-20005 Select appropriate rope descent systems. (1) You must((+

(+)) make sure the rope descent system is designed, used, and maintained according to:

((-) (a) ANSI/IWCA 1-14.1-2001;

((-) (b) The manufacturer's instructions.

((*) (2) You must make sure the rope descent system has been manufactured and is intended to be used for window cleaning.

Note: Equipment that is designed or labeled for recreational use or rescue use only is prohibited for use in window-cleaning operations.

(3) You must((+

(+)) make sure the rope descent system components are compatible and have a minimum tensile strength of five thousand pounds. ((-) This does not apply to the seatboard.

((*) (4) You must make sure the rope descent system has specific use instructions for each component.

AMENDATORY SECTION (Amending WSR 10-08-069, filed 4/6/10, effective 6/1/10)

WAC 296-878-20010 Safely use rope descent systems. (1) You must((+

(4)) make sure workers use extreme care when using rope descent equipment around electrical service, heat sources, and turbulent areas, such as air vents.

(2) You must connect the seatboard or boatswain's chair to the descent device with a manual_ or auto-locking carabiner.

(3) You must make sure workers are positioned in the seatboard or boatswain's chair before being suspended.

(4) You must make sure workers do not reach more than six feet in any direction as measured from a centerline straight down from where the suspension rope bears on the building.

(5) You must make sure workers do not descend rapidly, swing excessively, or stop suddenly.

(6) You must make sure that, in addition to the suspended worker, there is one other person at the ((jobsite)) job site who is skilled in using the rope descent system and rescue procedures.

(7) You must make sure you do not exceed a three hundred-foot height of descent as measured from grade or building setback unless the windows cannot be safely and practically accessed by other means.

(8) You must make sure your site-specific service plan addresses the following hazards for descents over one hundred thirty feet as measured from grade or building setback:

((*) (a) Sudden weather changes, such as wind gusts, micro bursts, or tunneling wind currents;

((*) (b) Inability of the rope descent system to function without using excessive force;

((*) (c) Workers suspended for long periods of time;

((*) (d) Rerigging and movement of main suspension and safety lines.

(9) You must stabilize workers suspended from a rope descent system whenever the descent is higher than one hundred thirty feet, as measured from grade or building setback.

(10) You must prohibit workers from working when wind speed makes any stabilization equipment ineffective.

Note: Provisions for stabilizing workers may include:

((*) 1. Continuous stabilization, such as mullion tracks;

((*) 2. Intermittent stabilization, such as detent pins/buttons;

((*) 3. Work station stabilization, such as suction cups.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-20015 Safely use rope descent devices.

(1) You must make sure the rated capacity or the maximum intended load, whichever is less, is not exceeded.

(2) You must make sure the descent device manufacturer's specifications for rope diameter and construction are followed.

(3) You must make sure the rope is rigged through the descent device for a controlled rate of descent.

(4) You must make sure the attachment point on the descent device is one piece with no gates or openings.

(5) You must make sure the descent device will remain stationary when positive action is taken.

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-210 Equipment prohibited.

Summary

<u>You must meet the requirements...</u>	<u>in this section:</u>
Prohibit equipment from use	WAC 296-878-21005

AMENDATORY SECTION (Amending WSR 02-22-027, filed 10/28/02, effective 1/1/03)

WAC 296-878-21005 Prohibit equipment from use.

You must((*) prohibit use of the following equipment for window-cleaning operations:

((-) (1) Portable sills;

((-) (2) Window jacks;

((-) (3) Capstan devices to suspend workers;

((-) (4) Suspension or fall-arrest ropes that are made entirely of polypropylene.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-878-220 Definitions.

WSR 14-09-102

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed April 22, 2014, 3:24 p.m., effective April 22, 2014]

Effective Date of Rule: April 22, 2014.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Beginning January 1, 2014, RCW 43.70.422 required the practitioners impacted by this rule making to complete a training that has been adopted in these rules.

Purpose: Chapter 246-809 WAC, Licensure for mental health counselors, marriage and family therapists, advanced social workers, and independent clinical social workers; chapter 246-811 WAC, Chemical dependency professionals and chemical dependency professionals trainees; and chapter 246-810 WAC, Counselors. Amending and adding new rules to implement the suicide assessment, treatment and management training requirements set out in RCW 43.70.442.

Citation of Existing Rules Affected by this Order: Amending WAC 246-811-200, 246-811-240, 246-809-600, 246-809-610, 246-809-620, 246-809-630, 246-809-640, 246-810-027, and 246-810-0293.

Statutory Authority for Adoption: RCW 43.70.442(7).

Adopted under notice filed as WSR 13-24-096 on December 3, 2013.

A final cost-benefit analysis is available by contacting Betty Moe, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4912, fax (360) 236-2901, e-mail Betty.Moe@doh.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 3, Amended 9, Repealed 0.

Number of Sections Adopted at 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 9, Repealed 0.

Date Adopted: April 22, 2014.

Jessica Todorovich
Deputy Secretary
for John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

WAC 246-809-600 (~~Who is~~) Professions required to have continuing education(~~2~~). Licensed marriage and family therapists, licensed mental health counselors, and licensed social workers are required to have continuing education.

AMENDATORY SECTION (Amending WSR 04-06-010, filed 2/20/04, effective 3/22/04)

WAC 246-809-610 (~~What courses are acceptable?~~) Eligible continuing education activities. The continuing education (CE) program or course must: Be relevant to licensed marriage and family therapists, licensed mental health counselors and licensed social workers and must contribute to the advancement, extension and enhancement of the professional competence of the licensed marriage and family therapist, licensed mental health counselor, and (~~or~~) licensed social worker. Courses or workshops primarily designed to increase practice income or office efficiency are not eligible for CE credit.

(1) Acceptable CE courses (including distance learning), seminars, workshops and postgraduate institutes are those which are:

(a) Programs having a featured instructor, speaker(s) or panel approved by an industry-recognized local, state, national, international organization or institution of higher learning; or

(b) Distance learning programs, approved by an industry-recognized local, state, national or international organization or institution of higher learning. These programs must require tests of comprehension upon completion. Distance learning programs are limited to twenty-six hours per reporting period.

(2) Training programs sponsored by the agency where a counselor is employed are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed marriage and family therapist, licensed mental health counselor and/or the licensed social worker; and

(b) The training programs are limited to twenty-six hours per reporting period.

(3) Other learning experience, such as serving on a panel, board or council, community service, research, peer consultation, or publishing articles for professional publications are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed marriage and family therapist, licensed mental health counselor and/or the licensed social worker; and

(b) The experience is limited to six hours per reporting period.

NEW SECTION

WAC 246-809-615 Suicide training standards. (1) An approved training in suicide assessment, treatment, and management must:

(a) Be approved by an industry-recognized local, state, national, international organizations or institutions of higher learning listed in WAC 246-809-620 or an equivalent organization, educational institution or association which approves training based on observation and experience or best available practices;

(b) Cover training in suicide assessment, treatment, and management; and

(c) Be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions.

(2) A licensed marriage and family therapist, licensed mental health counselor, or licensed social worker who is a state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(3) A licensed marriage and family therapist, licensed mental health counselor, or licensed social worker who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

AMENDATORY SECTION (Amending WSR 04-06-010, filed 2/20/04, effective 3/22/04)

WAC 246-809-620 (~~What are~~) Industry-recognized local, state, national, international organizations or institutions of higher learning(~~2~~). (~~Recognized~~) Local, state, national, and international organizations (~~or~~) that are industry-recognized and institutions of higher learning include, but are not limited to, the following (~~organizations~~):

(1) Washington Association for Marriage and Family Therapy;

(2) Washington State Society for Clinical Social Work;

(3) Washington Chapter of the National Association of Social Work;

(4) American Mental Health Counselors Association;

(5) American Association for Marriage and Family Therapy;

(6) Clinical Social Work (~~Federation~~) Association;

(7) National Association of Social Workers;

(8) Washington Mental Health Counselors Association;

(9) National Board for Certified Counselors;

(10) Society for Social Work Leadership in Health Care; ~~((or))~~ and

(11) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

AMENDATORY SECTION (Amending WSR 04-06-010, filed 2/20/04, effective 3/22/04)

WAC 246-809-630 ~~((How many hours do I need and in what time period?))~~ Continuing education requirements. (1) A licensed marriage and family therapist((s)), licensed mental health counselor((s)) and licensed social worker((s)) must complete thirty-six hours of continuing education (CE) every two years.

(2) At least six of the thirty-six hours must be in professional ethics and law, which may include topics under RCW 18.130.180.

(3) Beginning January 1, 2014, at least once every six years a licensed marriage and family therapist, licensed mental health counselor, and licensed social worker must complete at least six hours of training in suicide assessment, treatment, and management.

(a) The first training must be completed during the first full CE reporting period after January 1, 2014, or the first full CE period after initial licensure, whichever occurs later.

(b) The hours spent completing training in suicide assessment, treatment, and management count toward the total thirty-six hours of CE.

(c) An individual applying for initial licensure as a licensed marriage and family therapist, licensed mental health counselor, or licensed social worker on or after January 1, 2014, may delay completion of the first training required for six years after initial licensure if he or she can demonstrate completion of six hours of training in suicide assessment, treatment, and management that:

(i) Was completed no more than six years prior to the application for initial licensure; and

(ii) Meets the qualifications listed in WAC 246-809-615.

AMENDATORY SECTION (Amending WSR 02-11-108, filed 5/20/02, effective 6/20/02)

WAC 246-809-640 ~~((How are))~~ Credit hours ((determined)) for preparation and presentation of a lecture or ((an)) educational course((?)). ~~((The license holder))~~ A licensed counselor who ((prepares and)) presents ((lectures or education that contributes to the professional competence of a licensed counselor)) at an eligible continuing education (CE) activity under WAC 246-809-630 may ((accumulate)) receive the same ((number of)) CE credit hours ((obtained for continuing education purposes by attendees as required in WAC 246-12-220)) as a licensee who attends the presentation. The hours for preparing and presenting a specific topic lecture or education may only be used for ~~((continuing education))~~ CE credit once during each reporting period.

AMENDATORY SECTION (Amending WSR 09-15-041, filed 7/8/09, effective 7/8/09)

WAC 246-810-027 Continuing education requirements for a certified counselor or certified adviser. (1) A certified counselor((s)) or a certified adviser((s)) must complete thirty-six credit hours of continuing education every two years ((as required by chapter 246-12 WAC, Part 7)).

(2) At least six hours of the thirty-six credit hours must be in law and professional ethics related to counseling.

(3) ((For those first credentialed in 2009, the first date to report the required continuing education begins with a credential holder's renewal date in 2011-)) Beginning January 1, 2014, at least once every six years a certified counselor or a certified adviser must complete three hours of training in suicide assessment, including screening and referral, as specified in WAC 246-810-0298.

(a) Except as provided in (b) of this subsection, the first training must be completed during the first full continuing education reporting period after January 1, 2014, or the first full continuing education period after initial licensure, whichever occurs later.

(b) An individual applying for initial certification as a certified counselor or a certified adviser on or after January 1, 2014, may delay completion of the first required training for six years after initial certification if he or she can demonstrate successful completion of a three-hour training in suicide assessment, screening, and referral that:

(i) Was completed no more than six years prior to the application for initial certification; and

(ii) Meets the requirements listed in WAC 246-810-0298(1).

(c) The hours spent completing training in suicide assessment count towards the total thirty-six hours of continuing education.

(4) Nothing in this section is intended to expand or limit the existing scope of practice of a certified counselor or a certified adviser as defined by WAC 246-810-0201 and 246-810-021.

AMENDATORY SECTION (Amending WSR 09-15-041, filed 7/8/09, effective 7/8/09)

WAC 246-810-0293 Recognized institutions of higher learning~~((or))~~ and local, state, national, ~~((or))~~ and international organizations. ~~((The recognized institutions of higher learning, or local, state, national, or international organizations that qualify to provide continuing education for certified counselor and certified adviser include:))~~ Activities that meet the requirements of WAC 246-810-029 and are offered by the following entities are eligible for continuing education credit:

(1) Washington Association for Marriage and Family Therapy;

(2) Washington State Society for Clinical Social Work;

(3) Washington Chapter of the National Association of Social Work;

(4) American Mental Health Counselors Association;

(5) American Association for Marriage and Family Therapy;

(6) Clinical Social Work Association;

- (7) National Association of Social Workers;
- (8) Washington Mental Health Counselors Association;
- (9) National Board for Certified Counselors;
- (10) Association for Humanistic Psychology;
- (11) The Association for Integrative Psychology;
- (12) Society for Social Work Leadership in Health Care;
- (13) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation;
- (14) Washington Professional Counselors Association;
- (15) State Association and National Association for the Treatment of Sexual Abusers;
- (16) National Association of Alcohol and Drug Addiction Counselors; and
- (17) Other organizations recognized by the secretary and included on a list maintained by the department.

NEW SECTION

WAC 246-810-0298 Suicide assessment training standards. Approved qualifying training in suicide assessment, including screening and referral must:

- (1) Be approved by the American Foundation for Suicide Prevention, the Suicide Prevention Resource Center, entities listed in WAC 246-810-0293, or an equivalent organization, educational institution or association which approves training based on observation and experiment or best available practices.
- (2) Cover training in suicide assessment, including screening and referral.
- (3) Be provided by a single provider and be at least three hours in length, which may be provided in one or more sessions.
- (4) A certified counselor or certified adviser who is an employee of a state or local government employer is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.
- (5) A certified counselor or certified adviser who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment, including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.
- (6) A certified counselor or certified adviser that obtained training under the exemptions listed in subsections (4) and (5) of this section may obtain CE credit subject to documentation as defined in WAC 246-810-0297.

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-200 Continuing competency definitions. (1) "Agency sponsored training" is training provided

by an agency that is not limited to people working within that agency and is a professional development activity as defined in subsection (7) of this section.

(2) "Continuing competency enhancement plan" is a plan showing the goals an individual will develop to continue proficiency as a certified chemical dependency professional. This plan will be based on core competencies of chemical dependency counseling listed in WAC 246-811-047 (2)(a) through (i) and on forms provided by the department.

(3) "Continuing education" means a program or course (including distance learning), seminar((s, or)) workshop((s)), or professional conference((s)) approved by an industry-recognized ((local, state, national, international)) organization or institution of higher learning listed in subsection (5) of this section.

((2)) (4) "Distance learning" is industry-recognized education obtained to enhance proficiency in one or more of the professional development activities as defined in subsection (7) of this section, through sources such as internet course work, satellite downlink resources, telecourses, or correspondence courses.

(5) "Industry-recognized" is any local, state, national, or international organization or institution of higher learning including, but not limited to, the following:

(a) National Association of Alcoholism and Drug Abuse Counselors (NAADAC);

(b) National Association of Addiction Treatment Providers (NAATP);

(c) International Certification and Reciprocity Consortium (ICRC);

(d) Northwest Indian alcohol/drug specialist certification board;

(e) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; and

(f) Division of behavioral health and recovery (DBHR), department of social and health services.

(6) "In-service training" is training provided by an agency that is limited to people working within that agency and is a professional development activity as defined in subsection (7) of this section.

(7) "Professional development activities" means addiction competencies as outlined in WAC 246-811-047, including: Clinical evaluation, individual counseling, group counseling, counseling family, couples, and significant others, professional and ethical responsibilities, understanding addiction, treatment knowledge, application to practice, professional readiness, treatment planning, referral, service coordination, client, family, and community education, screening, intake, assessment, clinical reports, clinical progress notes, discharge summaries, and other client related data.

((3) **Industry recognized** is any local, state, national, international organization, or institution of higher learning, including, but not limited to, the following organizations:

(a) National Association of Alcoholism and Drug Abuse Counselors (NAADAC);

(b) National Association of Addiction Treatment Providers (NAATP);

(c) International Certification and Reciprocity Consortium (ICRC);

~~(d) Northwest Indian alcohol/drug specialist certification board;~~

~~(e) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; or~~

~~(f) Division of alcohol and substance abuse (DASA).~~

~~(4) **Distance learning** is industry recognized education obtained to enhance proficiency in one or more of the professional development activities as outlined in subsection (2) of this section, through sources such as, internet course work, satellite downlink resources, telecourses, or correspondence courses.~~

~~(5) **Agency sponsored training** is training provided by an agency that is **not** limited to people working within that agency and is a professional development activity as outlined in subsection (2) of this section.~~

~~(6) **In service training** is training provided by an agency that is limited to people working within that agency and is a professional development activity as outlined in subsection (2) of this section.~~

~~(7) **Continuing competency enhancement plan** is a plan showing the goals the CDP will develop to continue proficiency in their profession. The plan will be based on core competencies as listed in WAC 246-811-047. The plan will be developed on forms provided by the department.)~~

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-240 Number of continuing education hours required. (1) A certified chemical dependency professional must complete twenty-eight hours of continuing education (CE) every two years.

(a) At least fourteen hours must be completed in one or more of the topic areas as described in WAC 246-811-030 (2)(a) through (w).

(b) At least four hours must be in professional ethics and law.

(c) The additional ten hours shall be in areas relating to the various phases of their professional career.

(d) The training in suicide assessment listed in subsection (2) of this section shall count towards meeting the CE requirements.

(2) Beginning January 1, 2014, at least once every six years a certified chemical dependency professional must complete at least three hours of training in suicide assessment, including screening and referral, as specified in WAC 246-811-280.

(a) Except as provided in (b) of this subsection, the first training must be completed during the first full CE reporting period after January 1, 2014, or the first full CE period after initial certification, whichever occurs later.

(b) An individual applying for initial certification as a chemical dependency professional on or after January 1, 2014, may delay completion of the first required training for six years after initial certification if he or she can demonstrate completion of a three-hour training in suicide assessment, including screening and referral that:

(i) Was completed no more than six years prior to the application for initial certification; and

(ii) Meets the qualifications listed in WAC 246-811-280(1).

(3) Nothing in this section is intended to expand or limit the existing scope of practice of a certified chemical dependency professional or certified chemical dependency professional trainee credentialed under chapter 18.205 RCW.

NEW SECTION

WAC 246-811-280 Suicide assessment training standards. A qualifying training in suicide assessment, including screening and referral must:

(1) Be approved by the American Foundation for Suicide Prevention; the Suicide Prevention Resource Center; an industry-recognized organization or an institution of higher learning listed in WAC 246-811-200; or an association which approves training programs based on observation and experience or best available practices.

(2) Be provided by a single provider and must be at least three hours in length, which may be provided in one or more sessions.

(3) A certified chemical dependency professional who is a state or local government employee is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment, including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.

(4) A certified chemical dependency professional who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least three hours of training in suicide assessment, including screening and referral from his or her employer every six years. For purposes of this subsection, the training may be provided in one three-hour block or may be spread among shorter training sessions at the employer's discretion.

WSR 14-09-121

PERMANENT RULES

PROFESSIONAL EDUCATOR

STANDARDS BOARD

[Filed April 23, 2014, 10:32 a.m., effective May 24, 2014]

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

Purpose: Amends WAC 181-79A-221, 181-79A-223, and 181-79A-251 in response to new statutory requirements for suicide prevention training for certain certificated educators, new issue and renewal. Adds requirements from statutory changes related to teacher and principal evaluation. Also corrects language related to policy changes in prior rule making to be consistent with current requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 181-79A-221, 181-79A-223, and 181-79A-251.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 14-05-013 on February 7, 2014.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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 3, Repealed 0.

Number of Sections Adopted at 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 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 3, Repealed 0.

Date Adopted: April 23, 2014.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 11-15-051, filed 7/15/11, effective 8/15/11)

WAC 181-79A-221 Academic and experience requirements for certification—School counselors and school psychologists. Candidates for school counselor and school psychologist certification shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-226: Provided, That it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program. This examination shall be an examination of a regionally accredited institution of higher education or the National Counselor Examination (NCE) of the National Board of Certified Counselors (NBCC) or, in the case of school psychologists, hold the NCSP accreditation from the National Association of School Psychologists (NASP): Provided, That if any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

(1) School counselor.

(a) Residency.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall have successfully completed a comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored examination of a regionally accredited

institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II guidance and counseling examination.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledge and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.

(c) Professional. The candidate shall have completed an approved professional certificate program, provided, that an individual who holds a school counseling certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a school counselor.

(2) School psychologist.

(a) Residency.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall have successfully completed a comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II school psychology examination.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) The candidates must demonstrate their respective knowledge and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.

(c) Professional. The candidate shall have completed an approved professional certificate program: Provided, That an individual who holds an NCSP certificate issued by the National Association of School Psychologists (NASP) shall be deemed to have met the requirement for completion of a

professional certificate program, in recognition that NCSP certification is issued only to individuals who have demonstrated highly advanced skills as a school psychologist.

(3) Beginning with certificates first issued after July 1, 2015, continuing and/or professional certificates for school counselors and school psychologists include a requirement for suicide prevention training per RCW 28A.410.226.

AMENDATORY SECTION (Amending WSR 13-12-061, filed 6/4/13, effective 7/5/13)

WAC 181-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist, and school social worker. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist and school social worker certification shall apply directly to the professional education and certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 181-79A-150, except state approved college/university professional preparation program. Provided, that it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program: Provided, That if any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

(1) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will include the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education law;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically

based practices, collaborative teaming, and ethical decision making;

(F) Use national, state, and local policies, as well as professional standards, to support decision making in educational settings and inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed forty-five quarter hours (thirty semester hours) of postbaccalaureate course work in education, nursing, or other health sciences.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) School occupational therapist.

(a) Initial.

(i) The candidate shall hold a valid license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will include the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education law;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use national, state, and local policies, as well as professional standards, to support decision making in educational settings and inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which

will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in occupational therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) School physical therapist.

(a) Initial.

(i) The candidate shall hold a valid license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will include the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education law;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use national, state, and local policies, as well as professional standards, to support decision making in educational settings and inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in physical therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(4) School speech-language pathologist or audiologist.

(a) Initial.

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination: Provided, That if any candidate has not completed a written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will include the following outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education law;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use national, state, and local policies, as well as professional standards, to support decision making in educational settings and inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in speech pathology or audiology.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(5) School social worker.

(a) Initial.

(i) The candidate shall hold an MSW from a regionally accredited institution of higher learning.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will include the following outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education law;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use national, state, and local policies, as well as professional standards, to support decision making in educational settings and inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

~~((iii) The candidate shall have a passing score on the Praxis II school social worker examination.))~~

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school social worker and have completed an annual professional growth plan or fifteen quarter hours or one hundred fifty clock hours specific to the role of the school social worker.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(6) Beginning with continuing certificates first issued after July 1, 2015, continuing certificates for school nurses and school social workers include a requirement for suicide prevention training per RCW 28A.410.226 and again every five years after receiving the continuing certificate.

AMENDATORY SECTION (Amending WSR 13-16-081, filed 8/6/13, effective 9/6/13)

WAC 181-79A-251 Residency and professional certification. Renewal and reinstatement.

(1) Residency certificate. Residency certificates shall be renewed under one of the following options:

(a) Teachers.

(i) Individuals who hold, or have held, residency certificates have the following options for renewal past the first three-year certificate:

(A) Candidates who have attempted and failed the professional certificate assessment are eligible for a two-year renewal;

(B) Candidates who have not been employed or employed less than full-time as a teacher during the dated, three-year residency certificate may receive a two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio or may permit their certificate to lapse until such time they register for the professional certificate assessment;

(C) Candidates whose three-year residency certificate has lapsed may receive a two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio for the professional certificate assessment;

(D) Individuals who complete a National Board Certification assessment but do not earn National Board Certification, may use that completed assessment to renew the residency certificate for two years.

(ii) A residency certificate expires after the first renewal if the candidate has not registered for and submitted a portfolio assessment prior to June 30th of the expiration year, to achieve the professional certificate, provided: When the first two-year renewal on residency certificates expires, teachers have two renewal options:

(A) Teachers who were employed but failed the professional certification assessment, may receive a second two-year renewal;

(B) Teachers who were unemployed or employed less than full-time during the first two-year renewal may permit their certificate to lapse and receive a second two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio for the professional certification assessment.

(C) An individual who completes a National Board Certification assessment but does not earn National Board Certification, may use that completed assessment to renew the residency certificate for two years in lieu of submitting an affidavit to the certification office confirming that they will register and submit the Washington uniform assessment portfolio as per this section, WAC 181-79A-251.

(iii) Teachers who hold expired residency certificates may be reinstated by having a district request, under WAC 181-79A-231, a transitional certification not less than five years following the final residency expiration: Provided, That the teacher registers and passes the professional certification assessment within two years.

(iv) Teachers that hold a dated residency certificate prior to September 2011 that have expiration dates past September 2011 are subject to the same renewal options as described in (a)(ii) and (iii) of this subsection.

(b) Principals/program administrators may renew their residency certificate in one of the following ways:

(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 181-78A-535 (2)(a) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, residency certificates who are not in the role of principal or program administrator may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education credit hours, directly related to the current performance-based leadership standards as defined in WAC 181-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(c) School counselors and school psychologists may renew their residency certificate in one of the following ways:

(i) Individuals who hold a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 181-78A-535(3) may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(ii) Individuals who hold, or have held, a residency certificate who are not in the role of school counselor or school psychologist may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education hours, directly related to the current performance-based standards as defined in WAC 181-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(iii) An individual school psychologist(s in the process of obtaining)) who is applying for the National Certificate for School Psychologist (NCSP) may apply for a one-time two-year renewal with verification of NCSP submission.

(iv) An individual school counselor who completes a national board certification from the National Board of Professional Teaching Standards (NBPTS) assessment but does not earn national board certification may use that completed assessment to renew the residency certificate one-time for two years.

(v) School psychologists with residency certificates dated to expire June 30, 2013, 2014, or 2015 may apply until June 30, 2016, for a one-time two-year extension.

(2) Professional certificate.

(a) Teachers.

(i) A valid professional certificate may be renewed for additional five-year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC or by completing the professional

growth plan as defined in WAC 181-79A-030. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours: Provided, that professional certificates issued under rules prior to September 1, 2014, retain the option of clock hours or professional growth plans for renewal. Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional growth team as defined in WAC 181-79A-030 are required for renewal. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207. Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours. An expired professional certificate issued under rules in effect prior to September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:

(A) One or more of the following three standards:

(I) Effective instruction.

(II) Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in WAC 392-121-262.

(ii) Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This requirement is for all professional teacher certificate holders regardless of date of issuance of the first professional certificate.

(iii) Individuals not in the role as a teacher in a public school or approved private school holding a professional teaching certificate may have their professional certificate renewed for a five-year period by the completion of:

(A) Fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 181-78A-540; or

(B) One hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-79A-207; or

(C) Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional

growth team as defined in WAC 181-79A-030 are required for renewal. The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207. Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours; or

(D) Teachers addressed in this section are also subject to (a)(ii) of this subsection.

~~((iii))~~ (iv) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five-year periods for individuals in the role as a principal, assistant principal or program administrator in a public school or approved private school by:

(A) Completion of four professional growth plans developed annually since the certificate was issued in collaboration with a minimum of three certificated colleagues that documents formalized learning opportunities and professional development activities that relate to the six standards and "career level" benchmarks defined in WAC 181-78A-540(1). Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(B) Documented evidence of results of the professional growth plan on student learning.

(C) As per RCW 28A.405.278 beginning September 1, 2016, all professional administrator certificates must complete continuing education on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of professional administrator certificates including requiring knowledge and competencies in teacher and principal evaluation systems as an aspect of professional growth plans (PGPs) used for certificate renewal.

(ii) Individuals not in the role as a principal, assistant principal, or program administrator in a public school or approved private school may have their professional certificate renewed for a five-year period by the completion of:

(A) Fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 181-78A-540(1) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the

certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(1); or

(C) Completion of four professional growth plans developed annually since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours; or

(D) Principals, assistant principals, or program administrators addressed in this section are also subject to subsection (b)(i)(C) of this section.

(c) School counselors and school psychologists.

(i) For certificates issued under rules in effect prior to September 1, 2014, a valid professional certificate may be renewed for additional five-year periods by:

(A) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-270 (5), (7), or (9); or

(B) Completion of four professional growth plans that are developed annually since the certificate was issued in collaboration with a minimum of three certificated colleagues or supervisor, and that documents formalized learning opportunities and professional development activities that relate to the standards and career level benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours; or

(C) An expired professional certificate issued under rules in effect prior to September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application.

(ii) Beginning September 1, 2014, a valid professional certificate may be renewed for additional five-year periods for individuals in the role as a school counselor or school psychologist in a public school, approved private school, or in a state agency which provides educational services to students by completion of four professional growth plans developed annually since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

~~((A))~~ (iii) Individuals not in the role as a school counselor or school psychologist in a public school or approved private school may have their professional certificate renewed for an additional five-year period by:

~~((B))~~ (A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 181-78A-540(2) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

~~((C))~~ (B) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

~~((D))~~ (C) Completion of four annual professional growth plans developed since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours;

~~((E))~~ (D) An expired professional certificate issued under rules in effect after September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application.

~~((iii))~~ (iv) Provided, That a school counselor professional certificate may be renewed based on the possession of a valid school counselor certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater; or

~~((iv))~~ (v) Provided, That a school psychologist professional certificate may be renewed based on the possession of a valid national certified school psychology certificate issued by the national association of school psychologists at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the national certified school psychology certificate, whichever is greater.

(d) Provided, any educator holding a professional certificate in (a), (b), or (c) of this subsection, which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as required by (a)(ii)(C), (b)(ii)(A), and (c)(ii) of this subsection. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section

within the five years prior to the date of the renewal application. Provided, That this section is no longer in effect after June 30, 2020.

(e) For educators holding multiple certificates in (a), (b), or (c) of this subsection, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(f) The one time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

(g) After July 1, 2015, professional certificates for school counselors or psychologists, in addition to the requirements in this chapter, must attend training in suicide prevention as per RCW 28A.410.226 for renewal of their certificate.